

Ohio Court Strikes Down and Changes Pay-to-Play Laws

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On April 14, 2009, an Ohio appellate court upheld a lower court's 2008 decision that struck down Ohio's 2006 expansion of the state's pay-to-play laws. The court made its decision on a procedural, not substantive, ground in that the governor signed language different from what was passed by the legislature because of a legislative clerk's error. The decision can be found here: www.sconet.state.oh.us/rod/docs/pdf/10/2009/2009-ohio-1750.pdf.

As a result of this decision, Ohio's pay-to-play statute reverts to its status before the impermissible 2006 changes. The preexisting statute, which affects contracts at both the state and local levels, is narrower and less detailed than the statute after the 2006 changes. For example, PAC contributions and contributions by children are not covered by the preexisting statute.

The decision of the appellate court is subject to an appeal by the state and, if appealed, a stay pending appeal. Our source at the Ohio Secretary of State's office indicates that the Attorney General's office has not yet decided whether or not to appeal the decision.

Our previous coverage of the pay-to-play court decisions in Ohio can be found at www.wileyrein.com/docs/newsletter_issues/594.pdf.

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