

New York State Bans Most Gifts from Lobbyists and Lobbyist Employers and Makes Other Ethics and Lobbying Changes

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On April 25, 2007, the majority of changes to the lobbying and ethics law of New York State became effective as a prelude to a major bureaucratic event this Fall—the merging of the State Ethics Commission and the New York Temporary State Commission on Lobbying into the new Commission on Public Integrity. The changes are the result of former A.B. 3736, signed by Governor Spitzer on March 26, 2007. The new law affects, among other things, gifts by lobbyists and lobbyist employers, gifts from other persons, the receipt of honoraria, lobbyist registration, and contingency fees.

With respect to gifts to public officials from lobbyists and lobbyist employers, New York State has scrapped its old \$75 gift limit (which became a "per year" gift limit last year) and simply banned most such gifts "unless under the circumstances it is not reasonable to infer that the gift was intended to influence such public official." At the same time, however, the state introduced several exceptions into the definition of "gift" under the lobbying law, including exceptions for food and beverages of a nominal value offered as part of a meal and complimentary attendance at bona fide charitable or political events.

New York State also adjusted the gift rules for executive branch personnel. New York now prohibits all persons from offering statewide elected officials, state officers or employees, individuals whose names have been submitted by the governor to the Senate for confirmation to become a state officer or employee, members of the legislature and legislative employees any gift (including meals, entertainment, travel, lodging, refreshments, discounts, and

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forbearance) having more than nominal value under circumstances in which it could reasonably be inferred that the gift was intended or expected to influence or reward the state official or employee. This, too, replaces a previous \$75 per year gift rule. Since the State Ethics Commission has issued several advisory opinions and provided other guidance with respect to the old gift law, there are some remaining questions as to the ultimate real-world reach of this new gift prohibition. The legislature, though, has given the new Commission on Public Integrity until April 1, 2008 to review the previous regulations and advisory opinions of both the State Ethics Commission and the Lobbying Commission, address the consistency among the regulations and opinions and with the new law, and to issue new opinions as necessary.

The new law also bans honoraria for certain public officials and requires organizations registered as lobbyists to register the name of any employee engaging in lobbying for the organization or who is employed in the organization's division that engages in the lobbying activities of the organization. Further, among many other things, the new law expands the ban on contingency fees to prohibit fees received from lobbying for a state or local grant, loan, or other agreement that involves the disbursement of public monies.