

Changes to Massachusetts Lobbying Laws Impact Nonprofit Organizations

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The new Massachusetts *Act to Improve the Laws Relating to Campaign Finance, Ethics and Lobbying* (Chapter 28 of the Acts of 2009) comprehensively amends the Commonwealth's ethics and lobbying laws. The goal of the Act is to enhance governmental accountability and restore public trust in elected officials.

Of particular concern to Massachusetts nonprofit organizations are changes to the lobbying laws under the Act. Nonprofits that communicate with the executive or legislative branches of state government should be attentive to these changes. The effective date of the legislation is January 1, 2010.

Expanded Definition of Executive and Legislative Lobbying

Under the Act, "executive lobbying" and "legislative lobbying" are defined to include not only acts to influence legislation or the decisions of officers or employees of the executive branch, but also "*strategizing, planning, and research,*" if performed in connection with, or in preparation for, a communication with a government employee. Further, executive and legislative lobbying can include communications with local (town or city) officials if the communications are intended to influence legislation or a decision at the state level. These are significant expansions over previous law of the activities that are regarded as lobbying.

Lowered Threshold of Activity Considered "Incidental to" Lobbying

Lobbying activities that are considered only "incidental" to a person's professional activities are not subject to the new registration requirements of the Act; but the threshold at which activities are considered incidental has been lowered. Now, lobbying activities that exceed *25 hours and compensation of up to \$2,500* in a six-month period will trigger registration requirements (in contrast to the previous threshold of 50 hours and compensation of up to \$5,000 in a six-month period).

Registration Requirements

Before registering each year, executive and legislative lobbyists must complete an educational seminar offered by the Office of the Secretary of the Commonwealth. Individual lobbyists must pay an annual registration fee of \$100 to represent a single client. "Lobbyist entities"—individual lobbyists who represent more than one client or organizations that provide lobbyist services—must pay an annual registration fee of \$1,000. Lobbyist entity organizations must register each of their agents for an additional \$100 per executive or legislative agent. Volunteers who perform lobbying are not required to register.

Disclosure Requirements

Under the Act, registered lobbyists must file semi-annual disclosure reports that include:

- The identity of each client for whom they are providing services.
- Each piece of legislation and/or governmental action they acted to influence.
- The position taken on each piece of legislation and/or governmental action and the identity of each client on whose behalf they were acting in connection with the legislation or action.
- The compensation received from each client.
- Any direct business associations with public officials.

Lobbyists must make semi-annual disclosures of all campaign contributions made during the reporting period, including the names of candidates, amounts contributed and dates of contribution, and expenditures paid on behalf of executive or legislative employees for items such as meals, transportation, entertainment, gifts, advertising and public relations.

Organizations that Do Not Employ Lobbyists, but Expend Funds

Organizations that do not employ lobbyists, but expend over \$250 in a calendar year to influence legislation or the decision of any officer or employee of the executive branch are required to register with the Secretary of the Commonwealth and disclose the names and addresses of their principals, their organizational purposes, and an itemized list of expenditures made during the reporting period. An organization is exempt from this requirement, however, if it:

- Does not employ any lobbyists.
- Does not realize profits.
- Does not contribute to political candidates or committees.
- Does not pay a salary or fee to any member of the organization for (lobbying) activities performed for the benefit of the organization.
- Expend no more than \$2,000 during a calendar year to influence legislation or the decision of any officer or employee of the executive branch.

Penalties

The Act includes both fines and criminal penalties for violations of the new lobbying requirements.

For more information, please contact:

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