

COMPLIANCE NOW



E-News from State and Federal Communications, Inc.

November 2011

Professional Development

It is time to consider your professional development opportunities. And, during this time of the year there are a lot of options.

My #1 conference of choice is State Government Affairs Council Leaders Policy Conference. I first attended this in 2001 at the Wigwam in Scottsdale and I was hooked. I first met CSG's Executive Director, David Adkins there and Stan Tretiak, then with Coors, was the conference chairperson and had the CEO of Coors address the group.

You could say I loved it so much, I not only joined the association; I ran for the board, and am now the president!

This year, David Christman, from the National Beer Wholesalers Association, is the conference chairperson. The program is outstanding. Speakers include:

- 1 Craig Karges—Nationally recognized speaker and author;
- 2 Margaret Anderson Kelliher—President and CEO of Minnesota High Tech Association;
- 3 Kevin McCarty—Florida Insurance Commissioner;
- 4 William Symonds—Director, Pathways to Prosperity Project, Harvard Graduate School;
- 6 Michael Sargeant—Executive Director of the DLCC;
- 7 Matt Walter—Political Director of RSLC;
- 8 Dana Perino—Political Commentator, and Former White House Press Secretary; and
- 9 Cincinnati's own Johnny Bench—Baseball Legend.



In addition to this great cast of speakers are the exceptional legislators in the audience. SGAC invites the top six (6) legislators from every state. This gives everyone the opportunity to speak with state leaders and develop the important working relationships you will need in 2012. I don't know where to start, but some of them include:

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| 1 Kansas Senate President Stephen Morris; | 4 Ohio Representative Ted Celeste; |
| 2 Maryland Senate President Mike Miller; | 5 Ohio Senate President Tom Niehaus; and |
| 3 Georgia Senator Don Balfour; | 6 Massachusetts Senator Richard Moore. |

There is still space available for you at SGAC's LPC. You can obtain all the needed information at www.sgac.org.

Until next month, take the time to hone your skills, sharpen the saw, and awaken the giant within—okay, too much Covey and Robbins! The point is to stay on top of your game and be the best for your organization.

Elizabeth Z. Bartz
President and CEO

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 the State and Federal Communications' digital encyclopedias for lobbying laws, political contributions, and procurement lobbying; this information is located on the client portion of the State and Federal Communications website.

Summaries of major bills are also included in monthly e-mail updates sent to all clients. The attached chart shows the number of bills we are tracking in regards to lobbying laws, political contributions, and procurement lobbying.

	Total Bills	Number of Jurisdictions	Passed	Died	Carried over to 2012
Lobbying Laws	204	47	30	83	43
Political Contributions	382	50	48	133	77
Procurement Lobbying	181	40	19	73	20

Summary of Changes UPDATE

Note Recent Changes to Compliance Regulations

by John Cozine, Esq.
Research Manager

PHILADELPHIA, PENNSYLVANIA: The Philadelphia Board of Ethics has approved proposed regulations that define lobbying activity and describe how lobbyists must register and report expenditures. A previous board decision to provide a 30-day grace period would not require lobbyist registration until November. Additionally, registration can begin only when the board has an online registration system in place. Shane Creamer, executive director of the board, stated he hoped the online registration system would be ready in November.

WISCONSIN: Federal District Court Judge Rudolph Randa has ruled Wisconsin statutes §11.23 and §11.30 are unconstitutional as applied against Charles Hatchett, an individual who sent postcards and posted flyers urging his fellow residents to vote against a referendum. The laws require anyone who spends \$25 to influence a referendum to register, disclose names of donors, and include disclaimers saying who paid for materials. The court permanently enjoined the Wisconsin Government Accountability Board from enforcing the statutes and requiring Hatchett to register and include a disclaimer on postcards and flyers. The State of Wisconsin is currently considering appealing the ruling.

