

NONPROFIT ORGANIZATIONS

ALERT

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2012NEW PHILADELPHIA LOBBYING LAW: IMPLICATIONS
FOR NONPROFIT ORGANIZATIONS

By Joyce C. Sun

Philadelphia's new lobbying law took effect on January 3, 2012. Incorporated into the Philadelphia Code as Chapter 20-1200, the law's reach is not limited to professional lobbyists and lobbying firms. In fact, the law's definition of lobbying includes activities frequently engaged in by many nonprofit organizations.

Under the new law, lobbying generally occurs whenever a communication is made in an effort to influence legislative or administrative action. This includes when a person or organization provides gifts, hospitality, transportation, or lodging to a City official or employee to advance the cause of that person or organization or a client of that person or organization. This also includes direct communication with a City official, a City agency, or certain City-related agencies in an effort to influence legislative or administrative action. Importantly, under § 20-1201, lobbying encompasses indirect communication with the "purpose or foreseeable effect" of encouraging others to influence legislative or administrative action. Letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards, and educational campaigns on public issues are specifically mentioned by the law as examples of indirect communication that can constitute lobbying. Newsletters can also constitute lobbying if they are not primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit corporation.

An individual who lobbies 20 hours or more in a calendar quarter, or who receives \$2,500 or more in a calendar quarter as salary or compensation for lobbying, must register with the City's Board of Ethics as a lobbyist. An organization or company that spends \$2,500 or more on lobbying in a calendar quarter, whether in salary to employees, to outside professional lobbyists, for office expenses, or otherwise, must register as a principal. In addition, principals must file quarterly statements regarding lobbying expenditures.

Those who do not comply with the law face penalties. Individuals and organizations must register within 10 days of reaching the applicable lobbying threshold. Failure to register results in a fine of \$250 per day, with a maximum fine of \$2,000. The new lobbying law also regulates the conduct of lobbyists, principals, and lobbying firms. Certain conduct is prohibited, and certain other conduct is required. For example, a lobbyist may not serve as an officer on the political committee or political action committee of a candidate seeking City elected office. In contrast, the

law requires that lobbyists and principals attend an initial training session provided by the Board of Ethics within 120 days of registering. Also, § 20-1205 requires "clearly and conspicuously stat[ing] the name of the person who made or financed" an expenditure for indirect communication. Failure to abide by the new law carries a maximum fine of \$2,000; intentional violations can bar an individual from lobbying for up to five years.

A number of exemptions from the law are available. Under § 20-1204, for example, testimony before City Council does not count as lobbying. Lobbying of an agency covered by the Commonwealth of Pennsylvania's lobbying law is also exempt, as are certain activities of attorneys in representing clients.

Since the law is relatively new, details of interpretation and enforcement are still being clarified. The Board of Ethics has issued regulations and will provide advisory opinions upon request. Nonprofit organizations active in the City would be well-advised to familiarize themselves with current lobbying laws and regulations and to keep themselves apprised of developments. ♦

This summary of legal issues is published for informational purposes only. It does not dispense legal advice or create an attorney-client relationship with those who read it. Readers should obtain professional legal advice before taking any legal action.

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