



States Restrict Lobbying Activities

By Peggy Kerns and Susan Huntley

Lobbying was targeted in recent state ethics reforms.

In the private sector, good relationships are crucial for most business transactions. People want to conduct business with those they trust and are comfortable with, and both sides spend time developing relationships where these traits occur.

The same is true in the public sector. Public officials are more comfortable accepting and believing information from people they know and trust. Both sides spend time getting to that point. Lately, such relationships have been under attack. In every facet of the public sector, the public's interest must be served first and foremost. Yet, in an environment where relationships are important, the public also can be concerned that lines become blurred and that personal relationships become more important than what is best for the public.

Lobbyists Targeted. Reforms of state ethics laws surged in 2006 and 2007, and lobbying was almost universally targeted. Fueled by congressional scandals, national polls showed that the public's perception of lobbyists reached a new low. The question remains: Is lobbying an integral part of the making of public policy, or is it a suspicious activity that needs constant monitoring by watchdog groups and independent agencies?

Lobbying activities have come under scrutiny by state legislatures.

In either case, state legislatures responded with increased scrutiny over the panoply of lobbying activities, including registration, disclosures of expenditures and more public access to that information, prohibitions or limitations on gifts and lobbyists paying for food and drinks, reporting of the topics lobbied and the hours spent, clear identification of who is lobbying, and an increase in investigatory powers, audits and penalties for noncompliance. Among the states that enacted changes to their lobbying laws are Alaska, Colorado, Florida, Georgia, Louisiana, Missouri, New Hampshire, North Carolina, New York, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Virginia and West Virginia.

Some lobbying law amendments are multifaceted.

North Carolina and Tennessee adopted multifaceted lobbying law amendments. North Carolina expanded its lobbying definition to include grassroots lobbying and imposed a lobbyist and lobbyist employer gift ban, with some exceptions. Tennessee increased the content and frequency of lobbyists' disclosure reports, mandated random audits of lobbyists' registration statements and reports, and required annual ethics training. Tennessee also addressed the issue of lawmakers becoming lobbyists by prohibiting members of the General Assembly from being lobbyists within 12 months of leaving their government position.

Pennsylvania instituted a new statewide lobbying law effective January 2007, after its former lobbying law was ruled unconstitutional. The new law, among other areas, covers quarterly reports, grassroots communication and mandatory audits.

Lobbyist Registration. General trends in amending lobbying laws include expanding lobbyist and lobbyists' employers' registration and reporting requirements. States have moved to more frequent and comprehensive filings, higher fees, and stricter guidelines on amended filings. Disclosures and reporting laws also require more information, more frequent reporting and greater accuracy. All these changes are monitored more closely through audits and other inspections. Penalties for non-compliance have increased and, in some cases, the ability to lobby may be forfeited. Proponents of these measures say that more reporting and greater public access to this information will result in more honesty, accountability, and furtherance of the rightful goals of lobbying.

Lobbyist employer registration and reporting requirements have been expanded.

Photo ID. More states now require public identification by photo of all registered lobbyists. Not only does this enable legislators to recognize certain lobbyists, but it also allows the public to see which former legislators currently are working as lobbyists. In addition to public photos, states are requiring that lobbyists' reports be accessible to the public. Georgia, Tennessee and Vermont post photos of lobbyists on a publicly accessible website. States that require lobbyists' photos as part of registration but do not put them on a website include Connecticut, Delaware, Louisiana, Massachusetts, Mississippi, Pennsylvania, Washington and West Virginia.

Gift Restrictions. Several states prohibit what lobbyists can give to legislators in the form of gifts, travel, food, lodging and entertainment. North Carolina and Tennessee include lengthy discussions of gift and expense bans and spell out exceptions. In Tennessee, in-state and out-of-state activities are treated separately. Colorado voters, through a ballot initiative, passed a sweeping constitutional amendment that bans all gifts from lobbyists to state and local elected officials, all public employees, and family members of all groups. The amendment has been challenged by a group called First Amendment Council and is in litigation.

Gift bans on lobbyists are more extensive than those on constituents and others.

Generally, gift bans on lobbyists are more extensive than the gift restrictions on constituents and other members of the public. Limitations on lobbyists paying for travel also are more prohibitive than restrictions on other groups. Lobbyists and lawmakers face the perception that having a lobbyist provide travel, lodging, entertainment or food creates an expectation that the legislator will repay this "gift" with favorable treatment for the funder. This perception includes even educational trips where legislators learn about issues to help them make informed policy decisions.

Instead of prohibiting lobbyists from paying for travel, some states allow travel payments but require frequent and detailed reports of such funding. The theory is that if the information is public, abuse is less likely.

Revolving Door. Additional trends include applying revolving door limitations specifically to lobbying. Instead of stating that former legislators cannot engage in a range of jobs where they might use influence or information they gained as legislators, an increasing number of laws and bills specifically say that legislators cannot serve as lobbyists for certain periods of time after they leave office. Twenty-eight states now prohibit legislators from becoming lobbyists for a period of time ranging from six months to two years.

Some states prohibit legislators from becoming lobbyists for a certain time.

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