



Compliance Notes - Vol. 4, Issue 51

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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** – 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 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 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

During its open meeting on December 14, 2023, the Federal Elections Commission (FEC) elected Sean J. Cooksey as Chairman and Ellen L. Weintraub as Vice Chair for 2024. Commissioner Cooksey was nominated by President Donald J. Trump on October 30, 2020, and Commissioner Weintraub has served on the U.S. Federal Election Commission since 2002 and chaired it for the third time in 2019. (FEC Press Release)

The FEC unanimously approved legislative recommendations to send to Congress for consideration. The FEC's highest priority recommendations urge Congress to enact legislation that would establish an

itemization threshold for conduit contributions; increase the rate of pay for FEC Commissioners, Staff Director and General Counsel; amend the foreign national prohibition to include substantial assistance; and amend the foreign national prohibition to include state and local ballot initiatives, referenda and recall elections. (FEC Record: Commission & 2023 Legislative Recommendations)

The FEC approved a new rule that makes it easier for those running for Congress to draw salaries from their campaign accounts. Under current rules, candidates for House and Senate are entitled to pay themselves a salary of up to \$174,000 annually, the rate of pay for the office they're seeking. However, federal candidates can't collect more than they were making the year before their run for office, which means unemployed people or stay-at-home caregivers are not entitled to a salary. Additionally, they are not permitted to begin collecting a salary until their state's filing deadline, which varies. The new rule, which takes effect on March 1, 2024, allows nonincumbents running for office to use campaign funds to pay themselves up to 50 percent of a House member or senator's salary or the candidate's average annual income during the previous five years. It also allows candidates to qualify for payments as soon as they file with the FEC, rather than rely on the varying state filing deadlines. (Daniela Altimari, *Roll Call*)

The FEC also adopted a new rule that clarifies that payments to "boost" or promote online or social media content are "public communications," even if the original message was circulated online or on social media platforms for free. The rule also clarifies that payments to "influencers" are not "public communications" if the influencers distribute the content for free. In addition, the FEC also adopted a number of other updates as part of concluding its Technological Modernization rulemaking. (FEC Press Release)

California: The San Jose City Council voted unanimously to bar multinational corporations from spending money to influence city elections. The new city legislation will prohibit corporations from spending money in San Jose's elections if they are foreign-influenced, defined as 1 percent or more ownership by a single foreign investor or five percent or more ownership by multiple foreign investors. The ordinance will prevent nearly every member of the S&P 500 from making political expenditures in city elections, including Apple, Alphabet (Google) and Meta (Facebook), due to the significant levels of foreign influence in their companies. (*Ventura County Sun, Ojai Valley News*)

Government Ethics & Transparency

Arizona: The Phoenix City Council has approved the creation of an ethics commission, which will independently investigate complaints of ethical violations against elected officials and other city leaders. According to Phoenix's website, the group will "receive allegations of ethical violations, investigate, take testimony and engage in any other action" to hold accountable "elected officials and board and commission members." Members will focus specifically on corruption-related issues, such as potential violations of Phoenix's gift policy, which dictates what officials are allowed to accept from individuals so as not to give "the appearance of undue influence," as well as other possible conflicts of interest among elected officials. The commission will be comprised of five residents of varying political affiliations: Democrats Louie Lujan and Patricia Sallen, Republicans Jose Samuel Leyvas III and Cheryl Pietkiewicz and unaffiliated member Peter Schirripa. (Sam Kmack, *Arizona Republic*)

Florida: Sen. Nick DiCeglie, R-St. Petersburg, filed new legislation that would implement new restrictions on political advertisements and communications that utilize artificial intelligence (AI). To avoid violating the proposed statute, the ad containing AI must present this disclaimer: "Created in whole or in part with the use of generative artificial intelligence (AI)." The bill, SB 850, would cover political ads, electioneering

communications, or “other miscellaneous advertisement of a political nature” created with AI and impose civil penalties on violators of the proposed law. The bill will be considered part of Florida’s 2024 Legislative Session, which runs from January 9, 2024 to March 8, 2024. (Eric Daugherty, *Florida’s Voice*)

Ballot Measures & Elections

Oregon: The Oregon Supreme Court heard oral arguments in a lawsuit filed by Republican state senators who boycotted the Legislature for a record six weeks earlier this year and want to run for reelection despite a voter-approved constitutional amendment aimed at limiting walkouts. The GOP senators are challenging the Oregon Secretary of State’s interpretation of Measure 113, the amendment passed by voters in 2022, which amended the state constitution to bar lawmakers from reelection if they have ten or more unexcused absences. The senators argue that the amendment as written means they can seek another term since a senator’s term ends in January while elections are held the previous November. They argue that the penalty doesn’t take effect immediately but rather after they’ve served another term. The attorney from Oregon’s justice department representing the secretary of state argued that voters intended that legislators with ten or more absences must be barred from running after their current term is up. All parties in the suit seek clarity on the issue before the March 2024 filing deadline for candidates who want to run in next year’s 2024 election. (Claire Rush, *AP News*)

Please note that we will be taking next week off and will resume publication in the first week of the new year.