FEDERAL: The Office of Government Ethics (OGE) has issued proposed lobbyist gift ban rules, which would apply to all executive branch employees. Most of the proposed rules deal with limiting, for lobbyists, the exceptions of the ban on gifts. For example, executive branch employees would not be permitted to accept invitations extended by lobbyists for free attendance at widely attended gatherings that would normally fall under the gift ban exception. Non-profit professional associations, scientific organizations, and learned societies, which are also sometimes registered lobbyists, would still be afforded the exception. The OGE based much

of its reasoning on the notion "the cultivation of familiarity and access that a lobbyist [gains]" may be used in the future by lobbyists to obtain a more sympathetic hearing for clients. Another change would preclude lobbyists from the gift ban exception of social invitations, such as invitations to cocktail parties and movie screenings, if the invitations were extended because of the employee's official position, even if the lobbyist is not a prohibited source. The OGE argues in its proposal that "the lobbyist could use social events as a way to build general good will with a class of employees in case access is needed for a future issue or client." The proposed rules arise because an earlier Presidential Executive Order regarding gifts to non-career political appointees, which had called for the OGE to apply the lobbyist gift ban set forth in the order to all executive branch employees.

CONCORD, NEW HAMPSHIRE: The Concord City Council approved two ethics measures. One measure limits gifts to the mayor and councilors to \$50 or less. Another measure creates an ethics board to enforce the newly created gift limits. The measures were somewhat controversial because many thought the gift restrictions were not strict enough.

NEW YORK, NEW YORK: On September 8, 2011, the New York City Campaign Finance Board issued proposed new rules requiring the reporting of certain independent expenditures. The proposed reporting rules would cover expenditures that are for the design, production, or distribution of public communications, that are either express advocacy made at any time in an election cycle or an electioneering communication made within 90 days of an election, and that, when combined with all other expenditures made by the independent spender in support of or in opposition to that candidate or proposal, exceed \$1,000. Generally, in non-election years reports would be due semi-annually and in election years eight reports would be required, with expenditures required to be reported within 24 hours during the two weeks before the election.



New Jersey's Pay-to-Play Laws Under Fire

by George Ticoras, Esq.
Research Associate

New Jersey's complicated and problematic pay-to-play laws and local ordinances have recently come under attack by lawmakers and government officials.

Governor Chris Christie, State Comptroller A. Matthew Boxer, Assemblywoman Amy Handlin, and Election Law Enforcement Commission (ELEC) Executive Director Jeff Brindle are all calling for a simpler pay-to-play system, tighter contracting rules, and more complete disclosure of contractor contributions.

Comptroller Boxer issued a report finding the state's pay-to-play laws contain "a series of fatal flaws [that] have essentially rendered New Jersey's Pay-to-Play law meaningless." The comptroller's report suggests several changes, such as eliminating the fair-and-open exception which has different regulatory systems at the state and local levels, strengthening fair-and-open guidelines to require more competitive contracting, and reforming New Jersey's contract laws to allow a more competitive vendor-selection process.

Drawing on earlier recommendations from ELEC, Director Brindle also made calls for changes, including for one state pay-to-play

law to apply "across the board" for all jurisdictions. Additionally, ELEC proposes that any public contractor receiving a contract over \$17,500 file an annual report with the agency, listing the contractor's contributions and public contracts. The current disclosure threshold is \$50,000. Director Brindle also stated the contribution limits for contractors should be raised to help address fundraising concerns and not discourage participation in the political process.

Governor Christie stated, "New Jersey's ethics laws remain a patchwork of ineffective half measures and loopholes that fail to apply a uniform standard of rules of conduct for all levels of government in our state." The governor has pushed pay-to-play reform in New Jersey by linking financial Transitional Aid to municipalities with the requirement the municipalities adopt local pay-to-play ordinances.

Assemblywoman Amy Handlin meanwhile has renewed her calls to pass Assembly Bills 520, 521, and 527, saying, "Establishing a uniform set of criteria that applies to all levels of government when a contract is awarded will end the charade of the 'fair and open contract' exceptions for businesses that take advantage of existing loopholes."

