

States Make Election Law Changes

June 2002

State legislatures and regulatory bodies are constantly changing and refining their election and campaign finance laws and regulations. Below we highlight a few of the changes that have occurred over the last several months. Before conducting any state activity or making state contributions, it is always advisable to double check the state's laws in order to ensure that they have not changed.

Oklahoma

The Oklahoma Ethics Commission will make a number of changes to its constitutional ethics rules effective July 1, 2002. Among the changes are the following:

- A change to the definitions of "contribution," "expenditure," "independent expenditure," and "political action committee" in order that express advocacy is captured and not issue advocacy.
- Elimination of the requirement that a paper copy follow an electronic copy of last minute contributions or receipts.
- A change to the date that annual PAC statements of organization are due to January 31.
- There are many more technical and other reporting changes as well.

Illinois

On May 23, the Illinois Supreme Court reinstated the state's Gift Ban Act when it dismissed the case in *Flynn v. Ryan*. The court stated that the plaintiffs in that case, in which the circuit court struck down the Act on constitutional grounds, lacked standing.

The Gift Ban Act, Pub. L. No. 90-737, broadly prohibits the solicitation and acceptance of gifts by state officials from what are termed "prohibited sources." The Act also covers disclaimers required on independent expenditures, among other things. The Illinois Supreme Court did not rule on the constitutionality of the Act; therefore, additional challenges are expected.

Florida

In response to last year's Eleventh Circuit ruling in *Florida Right to Life, Inc. v. Lamar*, Governor Jeb Bush has signed into law several campaign finance measures. In the most recent enactment (former S.B. 1350), the state prohibits the making of *quid pro quo* charitable contributions by candidates, political parties, and PACs, as well as indirect contributions.

The state also increased, to third degree felony, the penalty for accepting cash contributions in excess of \$5,000.

In April, the state enacted a set of measures that appear to have narrowed the definition of "political committee" to include only the following:

1. A combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year:
 - a. Accepts contributions for the purpose of making contributions to any candidate, political committee, committee of continuous existence, or political party;
 - b. Accepts contributions for the purpose of expressly advocating the election or defeat of a candidate or the passage or defeat of an issue;
 - c. Makes expenditures that expressly advocate the election or defeat of a candidate or the passage or defeat of an issue; or
 - d. Makes contributions to a common fund, other than a joint checking account between spouses, from which contributions are made to any candidate, political committee, committee or continuous existence, or political party.

New Fla. Stat. Ann. § 106.011(1)(a). These measures also adjusted reporting requirements, fines for late-filed reports, and other campaign finance provisions.

New York

On April 1, 2002, the New York state expanded the reach of its lobbying laws to include local lobbying in municipalities of more than 50,000 inhabitants. Lobbyists in these local areas who spend more than \$2,000 per calendar year attempting to influence governmental action must now file bimonthly financial and activity reports with the New York State Lobbying Commission.

Virginia

Effective July 1, 2002, all PACs seeking to influence the outcome of a Virginia election must file six reports a year. Per HB 556, codified at Va. Code § 24.2-923.C, the separate schedules for the May and November elections are eliminated.

Virginia reports are now due on the following dates.

Due Date

- Eight days before the first Tuesday in March
- Eight days before the first Tuesday in May
- Eight Days before the first Tuesday in June

- Eight days before the Tuesday after the first Monday in November
- Not later than the 30th day after the November election date
- Not later than January 15

Covering

- Through the 11th day before that Tuesday
- Through the 11th day before that Tuesday
- Through the 13th day before that Tuesday
- Through the 13th day before that Tuesday
- Through the 23rd day after the election date
- Through December 31

A PAC may file a "no activity" report for any period in which it has no activity.

For additional information, please contact Carol A. Laham (202.719.7301 or claham@wiley.law).