



E-News from State and Federal Communications, Inc.

December 2017

## We Wish You a Merry Christmas and a Happy New Year

It is so hard to believe this is December and 2017 is almost over. At State and Federal Communications, we are exceptionally busy this month, making sure our website is up-to-date; preparing our popular Guidebook, now in its 19th year of existence; and most important, insuring our consulting clients are properly registered and ready for the New Year of activity in 2018.

We are extremely excited about 2018 as we will also celebrate our 25th anniversary; we will introduce our international guide for lobbying, campaign finance, and procurement lobbying; and we will be here to help you maneuver through the thousands of elections in 2018.

In addition, State and Federal Communications makes sure our own staff takes the time to develop their skills for professional and personal development and they have each given me their one goal for 2018. In fact, they wrote it down, put it in an envelope, and sealed it. Each wrote their own name on the outside of their envelope and I will distribute it at our 2018 Holiday Party to see if the goal was reached.

This is extremely important to me. To have a well-rounded staff with a strong culture, which everyone finds welcoming, we need to keep our skills sharp. We use BizLibrary and ask everyone to take 20 minutes a month to watch whatever is of interest and ask their managers to direct them to keep computer skills strong. You see us everywhere because we attend conferences—not only to see our many friends and clients—but to learn from the various speakers about the work we do and the work we have to understand you do.

What is your 2018 goal? Email it to me at [ebartz@stateandfed.com](mailto:ebartz@stateandfed.com) and I will follow up with you during the year to see how you are doing and how I can help you meet your goal. I consider myself the “connector” Malcolm Gladwell termed in his first book, *The Tipping Point*.

In the meantime, enjoy the holiday season and take some time to breath and be ready for what will be another big election year.

Thank you for the confidence you have with State and Federal Communications and watch out for what we do in 2018.

[Elizabeth Z. Bartz](#)

President and CEO  
[@elizabethbartz](#)



# Summary of Changes UPDATE

Note Recent Changes to Compliance Regulations

by Michael Beckett, Esq., Research Manager

Update

**CALIFORNIA:** Gov. Jerry Brown signed Assembly Bill 867 into law, recasting various provisions of the Political Reform Act regarding the definition of contribution. The law moves the behested payment reporting requirements out of the definition and places those requirements in campaign disclosure sections of the act. Additionally, the law provides specific definitions for terms related to the reporting of behested payments. The law is effective January 1, 2018.



**CANADA:** Elections Canada announced several by-elections for the House of Commons to be held on December 11. The federal by-elections will be held for the electoral districts of Battlefords–Lloydminster (Saskatchewan), Bonavista–Burin–Trinity (Newfoundland and Labrador), Scarborough–Agincourt (Ontario), and South Surrey–White Rock (British Columbia) to fill vacancies in the House of Commons. Battlefords–Lloydminster (Saskatchewan) MP Gerry Ritz resigned on August 31 in order to retire from politics. Bonavista–Burin–Trinity (Newfoundland and Labrador) MP Judy Foote resigned in September. Foote has been on leave since April for personal family medical reasons. In August, she had resigned her position as Minister of Public Services and Procurement. The seat for Scarborough–Agincourt (Ontario) became vacant on September 14 when MP Arnold Chan died at the age of 50 of cancer after a three-year battle. South Surrey–White Rock (British Columbia) MP Dianne Watts resigned to run for the provincial Liberal leadership.

**FEDERAL:** Contributions by federal contractors to federal independent expenditure-only political action committees, also known as super PACs, may violate the federal pay-to-play

prohibition. In late September, the Federal Election Commission (FEC) entered into a conciliation agreement with a federal contractor after finding the contractor had violated pay-to-play prohibitions by making contributions to a federal independent expenditure-only political action committee. The FEC fined the contractor, Suffolk Construction Company, \$34,000 for making two \$100,000 contributions in 2015 to Priorities USA Action, a super PAC supporting former presidential candidate Hillary Clinton. Because the matter was resolved by agreement between the FEC and the contractor, there was no challenge made to the FEC's fine.

