

## **POLICY ALERT**

### **CHANGES TO MASSACHUSETTS LOBBYING, GIFT AND CAMPAIGN FINANCE LAWS**

New gift and lobbying laws became effective in Massachusetts on September 29, 2009. New campaign finance laws will become effective January 1, 2010. House Bill 4133: An Act to Improve the Laws relating to Campaign Finance, Ethics and Lobbying, signed by the governor on July 1, 2009, enhances the gift ban, lobbying rules and campaign finance provisions and expands the secretary of state's role over enforcement of the above-mentioned laws. Fines and penalties for noncompliance will also increase.

#### **GIFT BAN**

The new law prohibits present and former public officers and employees from soliciting or accepting gifts of "substantial value" from persons influencing or attempting to influence such officers and employees on official actions. The state ethics commission is required to adopt regulations establishing exclusions and to define "substantial value" such that "substantial value" shall not be less than \$50.

#### **LOBBYING RULES**

The new law implements lower registration threshold requirements. Individuals will be required to register as executive and legislative agents when their lobbying efforts exceed 25 hours and \$2,500 in any six-month reporting period. Previously, the permissible incidental lobbying amount was 50 hours or \$5,000. The new law also expands the definition of executive and legislative lobbying to include municipal lobbying that has a common purpose with legislative or executive lobbying at the state level, as well as strategizing, planning and research if performed for use in an actual communication with a government employee.

Under the new law, a legislative or executive agent's license will entitle the holder to lobby on behalf of the clients whom he or she is registered to represent; the license will expire annually on December 31. Lobbyists will also be required to take a training annually, either in person or online, and will be required to complete additional training if any new laws are passed. The Lobbyist Section in the Office of the Secretary of the Commonwealth is currently working on how the training requirements will be applied for 2009.

Lobbyists will also be required to disclose additional information. Executive and legislative agents must (1) list all bill numbers and names of legislation and other governmental action

upon which they lobbied, including the name of the client on whose behalf they were acting in respect to each action; (2) provide a statement of the lobbyist's position on each bill or government action; (3) identify each client for whom they provided lobbying services and the amount of compensation received for lobbying from each client with respect to lobbying services; and (4) disclose all direct business associations with any public official.

The law also prohibits contingency lobbying and extends the one-year revolving door policy to legislative and executive agents.

### **CAMPAIGN FINANCE PROVISIONS**

The new law implements a variety of changes to the existing campaign finance laws. Vendors, including consultants, must provide a detailed account of the expenditures they make on behalf of political committees within five days of making such expenditures. The vendor must provide the date of the expenditure, the name of the person who received the payment, the full name and address of any subvendor (i.e., a person providing goods or services to a vendor, who contracts with a vendor to provide goods or services to a political committee), the purpose of the expenditure and the amount of expenditure. The political committee is required to report the payments that the vendor made to the subvendor if payments exceed \$500.

Under the new law, PACs are now required to file reports twice during a nonelection year. Further, legal defense, recount and inaugural funds may all be established under the new campaign finance rules. The accounts must be separate from campaign accounts, and donations to the fund exceeding \$50 must be disclosed.

### **ENHANCED ENFORCEMENT**

The secretary of state is given civil enforcement authority over all lobbying laws. All legislative and executive agents must be licensed by the office of the secretary of state. The new law expands the secretary of state's authority over lobbying laws to include the authority to conduct adjudicatory proceedings and to subpoena documents and testimony. The secretary is also required to provide confidential, binding advisory opinions.

The new law increases all fines and penalties. The penalty for filing late statements to be levied on lobbyists and employers of lobbyists will be \$50 per day for the first 20 days and \$100 per day for every day after the 20<sup>th</sup> day. The criminal penalty of violating lobbying laws and gift rules is also increased. Violators may now be assessed a fine up to \$10,000, or given up to five years' imprisonment in state prison or up to two-and-a-half years in a house of correction. The law also provides that anyone convicted of a felony under Chapter 3, 55 or 268A is prohibited from acting or registering as an executive or legislative agent for a period of 10 years after the date of conviction.

### **CONTACT INFORMATION**

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