



Expansion of New York State's Lobbying Law Enacted

Significant Impact on Interactions with Local Governments

New York State's 2015-2016 enacted budget includes a variety of changes to the State's ethics laws, mainly pertaining to disclosure obligations for public officials who maintain outside employment and penalties for failing to comply, as well as pension forfeiture for officials convicted of public corruption. The enacted budget also includes a notable change to the New York State Lobbying Act that will cause individuals and entities who interact with local governments – even small ones – to comply with the State's lobbying registration and reporting requirements. This change may be particularly noteworthy for attorneys and other consultants whose practices involve representing clients seeking changes to local zoning laws, representing clients before school districts, and other activities that are not intuitively viewed as “lobbying.”

Expanded Application of NYS Lobbying Act

Effective upon the Governor's formal approval of the bill, the Lobbying Act's definition of municipality is amended to include all governmental subdivisions – including school districts – with a population greater than **5,000**. Any individual or entity that expends more than \$5,000 attempting to influence legislation, regulation, procurement, or certain other enumerated activities by a local government with a population of more than 5,000 is now required to register with and disclose the activity to State Joint Commission on Public Ethics (JCOPE).

Previous Application of Lobbying Act to Local Governments

Current law defines “lobbying” or “lobbying activities” to include attempts to influence:

- > the passage or defeat of any local law, ordinance, resolution, or regulation by any municipality or subdivision thereof;
- > the adoption, issuance, rescission, modification or terms of an executive order issued by the chief executive officer of a municipality;
- > the adoption or rejection of any rule, regulation, or resolution having the force and effect of a local law, ordinance, resolution, or regulation;
- > any determination by a municipal officer and employee with regards to a governmental procurement;
- > the outcome of any rate making proceeding by any municipality or subdivision thereof;
- > comparable activity on the State level; and
- > the approval, disapproval, implementation or administration of tribal-state compacts, memoranda of understanding, or any other tribal-state agreements and any other state actions related to Class III gaming.

Historically, however, these activities were only considered lobbying – potentially triggering registration and disclosure obligations with JCOPE – if it occurred before: (i) a local government with a population of more than 50,000 individuals (covering most counties, 13 cities, 21 towns and one village), (ii) an industrial development agency in one of those jurisdictions with a population of more than 50,000, (iii) a public authority, (iv) a public corporation; or (v) other State entities, including the Legislature, Governor’s Office, and the Executive Agencies. Additionally, the law had expressly excluded school districts. In short, there had been no requirement that persons or entities seeking to influence the legislative, regulatory, or procurement process in the hundreds of political subdivisions with 50,000 residents or less, or school districts, register as a lobbyist or disclose the activity. This change in definition adopted as part of the budget represents a significant shift in policy.

New Obligation to Register and Report Interactions with Local Governments

Changing the definition of municipality could have a major impact on businesses, attorneys, and consultants, as well as the local government officials with whom they interact. Activities that traditionally were not considered “lobbying” now may trigger registration obligations, and interactions with countless local political subdivisions will have to be disclosed to the State. This will mean new compliance obligations for consultants and their clients, and new insight into certain municipal officials’ activities. Persons or firms that engage in lobbying activities before local governments or school districts with a population more than 5,000 will now have to register within 10 days of commencement of the lobbying activity, or 15 days from being retained to engage in such activities. Persons already engaging in such activities may be required to register promptly, and will have to first disclose the activity in bi-monthly reports due on May 15, 2015. Furthermore, as the Legislative Law’s gift restrictions apply to any “individual or entity required to be listed on a statement of registration” filed with JCOPE and such interactions with all “public officials,” including “municipal officers and employees,” many more individuals will be required to comply with the State’s lobbyist gift restrictions.

Government Law Compliance Practice

Greenberg Traurig's Government Law Compliance Practice is available to assist with questions regarding New York State's lobbying, ethics, and election laws, and to assist with the development or implementation of compliance policies. GT has a broad range of experience in New York City and State, and provides advice to some of the world's leading corporations, lobbying firms, public officials, candidates, advocacy organizations, and others who seek to navigate New York's complex political law compliance requirements.

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