**ILLINOIS:** Gov. Bruce Rauner signed a bill passed by lawmakers during the fall veto session aimed at curbing sexual harassment within state government. Senate Bill 402 expressly prohibits sexual harassment by lobbyists, provides for a \$5,000 fine for violations, and requires lobbyists to take an annual sexual harassment training course. The training course must be completed within 30 days of registration or renewal, beginning January 1, 2018. Additionally, each person and entity required to register must have a written sexual harassment policy by January 1, 2018. Rauner criticized the bill as rushed and needing more work, but conceded it was a step in the right direction. The bill takes effect immediately.

**IOWA:** The General Assembly has implemented a new lobbyist reporting application for the upcoming 2018 session. A training class for the new application is being offered on several different dates. Interested parties may reserve a seat by emailing [helpdesk@legis.iowa.gov](mailto:helpdesk@legis.iowa.gov) or by calling the Help Desk at (515) 281-6506. All trainings will be held in the Miller Building, Room 300, 1112 E Grand, Des Moines, Iowa, 50319. The old system will remain in place until the new system is available in December.

## Legislation We Are Tracking

At any given time, more than 1,000 legislative bills, which can affect how you do business as a government affairs professional, are being discussed in federal, state, and local jurisdictions. These bills are summarized in State and Federal Communications' online Compliance Laws for Government Relations Professionals. They can be found on a jurisdiction's home page.

Summaries of major bills are also included in the monthly Summary of Changes email update sent to all clients. The chart below shows the number of bills we are tracking in regard to lobbying laws, political contributions, and procurement lobbying.

	Total bills	Number of Jurisdictions	Passed	Died	Carried over to 2018
Lobbying Laws	377	46	41	98	133
Political Contributions	587	51	64	162	220
Procurement Lobbying	505	51	53	121	173

# Montana Campaign Contribution Limits Reinstated

Alexandra Vernis, J.D.  
Research Associate

You  
Should Know



Last month the 9th U.S. Circuit Court of Appeals reinstated Montana's voter-approved political contribution limits, striking down a district court decision in *Lair v. Motl* finding the state's campaign contribution limits unconstitutional. The initial lawsuit filed in 2011 by campaign donors and state political action committees (PACs) claimed the campaign finance laws infringed on First Amendment rights by burdening speech and association. The limits were ruled unconstitutional in 2016 by a federal district judge in Helena who found the limits restricted political speech without being closely drawn to serve an important state interest.

The 9th Circuit found the contribution limits established by a voter referendum in 1994 to be "both justified and adequately tailored to the state's interest in combating quid pro quo corruption or its appearance." The three-judge panel found no actual case of quid pro quo corruption was necessary to prove campaign contributions can be used to influence political action. The decision also notes contributors who have reached the contribution limit have other avenues

available such as volunteering services, donating to political parties, and running independent advertising.

Under the reinstated limits, individual and PAC contributions to a gubernatorial candidate have been reduced to \$660 per election. The new limits drop by close to \$600 for individuals, while the limit for what a PAC can give is down from \$10,610 per election cycle. Direct corporate contributions remain prohibited. The decision affects candidates currently running in local elections, but anyone who has received a campaign contribution under the old limits is not required to return it. The Office of the Commissioner of Political Practices announced its intention to adjust the reinstated contribution limits for inflation before the 2020 elections.

Plaintiffs have already announced plans to appeal the two-judge majority decision, but are considering whether to ask a full panel of the 9th Circuit to reconsider the case or petition the U.S. Supreme Court.

*[The details for this article have been updated on our website in the Montana Contributions section of the Political*



**PRIMER**

*website*

Understanding the potential of  
State and Federal Communications  
online political compliance publications.

**State and Federal Communication's  
Primer Website webinars are a wonderful way to  
familiarize yourself with the  
Compliance Laws for Government Relations  
Professionals publications.**

Have you ever wanted to see all that our website offers? Sign up for this month's webinar and find out what our clients are raving about. This is your opportunity to understand the potential of our online political compliance publications. Join us to learn about their features and how they can help you.

