

Changes in the States

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Illinois

In the past two months, the Illinois legislature has enacted two pieces of legislation affecting the state's ethics, lobbying and campaign finance laws. Public Act 93-615 (former H.B. 3412) was passed over the Governor's veto and became effective November 19, 2003. This act was itself amended by Public Act 93-617 (former S.B. 702), which was signed by the Governor and became effective on December 9, 2003. A brief discussion of the three areas affected by this legislation follows below.

New Ethics Provisions. The new laws repealed the state's Gift Ban Act and inserted gift provisions into the State Officers and Employees Ethic Act. First, state law now *excepts* from the gift rules the following items:

- Food and refreshments not exceeding \$75 per day that are consumed on the premises where they are bought or that are catered,
- Activities associated with a fundraising event in support of a political organization or candidate,
- Opportunities available to the general public,
- Travel expenses for a meeting to discuss State business and
- Educational materials and missions.

Second, the new law permits state agencies to adopt tighter rules for their own employees. Local governments and school boards must adopt in the next six months ordinances that are at least as strict as the new law.

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Third, the new law *removed* several exceptions to the gift ban, including those specifically related to golf and tennis, widely-attended events, contributions to legal defense funds, and informational materials. The new law also repealed the statutory exception for reimbursement from a private source for non-recreational speaking engagements, meetings, etc.

Fourth, the new law created several new agencies and institutions to enforce and administer the gift provisions and other statutes. Specifically, the statute created the Executive Ethics Commission, Executive Inspectors General, the Legislative Ethics Commission, Legislative Inspectors General and the Auditor General's Inspector General.

Finally, the new law instituted a one-year revolving door prohibition on employees involved in negotiating contracts for the state worth \$25,000 or more. Those state employees are now prohibited from accepting employment for one year with private parties to those contracts.

New Lobbyist Provisions. Further, the new law also amended some of the lobbyist provisions. Now, lobbyists must re-register by January 31 and July 31 of each year. In addition, lobbyists also must make amendments to their registration within 14 days of a change of information, except that new retainer agreements must be reported before lobbying, but no later than two business days after the agreements are executed. The new law also raised the annual lobbyist registration fee to \$350 per year (\$150 for 501(c)(3) organizations). Finally, lobbyist reports must now include (a) the name of each government entity lobbied, (b) whether the lobbying involved executive, legislative or administrative action or a combination of each, (c) the names of the person who performed the lobbyist services and (d) a brief description of the legislative, executive or administrative action involved.

New Campaign Finance Provisions. In Illinois, contributions may not be solicited, accepted, offered or made on state property by officials, public employees, candidates, political organizations or lobbyists. Furthermore, "expenditure" under state law now includes "electioneering communications," which are defined as "any form of communication, in whatever medium, including but not limited to, newspaper, radio, television, or Internet communications, that refers to a clearly identified candidate, candidates, or political party and is made within (i) 60 days before a general election for the office sought by the candidate or (ii) 30 days before a general primary election for the office sought by the candidate."

Texas

Texas recently amended the reporting obligations of federal PACs and other "out-of-state" committees that participate in Texas non-federal elections. An "out-of-state" committee is defined as a political committee that:

- Makes political expenditures outside of Texas; and
- Makes 80 percent or more of the committee's total political expenditures in any combination of elections outside of Texas and federal offices not voted on in Texas in the 12 months immediately preceding the making of a political expenditure by the committee in Texas (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder).

The amendments to the Texas Election Code explain that an "out-of-state" committee must file a copy of the reports it files with the Federal Election Commission, or the proper filing authority of at least one other state, which disclose the committee's Texas political activity. The reports must be filed on the same deadlines as those required by federal law or the law of the other state.

The Texas Ethics Commission also amended its administrative rules to allow an "out-of-state" committee to file only copies of the cover sheets and the relevant pages that disclose the contributions or expenditures the committee made in Texas. The amended rule further provides that if the committee files electronically in another jurisdiction, the committee may simply send a letter to the Texas Ethics Commission indicating the location of the committee's electronic report on the website of the agency in the other jurisdiction. Such a letter must still be sent within the other jurisdiction's reporting deadlines.