



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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Fair Political Practices Commission

Memorandum

To: Chair Remke and Commissioners Casher, Eskovitz, Wasserman and Wynne

From: John W. Wallace, Assistant General Counsel
Emelyn Rodriguez, Commission Counsel

Subject: Payments for Fundraising Events from Lobbyists and Lobbying Firms:
Adoption of Amendments to Regulation 18215, Definition of Contribution.

Date: February 9, 2015

Summary

Last year, the Legislature introduced a package of ethics bills including legislation that changes the definition of “contribution” under the Political Reform Act (the “Act”)¹, specifically with regard to lobbyist fundraising events, and fundraising events held at the offices of lobbying firms. This memorandum discusses the statutory changes made by these bills. It recommends revisions to Regulation 18215 to conform to changes made by SB 1441 (Lara) – Chapter 930, Statutes of 2014 and AB 1673 (Garcia) – Chapter 882, Statutes of 2014, both effective January 1, 2015.²

Background

Section 85702 prohibits state officials from accepting contributions from lobbyists registered to lobby them. It also prohibits lobbyists from making monetary and non-monetary contributions to public officials whose agencies they are registered to lobby.

The Act defines “contribution” under Section 82015. There are numerous exceptions to this definition. One exception under Section 82015(f) exempts “payments made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if costs for the meeting or fundraising event are five hundred dollars (\$500) or less.” Existing Regulation 18215(c)(3) provides that the fair rental value of the home or office fundraising venue is not counted towards the \$500 spent in connection with the event.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014.

² The two bills are identical after legislative committee revisions.

SB 1441 and AB 1673 amended Section 82015, adding new language in subdivision (f). These statutory changes provide that:

“(2) ‘Contribution’ includes a payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist, including the value of the use of the home as a fundraising event venue. A payment described in this paragraph shall be attributable to the lobbyist for purposes of Section 85702.

“(3) ‘Contribution’ includes a payment made by a lobbying firm for costs related to a fundraising event held at the office of the lobbying firm, including the value of the use of the office as a fundraising event venue.”

With the passage of SB 1441 and AB1673, lobbyists and lobbying firms may no longer take advantage of this fundraiser exception, as the payment for the value of the fundraising venue is a contribution attributed to the lobbyist or lobbying firm. The new law also provides that a lobbyist registered to lobby an official who is the beneficiary of an in-home fundraiser makes a contribution to that official in violation of Section 85702. A lobbyist also makes a prohibited contribution under Section 85702 when a contribution is made by a business entity, including a lobbying firm that is owned in whole or in part by a lobbyist, and the lobbyist participates in the decision to contribute. (Regulation 18572(a)(2).)

At a recent lobbyist ethics orientation course conducted by the Assembly Legislative Ethics Committee and the Senate Committee on Legislative Ethics, the question was raised as to whether the effect of the new law could be avoided by reimbursing the lobbyist hosting an event at his or her home so that no payment would be attributable to the lobbyist host. Amendments to Regulation 18215 specify that payments for the use of a lobbyist’s home as a fundraising venue may not be reimbursed by any person. This proposed amendment limits attempts to circumvent the new statutory language, gives meaningful effect to the legislative changes, and fully implements the spirit of the law.

The Commission is mandated to liberally construe the provisions of the Act to accomplish its purposes. (Section 81003.) It is staff’s view that to construe the changes to Section 82015 to allow lobbyists to continue holding in-home fundraisers would be contrary to the intent of ethics bills, SB 1441 and AB 1673.³ It would also do nothing to further the Act’s goals of increasing public confidence in the political system by reducing the appearance of impropriety and actual undue influence by lobbyists and lobbying firms.⁴

³ These legislative changes were introduced with other ethics reforms in the wake of a highly publicized enforcement action involving a registered lobbyist who hosted in-home fundraisers and provided benefits to guests (e.g. wine, spirits, beer) that qualified as non-monetary contributions to officials he was registered to lobby.

⁴ A lobbyist renting a fundraising venue to an official he or she is registered to lobby would very likely be prohibited under Section 86205, which states that “No lobbyist or lobbying firm shall: (a) Do anything with the purpose of placing any elected state officer, legislative official, agency official, or state candidate under *personal obligation* to the lobbyist, the lobbying firm, or the lobbyist’s or the firm’s employer.” (Emphasis added.)

Conclusion and Recommendation

The proposed regulatory amendments will conform existing regulations to these new laws. Staff recommends the Commission adopt proposed amendments to Regulation 18215.

Attachments:

Proposed Regulation 18215