This month's webinar is on  
**Wednesday, December 6, at 2 p.m. EST**

Seats are limited, so **register** today.  
Questions? Contact [marketing@stateandfed.com](mailto:marketing@stateandfed.com)

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## ASK THE EXPERTS

### State and Federal Communications' Experts Answer Your Questions -

Here is your chance to "Ask the Experts" at State and Federal Communications, Inc. Send your questions to [experts@stateandfed.com](mailto:experts@stateandfed.com). (Of course, we have always been available to answer questions from clients that are specific to your needs, and we encourage you to continue to call or email us with questions about your particular company or organization. As always, we will confidentially and directly provide answers or information you need.) Our replies are not legal advice, just our analysis of laws, rules, and regulations.

Q

**Every six months we survey our officers and directors asking whether they have made personal political contributions. Is this sufficient for purposes of pay-to-play reporting?**

A

Unfortunately, an after-the-fact survey is insufficient in protecting your company from running afoul of pay-to-play laws.

Surveys provide information about personal contributions after the contribution has already been made. When you sit down to complete a pay-to-play report and you consult the survey responses, the damage has already been done if the contribution was made in violation of the pay-to-play law. Furthermore, the time for corrective measures (seeking reimbursement of the contribution) has more than likely passed.

Developing an internal program whereby employees (and in some instances, their immediate family members) must seek pre-approval before making a personal political contribution is the gold standard. It is the best practice to ensure compliance with the varied pay-to-play laws.

The most compelling reasons to implement a pre-clearance program are to avoid debarment, fines, and negative publicity. Moreover, having a contract rescinded because of a pay-to-play violation can result in the loss of millions of dollars in revenue.

The success of any program is directly proportional to the education provided to employees. Educating them on the need for a pre-clearance strategy results in increased participation, which in turn results in decreased risk to the company.

At its core, a thorough program must let employees know the company is not prying into their personal spending habits and requiring permission is not an attempt to invade their privacy. The message must be conveyed that the company has legitimate business reasons for requiring pre-approval. Such reasons include: maintaining the company's ability to effectively conduct business with states and municipalities; ensuring the conduct of the company's employees does not jeopardize the company's reputation; and shielding the company's employees and their family members from personal liability.

There is no one-size-fits all compliance program, but if a pre-clearance strategy is not used, a violation of a jurisdiction's pay-to-play law is more likely to occur.

*Please feel free to contact us if you have any questions.*

**[Click here to read ALL Ask the Experts articles in full](#)**

*Please fill out the small form to gain access to all article free! Thanks.*

***Nola R. Werren, Esq., Client Specialist***





## W E B S I T E T I P

Our website now has 2018 legislative session and key dates information for all 50 states, the District of Columbia, five U.S. territories, the federal government, and Canada. In the Lobbying Compliance Laws publication, the key dates information provides a schedule of all reports and registrations due in 2018. In the Political Contributions Compliance Laws publication, the key dates information includes reports due and scheduled elections. Continue to watch the website for updates to the 2017 and 2018 key dates and for the addition of key dates information for city and county jurisdictions.

### See Us in Person

Plan to say hello at future events where **State and Federal Communications, Inc.** will be attending and/or speaking regarding compliance issues.

#### Events

December 3-7, 2017	COGEL Conference, Toronto, Ontario, Canada
December 5, 2017	SGAC Holiday Party, Washington, DC
December 6, 2017	Ohio Holiday Party, Washington, DC
December 10-13, 2017	NCSL Capitol Forum, Coronado, California
December 12, 2017	WGR Toastmasters, Washington, DC
December 14 - 16, 2017	Council of State Governments National Conference, Las Vegas, Nevada
December 26, 2017	WGR Toastmasters, Washington, DC

# Scrapbook

## State and Federal Communications, Inc. Scrapbook



Elizabeth Z Bartz with Howard Fineman at the SGAC LPC conference in Naples, FL.



Emilia Sykes with Elizabeth Z. Bartz. Are you a KSU Flash?

### State and Federal Communications, Inc. Scrapbook Staff Anniversary



In 2017, we have celebrated each staff team member and how long they have worked at State and Federal Communications, Inc. We end the year with our Sr. Compliance Associate, James Warner, Esq. as he celebrates his 9 year anniversary. He is an exceptional member of our staff. Congratulations, Jim!

### Spirit of Philanthropy Award



Congratulations to Elizabeth Z. Bartz as you won the 2017 Spirit of Philanthropy award