



Compliance Notes - Vol. 1, Issue 4

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RECENT LOBBYING, ETHICS & CAMPAIGN FINANCE UPDATES

We read the news, cut through the noise, and provide you the notes.

Welcome to **Compliance Notes** from Nossaman's Government Relations & Regulation Group.

Here, we are expanding upon our eAlerts (where we provide substantive analysis on key issues), to deliver a periodic digest of the headlines, statutory and regulatory changes, and court cases involving campaign finance, lobbying compliance, election law, and government ethics issues at the federal, state, and local level. Our goal is to provide relevant, timely updates in an easily skimmable format so you can identify the content that is important to you, click through to the article, and reach out to your attorney, policy advisor, or compliance consultant with any questions or to discuss exactly how an issue may impact your business.

If there is a particular subject or jurisdiction you'd like to see covered, please let us know.

Until then, please enjoy this installment of **Compliance Notes**. If you would like to have these updates delivered directly to your in-box, please click below to subscribe to our Government Relations & Regulation mailing list.

Campaign Finance & Lobbying Compliance

The Senate voted 49-43 to confirm Republican election lawyer Trey Trainor to the Federal Election Commission. This vote restores the four-member quorum (that is required in order for the Commission to take action) after an eight-month period when the Commission couldn't vote on enforcement complaints, advisory opinions or other legal rulings. There are 350 backlogged complaints currently on the FEC's enforcement docket. (Kenneth P. Doyle, *Bloomberg Government*)

Rep. Katie Porter (D-CA) and Rep. Dan Crenshaw (R-TX) introduced a bill to give the Federal Election Commission the power to regulate “scam PACs” – political-action committees that effectively defraud donors by claiming they’ll spend money on one thing and then using the money for another. (David A. Graham, *The Atlantic*)

California: The Fair Political Practices Commission’s Digital Transparency Task Force is set to meet on Friday, May 29, 2020, at 2:00 p.m. PT regarding possibly archiving paid political advertisements from California State elections. (Note: Nossaman’s Amber Maltbie is a member of the Task Force.) Members of the public who wish to observe the meeting may do so via YouTube or via telephone by calling (877) 411-9748; access code 723284. Members of the public who wish to comment during the meeting may do so by telephone or using the Commission’s public participation portal found at <http://mediasite.fppc.ca.gov/>. (Notice & Agenda)

California: Even Stanford students struggle with campaign finance regulations. A slate in the sophomore class president race violated Associated Students of Stanford University campaign finance regulations by offering students a chance at winning a \$100 grant if the slate was elected. “The allusion to money for votes is effectively bribery, and that’s disingenuous to voters,” according to ASSU Elections Commissioner Christian Giadolor. (Anastasia Malenko, *The Stanford Daily*)

Oklahoma: Sen. Roger Thompson (R-Okemah) proposed an amendment to a House Bill last week that, if passed, would have allowed politicians to use campaign funds for personal expenses, including clothing, gifts, mortgage and vehicle payments, vacations, country clubs dues, and a host of other uses unrelated to campaigning for office. Hours after a story was published covering the amendment, Thompson withdrew it from consideration saying that the proposed amendment to the bill was only to prove a point about “transparency” during budget negotiations with the House, and that the amendment was “never intended to go anywhere.” (Clifton Adcock, *The Frontier*)

For a complete list of COVID-related State and Federal regulatory agency updates, please [click here](#).

Elections

Mike Garcia defeated Christy Smith in the special election to fill the remainder of Rep. Katie Hill's first term. Garcia is the first Republican to flip a California congressional district since 1998. (Jamie Ross, *The Daily Beast*)

Alaska: The Alaska Supreme Court affirmed a superior court ruling that the recall effort against Gov. Mike Dunleavy can move forward over objections that it failed to meet any of the grounds for recall (*i.e.*, lack of fitness, incompetence, neglect of duties, or corruption). Last week, the Recall Dunleavy Committee mailed petition booklets to more than 20,000 Alaskans in an effort to gather the 71,252 required signatures to put the recall on the ballot. (Suzanne Downing, *Must Read Alaska*)

Arizona: The Arizona Supreme Court knocked Kim Owens out of the race for a seat on the influential Corporation Commission. Owens faced two legal challenges to her nominating petitions, with lawsuits arguing that many of the signatures she had gathered were signed by voters who were not eligible to sign, were duplicates or were signed incorrectly. A Superior Court judge said that just enough of the nominating signatures were valid to qualify for the Republican primary, but the state Supreme Court disagreed. Owens later filed a motion to reconsider, which the court denied. (Andrew Oxford, *Arizona Republic*)

New York: Two Queens Borough President candidates, Dao Yin and Jim Quinn, filed suit against Gov. Andrew Cuomo for cancelling the special election for the position. Quinn was knocked out of the race when Cuomo signed an executive order cancelling the special election late last month in favor of the primary election scheduled for the same day because he had only petitioned to run for the nonpartisan special election. Yin said Cuomo's decision to cancel the special election, which was nonpartisan, in favor of a Democratic primary for the position disenfranchises all voters who aren't registered Democrats. (Allie Griffin, *Long Island City Post*)

