



# GOVERNMENT AFFAIRS PRACTICE NEWSLETTER

April 2018

[Homepage](#) | [Committee Roster](#) | [Join the Government Affairs Practice Committee](#)

## In This Issue

[Message from the Chair](#)

### Featured Articles

- [Georgia campaign finance commission signals intent to be active in 2018 election](#)
- [FIVE ESSENTIAL ELEMENTS FOR A POLITICAL COMPLIANCE PROGRAM](#)
- [An Update on New Brunswick's Lobbying Law](#)
- [MINNESOTA SUPREME COURT UPHOLDS GOVERNOR'S VETO](#)
- [Lobbying Legislation in Canada: Roundup of Summer Developments](#)

[Significant Laws Update Corner](#)

## Important Dates

[Business Law Section Spring Meeting](#)

April 12-14, 2018  
Orlando, FL

## Editorial Board

[Ryan Robichaux](#)

## Message from the Chair

Dear Government Affairs Practice Committee members:

I hope everyone has had a good start (and in some states finish) to the 2018 legislative sessions. As you get deeper into the session and the 2018 campaign season, I think you will find the information in this newsletter helpful. We have several great articles from our committee members from around the United States and Canada. We strive to have state, federal and Canadian information that we hope will serve as a valuable resource for you. The newsletter is a great way to get your name and practice out to practitioners all around the country and Canada. We don't need original content for the newsletter, so please share what I know so many of you are already producing for clients and your organizations.

Please mark your calendars for our committee meeting next Friday, April 13, 2018 during the Spring Section meeting in Orlando, FL. For those that can't be at the meeting in person, there will be a call in option. The call in number is (866) 646-6488 and the conference code is 3576511256. The agenda will be emailed to all committee members next week.

I hope that you can attend the Spring meeting in person. We will be sponsoring a program entitled "The Politics of Trump, Trudeau and Pena Nieto: The Three Amigos or What: A Look at NAFTA, Immigration and Climate Change." We have six other Business Law Section committees co-sponsoring this program with us. Given the political environment in which we live, I think this is going to be a fascinating program.

For the Annual Section meeting, from September 13 - 15, 2018 in Austin, TX, we are still looking for program ideas. We have tentatively decided that we will do an election law/campaign program given the volume of elections happening at the federal, state and local levels in 2018. If you have any programming ideas or would like to be a speaker, please let us know. We are always looking for new content.

Finally, if you're on LinkedIn, please make sure you find us. We have a newly created group called Government Affairs Practice Committee - ABA Business Law Section. I would love to have all of you as members of this group.

Let me know if you have any thoughts, questions or ideas about the committee, our programming or the newsletter. I welcome any and all feedback. And if you would like to get more involved, I am always ready for volunteers! Don't forget to check out our website for any new information or updates.

I hope to see you at the Spring meeting in Orlando next week.

Best,  
Amy



Amy Kellogg  
Chair  
Government Affairs Practice Committee  
Business Law Section, American Bar Association

## Featured Articles

### **Georgia campaign finance commission signals intent to be active in 2018 election**

*By Edward H. Lindsey Jr., Benjamin P. Keane, Michael Pfeifer, and Robert Sills*

The Georgia Government Transparency and Campaign Finance Commission (Commission) has undertaken a pair of important actions that indicate the agency's desire to play a more expansive regulatory role on campaign finance and ethics matters heading into the 2018 election cycle. In light of these announcements, candidates, PACs, nonprofit organizations and other political stakeholders on both sides of the aisle must be cognizant of how a potentially activist Commission will influence the manner in which state law and regulations are enforced and shaped heading into the statewide campaign season and beyond.

[Read more...](#)

### **FIVE ESSENTIAL ELEMENTS FOR A POLITICAL COMPLIANCE PROGRAM**

*By Jennie Skelton*

It is essential that companies interacting with federal, state and local governments implement internal programs to ensure compliance with campaign finance, lobby and governmental gift and ethics laws. The appropriate compliance program for a given company will depend on its circumstances, organization and level of government interaction. However, most successful political compliance programs include the following five essential elements:

**Internal Company Policies:** It is impossible to expect employees to know the political laws of all 50 states, but far more reasonable to expect employees to know and follow internal company policies. For this reason, companies should develop employee manuals, policies and guidelines that clearly communicate the company's expectations and requirements concerning interactions with the government. Given the ever-changing nature and variety of political laws, such policies must be both flexible and accessible.

**Coordination:** Most companies have compliance officers to ensure compliance with laws and regulations pertinent to their line of business. Alternatively, many companies have designated employees in government affairs or legal departments to monitor lobby, gift and campaign contribution compliance. Centralizing internal coordination of political law compliance fosters not only

uniform compliance, but also provides a reference point for employees.

**Tracking:** The most effective political compliance programs regularly track employees for potential activity to keep political compliance top of mind amongst employees and enable the company to gather data concerning activity that may trigger a registration or disclosure obligation.

**Training:** Employees and contractors must be informed of the general scope of political laws, your company's policy, internal compliance efforts and the ramifications for violations. Adding "government ethics" components to regular web-based company training programs has become increasingly popular.

**Audits:** Internal audits of political activity are necessary not only as a matter of due diligence, but also in response to alleged violations of law. Active companies have found it prudent to either routinely audit compliance (e.g., annually or as part of contract renewals or employee reviews) or to establish protocols for internal audits should an alleged violation occur.

