



Compliance Notes - Vol. 1, Issue 7

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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 Volume 1, Issue 7 of *Compliance Notes* from Nossaman's **Government Relations & Regulation Group** – 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.

Your attorneys, policy advisors, and compliance consultants are available to discuss any questions or how specific issues 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 our 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

On June 5, 2020, Trey Trainor III was sworn in as a member of the Federal Election Commission (FEC), giving the agency a quorum. The FEC will hold its first open meeting June 18, 2020 via teleconference. (*FEC Press Release*) The FEC also released a statistical summary of campaign activity (as disclosed in campaign finance reports filed with the FEC) from the first 15 months of the 2019-2020 election cycle, including the following:

Raised

Spent

Presidential candidates

nearly \$2.5 billion

\$2.3 billion

Congressional candidates

\$1.4 billion

\$806.3 million

Political parties

\$1.1 billion

\$812.8 million

Political action committees (PACs)

over \$3.7 billion

\$3.1 billion

Independent expenditures

\$160.2 million

Electioneering communications

\$2.2 million

Watchdog groups are calling on the FEC to close a perceived loophole that allows former candidates to make unlimited transfers to the national party committee, a provision that allowed former presidential candidate Michael Bloomberg to transfer \$18 million to the Democratic National Committee after he dropped out of the race. (David Moore, *Sludge*)

The Senate Intelligence Committee approved a measure that would require presidential campaigns to report to the FBI any contacts with foreign nationals trying either to make campaign donations or coordinate with a campaign. (Manu Raju and Jeremy Herb, *CNN*)

A former campaign volunteer for Jon Ossoff asked the FEC to investigate whether Teresa Tomlinson's campaign improperly coordinated with Undivided Purpose, an outside group that shares digital consultants and fundraising advisers with her operation. The group, which has spent at least \$91,000 boosting

Tomlinson, did not file a pre-primary report with the FEC revealing its donors until the Center for Responsive Politics published a report including their lack of disclosure. (Greg Bluestein, *Atlanta Journal-Constitution*)

The U.S. Supreme Court declined to take up a case that challenged Montana's law requiring nonprofit groups running ads that mention candidates, political parties or ballot issues in the 60-day window before an election to report any spending of \$250 or more and say who funded their efforts. (Holly Michels, *Independent Record*)

California: A coalition of four current and former district attorneys called on the State Bar of California to ban law enforcement unions from funding district attorney campaigns, saying the contributions represent a conflict of interest that must be urgently addressed in the wake of recent police killings of Black men and women. In a letter to the state bar association, the district attorneys said their colleagues cannot ethically prosecute police officers if they are receiving funds and endorsements from unions that finance those officers' legal expenses. (Eliyahu Kamisher, *The Appeal*)

Minnesota: An administrative law judge has found probable cause to believe that the Virginia and Eveleth-Gilbert school districts violated state law by failing to account for their spending to support passage of a 2019 bond measure. The order comes in response to complaints filed by Concerned Citizens of the Eveleth-Gilbert and Virginia School Districts citing more than \$20,000 in expenditures for newspaper advertising and printing of materials that appeared to promote passage of the measure. (Marshall Helmberger, *The Timberjay*)

Tennessee: The Tennessee state House approved a measure that would claw back additional pre-election campaign finance disclosures. (Joel Ebert, *Nashville Tennessean*)

Elections

Former Vice President Joe Biden has officially clinched a majority of delegates to the Democratic convention, locking up the party's presidential nomination. (Zach Montellaro, *Politico*)

Georgia: Newly released case files from the Georgia Bureau of Investigation reveal that there was no hacking attempt on voter registration systems in 2018 despite Gov. Brian Kemp's accusations against his political opponents. The evidence from the closed investigation indicates that Kemp's office mistook planned security tests and a warning about potential election security holes for malicious hacking. (Mark Niese and Jack Gillum, *The Atlanta Journal-Constitution and ProPublica*)

Political Speech & Campaign Advertisements

Maryland: The use of "bots" (automated online accounts) to influence a Maryland election by disseminating campaign materials must now be disclosed. If a person violates the disclosure requirement, (1) the State Board of Elections may seek to remove the bot and (2) the person would be subject to a fine, jail time, or both and would be ineligible to hold any public or party office for four years after the date of the offense. (Maryland House Bill 465, effective June 1, 2020)

Redistricting

Wisconsin: Former Assembly Speaker Scott Jensen and the Wisconsin Institute for Law & Liberty filed a request to change state court rules to ensure the state Supreme Court—instead of a federal court—decides

any redistricting litigation. (Patrick Marley, *Milwaukee Journal Sentinel*)

Signature Gathering

California: A Superior Court judge has called for a full recount of the nearly 100,000 signatures collected to qualify the Fair Elections Initiative (a San Jose ballot measure that restricts certain lobbyists' campaign contributions and proposes to move mayoral elections to presidential years) for the 2020 ballot after the Santa Clara County Registrar's office erroneously disqualified valid signatures. The recount is expected to cost the city \$1 million. (Garrick Percival and Mary Currin-Percival, *The Mercury News*)