Ohio: A federal judge in Cincinnati has ordered Ohio officials to allow state issue campaigns to collect the signatures needed to make the ballot electronically, granting a request from backers of two campaigns targeting the November election. The judge also extended the deadline to submit valid signatures to July 31, 2020. (Andrew Tobias, *Cleveland.com*)

South Carolina: All South Carolina residents registered to vote in the June 9 primary can request an absentee ballot from the State Election Commission without specifying an excuse. Still, the new short-term law, which expires July 1, requires a witness to sign the ballot. (*Statehouse Report*)

Texas: Voto Latino, NAACP Texas and the Texas Alliance for Retired Americans sued Texas over its refusal to expand use of mail-in ballots, arguing that the state's current rules risk disenfranchising voters, especially those of color. The suit focuses on the mechanics of absentee voting, including the requirement that voters pay their own postage, the window of time during which the ballots can be cast, signature-matching requirements and the amount of assistance available for people who absentee vote. (Sanford Nowlin, *San Antonio Current*)

Government Ethics

A lawsuit accusing President Donald Trump of violating the Constitution's emoluments clauses (by accepting foreign government money through his luxury Washington hotel) can proceed to fact-gathering about Trump's profits, the Richmond-based 4th Circuit Court of Appeals ruled. (Josh Gerstein, *Politico*)

Federal agents seized a cellphone belonging to Sen. Richard Burr of North Carolina as part of the Justice Department's investigation into his controversial stock trades he made as the novel coronavirus first struck the U.S. Under the STOCK Act, lawmakers are prohibited from acting on intelligence they learn because of their privileged position. The law passed the Senate in 2012 in a 96-3 vote. Among the three senators to oppose the bill was Burr. (Del Quentin Wilber and Jennifer Haberkorn, *Los Angeles Times*)

Rep. Jimmy Gomez (D-Calif.) reintroduced the Executive Branch Conflict of Interest Act, a bill first introduced by the late Rep. Elijah Cummings (D-Md.) in 2019. The bill would prohibit former officials who oversaw federal contracts from joining private sector contracting firms and prohibit senior government officials from lobbying the agencies they worked for two years after leaving the federal government. Restrictions are currently in place for one year. (Alex Gangitano, *The Hill*)

Ranked Choice Voting

California: San Diego residents may get a chance this November to vote on ballot measures that would shift city elections to ranked-choice voting, provide public funding for local candidates and change contracting laws in favor of union labor. The City Council's Rules Committee voted 3-2 last week to allow further evaluation of those measures so the full council can decide this summer whether they should appear on the

November ballot. (David Garrick, *The San Diego Union-Tribune*)

Maine: The Maine Republican Party is moving forward with a signature-gathering campaign to block the first-ever use of ranked-choice voting in November's presidential election. Supporters of ranked-choice voting have filed a lawsuit against Maine Secretary of State Matthew Dunlap that could derail the campaign. If the current petition drive is successful, ranked-choice voting in the November presidential election would be put on hold, and voters would cast ballots on whether to repeal the law. (Scott Thistle, *Portland Press Herald*)

Redistricting

The Census Bureau asked Congress last month for a four-month delay in delivering the population data that states rely on to draw congressional lines. Congress must approve that Census Bureau's request, which would push back the deadline for states to receive the data from April 1, 2021, to July 31, 2021. If lawmakers sign off on the delay, it could up-end at least some states' redistricting efforts and potentially interfere with scheduled elections in New Jersey and Virginia. For some states, the delay could mean forcing legislatures into special sessions or attempting to draw new political lines using other figures, such as administrative data, a move that would almost certainly spawn a flurry of legal challenges. (Max Greenwood, *The Hill*)

Missouri: Missouri voters will reconsider "Clean Missouri" this November. Senate Joint Resolution 38 would undo changes made to the state's redistricting process that were approved by voters in the 2018 election. It would also eliminate lobbyist gifts and limit campaign contributions. It will now be part of the November general election. (Ashlyn O'Hara and Galen Bacharier, *Missourian*)

Oregon: Oregonians who want the state to switch to an independent redistricting commission announced that they are moving ahead with the effort. The state Legislature currently handles the once-a-decade process to reshape Oregon's electoral map, with the secretary of state stepping in if lawmakers don't complete the job. (Hillary Borrud, *The Oregonian/OregonLive*)

Voter Qualifications

California: San Francisco officials and city youth leaders introduced a ballot measure that would lower the voting age to 16 for municipal elections. (Dominic Fracassa, *San Francisco Chronicle*)

New Hampshire: Attorneys for the state are appealing to the New Hampshire Supreme Court a lower court decision striking down as unconstitutional a 2017 law that tightened identification requirements for registering to vote. On April 8, Judge David Anderson ruled that the law known as Senate Bill 3 violates the New Hampshire Constitution by "burdening the fundamental right to vote" and because it has an unequal impact on certain people in the state, primarily young people, college students and people who frequently relocate to different communities. (John DiStaso, *WMUR 9*)