### **An Update on New Brunswick's Lobbying Law**

*By Graham Ragan and Victoria Shore*

New Brunswick's *Lobbyists' Registration Act* ("the Act"), came into effect on April 1, 2017. The Act is administered by the Office of the Integrity Commissioner for New Brunswick ("Commissioner"), which was established on December 16, 2016 as an independent legislative office. The Act requires all lobbyists in the province to submit returns to the Commissioner.

[Read more...](#)

### **MINNESOTA SUPREME COURT UPHOLDS GOVERNOR'S VETO**

*By JOHN A. KNAPP*

The Minnesota Supreme Court has upheld Governor Mark Dayton's line-item veto of appropriations for the Minnesota House and Senate for the 2018-2019 biennium. The Court acted with only a single dissent.

At the conclusion of the 2017 regular legislative session and following a brief special session, Democratic Governor Mark Dayton signed into law several omnibus tax and budget bills which contained provisions of which he disapproved. In an effort to force the Republican-controlled Legislature back to the negotiating table on those contested items, the Governor line-item vetoed the appropriations for the House and the Senate beginning July 1, 2017.

In response to the line-item veto, the Minnesota House and Senate commenced litigation in Ramsey County District Court contesting the Governor's action on grounds that it violated the Constitutional separation of powers by preventing the Legislature from exercising its functions by depriving it of fiscal resources. The Legislature prevailed in the Ramsey County District Court where the Governor's line-item veto of the legislative budget was held to be an unconstitutional act. In the meantime, the Legislature and the Governor had stipulated to continued legislative funding until October 1, 2017.

The Supreme Court expressed great reluctance to enter into a political dispute between the other two branches of State government, the Executive and the Legislature. The Court asked attorneys for the Legislature to produce detailed budget information indicating how long the Legislature could continue to operate if it expended reserve funds and transferred other funds from Legislative operations not affected by the Governor's veto. In the end, the Court concluded that the Legislature, with the benefit of the reserves and related funds, could continue to operate until the February 20, 2018 beginning of the next regular legislative session. At that time, the Legislature could override the Governor's line-item veto or the Legislature and the Governor could enter into negotiations over the items to which the Governor had objected at the conclusion of the 2017 session.

The Court left the door open to taking another look at the issues should the legislative budget run out, conceding that "Minnesotans have a constitutional right to three independent branches of government, each functioning at a level sufficient to allow the exercise of constitutional powers committed to each branch." The Court encouraged the Legislature and Executive to "promote the constitutional cooperation Minnesotans expect and deserve."

Legislative leaders from both sides indicated that the uncertainty of legislative funding combined with deteriorating relationships between the Governor and Legislature will lead to an unproductive 2018 legislative session.

### **Lobbying Legislation in Canada: Roundup of Summer Developments**

*By Alexis Levine and Nicole McDonald*

It's been a busy summer for lobbying law in Canada. With the recent enactment of lobbying legislation in New Brunswick, almost all Canadian jurisdictions now have some form of lobbying law, other than the three territories and Prince Edward Island (lobbying legislation was proposed in the Legislative Assembly of Prince Edward Island in late December). Many municipalities have also now begun establishing lobbying regimes, the most recent being the City of Winnipeg.

[Read more...](#)

## **Significant Laws Update Corner**

### **ALABAMA**

Update by Ryan P. Robichaux, Senior Attorney, Bradley Arant Boult Cummings LLP

The Alabama Legislature passed the Alabama Jobs Enhancement Act (HB 317), and it is expected to be signed into law by the Governor of Alabama. HB 317 modernizes and updates current economic development incentives and removes outdated incentives that are no longer offered or have been replaced by newer sustainable incentives. Notably, HB 317 also provides a limited lobbying registration exemption for certain economic development professionals that seek economic development incentives in Alabama.

If you have any questions or would like to know this ordinance, please feel free to contact Ryan at [rrobichaux@bradley.com](mailto:rrobichaux@bradley.com).

### **ST. PETERSBURG, FLORIDA**

Update by Ryan P. Robichaux, Senior Attorney, Bradley Arant Boult Cummings LLP

The St. Petersburg City Council passed an ordinance to limit independent expenditures in local elections in October 2017. The ordinance places a \$5,000 limit on contributions to groups that raise money for or make independent expenditures or electioneering communications in local elections. The ordinance also restricts contributions from certain foreign-owned corporations with U.S.-based subsidiaries.

If you have any questions or would like to know this ordinance, please feel free to contact Ryan at [rrobichaux@bradley.com](mailto:rrobichaux@bradley.com).

### **FORT WAYNE, INDIANA**

Update by Ryan P. Robichaux, Senior Attorney, Bradley Arant Boult Cummings LLP

The Fort Wayne City Council passed a pay-to-play ordinance last year that prohibits certain contractors from bidding on city projects if they make contributions to local officials exceeding \$2,000 per calendar year. The ordinance was initially vetoed by Mayor Tom Henry, but the City Council voted 6-3 to override the veto.

If you have any questions or would like to know this ordinance, please feel free to contact Ryan at [rrobichaux@bradley.com](mailto:rrobichaux@bradley.com).

{{AA\_HTML LSSpecial - Chicago Footer}}