

BLOG POST

New York City Imposes New Rules To Increase Registration of, and Reporting by, Lobbyists

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New York City has enacted a number of significant changes to the City's Lobbying Law, most of which will go into effect on May 16, 2014. The amendments expand the definition of lobbying, change the reporting periods, alter the financial threshold triggering reporting, provide guidance for architects and engineers, and provide for an amnesty for late registrations and a new enforcement effort.

The amended law expands the definition of what constitutes "lobbying" the New York City Council, either the entity or any member of the Council, to embrace any attempt to influence legislation, resolutions, and the oversight process, which includes the drafting, amending, passage or defeat of such resolution or legislation, as well as the calendaring, scope, or content of an oversight hearing. These same broad strokes apply to efforts to influence the actions by the Mayor or executive branch of government regarding any legislation, resolution, or executive order. Simply put, the new rules now encompass any effort to influence the initiation, or the determination not to initiate, any of the aforementioned activities.

The revised law also makes clear that any attempt to influence a decision of an agency of the City regarding a rule, including whether or not to propose such a rule, is a lobbying activity, as are attempts to influence the initiation or content of a rate-making proceeding. Finally, the new law expands the definition of lobbying to now include any attempt to influence a city official or employee, acting within the scope of his/her city position, to support or oppose any federal or state legislation or rulemaking procedure.

In addition to significantly expanding the lobbying definition the amended law imposes among other changes, the following new requirements:

- Starting on January 1, 2014, the fiscal threshold triggering registration as a lobbyist will be \$5,000 per year, rather than the current \$2,000 per year, which will make the City and State thresholds the same. However, architects, engineers, and firms providing architecture and/or engineering services to clients seeking City approvals or benefits don't have to register unless their reportable combined lobbying compensation and expenses exceed \$10,000 for the purpose of lobbying. Therefore, if you reasonably believe you will receive or spend over \$5,000 (\$10,000 for engineers and architects), from any, or collectively from all, of your lobbying clients, you will have to register.

- The City will require lobbyists to file six (6) reports per year on the same schedule as Lobbyist reports filed with the State Joint Commission on Public Ethics. However, the new law carves out special rules for an entity that lobbies on its own behalf, at a cost of \$5,000 to \$10,000 per year, without the use of an outside lobbyist. Such entity need only file two reports per year once the City Clerk implements a technological change to accommodate the new reporting schedule.
- The City Clerk's office will be required to review the City's Doing Business Database, the New York State lobbying registrations, and notices of appearances before city agencies to search for entities or individuals that may be lobbying without having properly registered, and to take enforcement actions against any violators. As a balance to this new enforcement initiative, the City will give a six-month amnesty period for entities, be they lobbyists or clients of lobbyists that never registered, but should have registered under the existing law, to properly register and report past lobbying activity, without incurring any financial penalty.
- All lobbyists and clients will be required to enroll in the City Clerk's electronic filing system prior to the filing of a statement of registration or other reports with the Clerk's office.
- Professional lobbying entities will be required, depending on the entities' size and number of clients, to send one or two employees to be trained by the City Clerk's Lobbying Bureau at least once every two years. Newly registered lobbyists must have a representative participate in the City Clerk's training program within fifteen (15) days of initiating lobbyist activity.
- The term "architect" will now include landscape architects and their firms. Alternatively, a host of architectural and/or engineering services will not be considered lobbying activity. For example, performing professional services and appearing before or communicating with a community board with respect to any action of the board, provided the final decision-making board or commission to which the action relates is an adjudicatory proceeding; and, architects and engineers who communicate with or appear before boards or commissions with respect to an authorization by the City Planning Commission, pursuant to a zoning resolution, or before any other board or commission related to real property, when the City Clerk has determined such authorization or determination is "minor." The City Clerk will promulgate rules designating authorizations and discussions as minor, presumably prior to May 2014, when this section becomes operative.
- In another recognition of the unique role of architects and engineers, those working pursuant to a contract or subcontract on a capital project for a city agency will not have such appearances before boards or commissions considered to be lobbying activity.
- Lobbying targets will have to be reported in greater detail than in the past. A lobbyist's regular reports must include the name of each government person lobbied, as well as the specific issue lobbied and, when available, a bill number or a proposed rule number.

The City Clerk will add to the lobbyist database features that will allow the public to search the database by bill, resolution, or rule number, agency lobbied, lobbyist name, client name, and the City official or employee lobbied. And the Clerk will publish reports indicating the officials,

legislation or contracts that are lobbied most often.