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. You can directly submit questions for this feature, and we will select those most appropriate and answer them here. Send your questions to: marketing@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 e-mail us with questions about your particular company or organization. As always, we will confidentially and directly provide answers or information you need.) Our replies to your questions are not legal advice. Instead, these replies represent our analysis of laws, rules, and regulations.

Q.

I'm registered as a legislative lobbyist in Indiana. How should I keep track of reportable expenditures for my upcoming report due in November?

A.

The Indiana Lobby Registration Commission (ILRC) is currently in the process of reviewing the reporting guidelines for lobbyist expenditures and gifts. As fall kicks off and the November reporting deadline will soon be upon us, it is important to review key reporting changes.

Specifically, the ILRC does not consider a meal expenditure on behalf of a legislator to be a gift, but instead, an entertainment expenditure, as long as the lobbyist is present when the meal is consumed. Per the ILRC's reporting guidelines, please make sure you save an itemized receipt outlining the exact cost of the meals associated with reportable legislators. Here are some important things to remember regarding entertainment expenditures, including meals:

- *When determining how much to attribute to a particular legislator, only direct costs must be associated with the legislator. Unlike most states, determining a pro-rata cost of an official's meal by dividing the bill by the number of people present is not permissible. Instead, you must save an itemized receipt, and attribute only the amount of the specific items ordered for that particular legislator. Tax and tip must be appropriately allocated as well.*
- *If you are not present when making an expenditure, this qualifies as a gift, and is subject to special reporting guidelines. Starting with this reporting period (form was not developed until late April), a gift report must be submitted if a gift is given to a legislator equaling \$50.00 per day, or \$250.00 in the aggregate. This report is due 15 business days after the gift is given. A copy must be sent to the legislator who is named in the report. Moreover, informed prior consent must be obtained from the legislator before the gift is given.*

See Us in Person

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

November 8, 2011	Election Day, United States
November 9, 2011	WASRG Summit, Washington, D.C.
November 16, 2011	American League of Lobbyists Annual Meeting, Washington, D.C.
November 19-22, 2011	2011 SGAC Foundation Leaders' Policy Conference, Miami, Florida
November 29-December 2, 2011	NCSL 2011 Fall Forum, Tampa, Florida
December 4-7, 2011	Council on Governmental Ethics Laws, Nashville, Tennessee



**The Mission of
State and Federal Communications
is to make sure that
your organization can say,
"I Comply."**

The State and Federal Communications, Inc. Scrapbook



Elizabeth Bartz with fellow Kent State alum, Stephanie Danes Smith. Stephanie was at Kent State University to receive the Taylor Award from the School of Journalism and Mass Communications.



Nola Werren with former State and Federal Research Associate, Rob Mullen, now general counsel at Aultman Hospital.



Senator Alan Simpson [WY] stealing a kiss from Sunovion's Katrina Iserman.



Elizabeth Bartz at Harley Davidson Museum on an Inter-City visit in Milwaukee with Akron executives. She can mark "sitting on a Harley" off her bucket list.

Wealth of Information at www.lobbycomply.com



Want to interact with your fellow government affairs and procurement colleagues? Then jump into the State and Federal Communications, Inc. blog at www.lobbycomply.com. Once there, you can join the exchange of ideas and view solutions to common challenges and problems. Also, State and Federal Communications continually adds content to the blog, including 'hot topics,' which are summaries of important news items you need to know about.

Join the conversation, and make use of this valuable information resource.

The State and Federal Communications, Inc. Scrapbook



Ever wonder what Baseball Commissioner, Bud Selig, had as a front office carpet?



MLB Baseball Commissioner Bud Selig with his new friend, Elizabeth Bartz!



This year, our United Way Campaign had State and Federal Communications, Inc. employees split in two teams - the STARs and the STRIPES. Here Elizabeth Z. Bartz sits with the winning stripes team while they choose gift card prizes from the grab bag. [Seated: Sarah Kovit, Dave McPeck (team leader), and Elizabeth. Standing- l to r - Jim Sedor, Susan Stofka, Nate Shaker, James Warner, Megan Huber, Becky Campbell, Val Blake, Sarah Gray, and George Ticoras.]

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US ON:**