Voting

California: Gov. Gavin Newsom gave California counties permission to limit their in-person voting operations for the Nov. 3 election as protection against the spread of COVID-19, but only if they also offer three days of early voting. (John Myers, *Los Angeles Times*)

Iowa: Gov. Kim Reynolds signed into law a bill that would establish some restrictions if voters ratify a constitutional amendment automatically restoring felons' voting rights at the completion of their sentence. Current law bans people with felony records from voting for life unless they successfully petition the governor to get those rights restored. Under the new bill, which takes effect upon approval of the constitutional amendment, people with certain felony convictions (e.g., murder, attempted murder, homicide, election fraud and sex crimes) would be excluded from getting their voting rights automatically restored. Those individuals can still petition the governor to restore their voting rights. (Caroline Cummings, *CBS 2 Iowa*)

Kansas: Kansas Attorney General Derek Schmidt announced that he will try to revive a voter restriction championed by Kris Kobach by appealing the case that challenged the law to the Supreme Court. The law, a requirement for proof of citizenship in order to register to vote, was passed when Kobach was Kansas' secretary of state. This requirement was struck down by the U.S. Court of Appeals for the 10th Circuit as unconstitutional and a violation of the National Voter Registration Act. (Tierney Sneed, *Talking Points Memo*)

Massachusetts: The Massachusetts House passed a bill that would allow any resident to vote by mail in the September and November elections. It also, for the first time, would allow some ballots that arrive after Election Day to be counted in the general election. An amendment adopted on the House floor would count any ballot postmarked by Election Day that arrives at town or city offices by 5 p.m. on Friday, Nov. 6 (three days after the election). The bill passed by a vote of 155-1; it now goes to the Senate. (Shira Schoenberg, *CommonWealth Magazine*)

Missouri: Missouri Gov. Mike Parson signed legislation allowing people at higher risk of contracting COVID-19 to vote absentee without needing an additional notarized statement. Currently, state law requires those who want an absentee ballot to fill out an application and then have a notary or a witness sign the ballot. For the August and November elections, voters over the age of 65 or those with serious health conditions will not need that notarization. People who are concerned about contracting COVID-19, but don't fall into the above categories, can request an absentee ballot, but the notarization requirement remains in place. These provisions expire at the end of the year according to the bill language. (Jaclyn Driscoll and Rachel Lippmann, *St. Louis Public Radio*)

New York: The State Board of Elections has reached a deal to provide accessible absentee ballots—including some via email—to New Yorkers with disabilities following a federal court challenge by a coalition of disability rights' groups. (David Brand, *Queens Daily Eagle*)

North Dakota: A federal judge ruled that North Dakota's process for absentee ballot verification will include a notification and remedy method for voters whose ballots are flagged for rejection due to signature mismatch. The decision came in time for the state's primary election on June 9 and will also apply to the November 3 general election. (Order Granting *Preliminary Injunction*)

Pennsylvania: Gov. Wolf signed an executive order extending the deadline for county election offices in Allegheny, Dauphin, Delaware, Erie, Montgomery and Philadelphia counties to receive absentee or mail-in ballots by mail to 5 p.m. on June 9, 2020. Nearly 1.8 million Pennsylvania voters have applied for a mail ballot since the onset of COVID-19. (Press Release)

Tennessee: A Nashville judge ruled the state of Tennessee must give any registered voter the option to cast a ballot by mail. Previously, Tennessee has limited the use of absentee ballots and mail-in voting to those who are actively sick, disabled, traveling or elderly. (Brett Kelman, *Nashville Tennessean*)

Vermont: The Vermont Senate advanced legislation that would give Secretary of State Jim Condos the unilateral authority to expand mail-in voting during the COVID-19 pandemic, removing a requirement for the governor to sign off on emergency election changes during the pandemic. (Xander Landen, *VT Digger*)

Washington, D.C.: The Board of Elections, inundated with complaints from voters who said they didn't receive absentee ballots in the mail, allowed voters to submit ballots by email. (Alexa Corse, *The Wall Street Journal*)

Wisconsin: The Wisconsin Supreme Court agreed to hear a case seeking to purge about 129,000 voter registrations from the rolls ahead of the November presidential election after previously deadlocking on whether to get involved. The voter purge case was brought on behalf of three voters by the Wisconsin Institute for Law and Liberty. It won in Ozaukee County, with a judge ordering in January that the purge take place immediately. In February, a state appeals court reversed the lower court's ruling, stopped the purge and dismissed the case. No voters have been deactivated while the legal fight continues. The appeal argues that if voters are to be deactivated before the Aug. 11 primary, an order would have to be issued by June 19 to ensure no absentee ballots are mailed to people who are removed from the rolls. (Scott Bauer, *Associated Press*)