OFFICE OF THE CITY CLERK
LOBBYING BUREAU
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LOBBYING FOR BEGINNERS: LOBBYIST/CLIENT FILERS
Including Changes to the Lobbying Law as set forth in Local Law 129

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BRIEF HISTORY OF THE LOBBYING LAW
• Local Law 79 of 1972: First attempt to regulate lobbying activity in NYC
  • Municipal Legislative Advocate

• Throughout the past 39 years, the law has been amended several times leading to an increase in transparency in government.
  • Local Law 86 of 1973
  • Local Law 14 of 1986
  • Local Law 67 of 1993
  • Local Law 46 of 2003

• Local Law 15 of 2006: Most significant lobbying law reform.
  • substantially increased public disclosure of lobbying activities
  • created much needed enforcement mechanisms
  • expanded the City Clerk’s powers in administering the lobbying law

• Local Law 129 of 2013 based on recommendations made by the Lobbying Commission

Local Law 129 of 2013
• Definitions of lobbying (Ad. Code §3-211)

• Reporting obligations of the Clerk (Ad. Code §§3-212; 221)

• Changes to Filings Requirements:
  – Statements of Registration (Ad. Code §3-213)
  – Periodic Reports (Ad. Code §3-216)
  – Fundraising and Political Consulting Reports (Ad. Code §3-216.1)
  – Client Annual Reports (Ad. Code §3-217)

• Training requirement (Ad. Code §3-219)

• Late filing penalties (Ad. Code §3-223)
WHAT IS LOBBYING?
Eleven actions constitute lobbying, including the attempt to influence:

1. The introduction, passage, defeat or substance of local legislation or resolution by the city council;

2. The support, opposition, approval or disapproval of local legislation or resolution by the mayor whether or not is has been introduced;

3. Any determination with respect to the solicitation, award or administration of a contract, grant, loan, or agreement involving the disbursement of public monies;

4. Any determination made by the mayor, the city council, the city planning commission, a borough president, a borough board or a community board with respect to zoning or the use, development or improvement of real property subject to city regulation;

5. Any determination made by an elected city official or an officer or employee of the city with respect to the terms of the acquisition or disposition by the city of any interest in real property, with respect to a license or permit for the use of real property of or by the city, or with respect to a franchise, concession or revocable consent;

6. The proposal, adoption, amendment or rejection by an agency of any rule having the force and effect of law;

7. The decision to hold, timing or outcome of any rate making proceeding before an agency;

8. The agenda or determination of a board or commission;

Definitions Added by Local Law 129 of 2013

9. Any determination regarding the calendaring or scope of any city council oversight hearing;

10. The issuance, repeal, modification or substance of a mayoral executive order; or

11. Any determination made by an elected city official or an officer or employee of the city to support or oppose any state or federal legislation, rule or regulation.

What do the Changes Mean for Filers?

INCREASED REPORTING
• More lobbyists will exceed the threshold
• Increase of client registrations
• Increase of activities that must be reported
• More detailed statements and reports

All changes take effect on May 16, 2014
WHAT ACTIVITIES ARE NOT LOBBYING?

Eleven types of actions are excluded from the lobbying law:

1. Persons who prepare or submit a response to a request for information or comments by the city council or one of its committees, the mayor, or other elected city official or an agency;

2. Contractors or prospective contractors who communicate with or appear before city contracting officers or employees in the regular course of procurement planning, contract development, the contractor selection process, the administration of a contract, or the audit of a contract, except communications with elected officials or deputies of elected officials;

3. Persons engaged in advising clients, rendering opinions and drafting, in relation to proposed legislation, resolutions, rules, rates, or other proposed legislative, executive or administrative action, where such persons do not themselves engage in an attempt to influence such action;

4. Newspapers and other periodicals and radio and television stations, and owners and employees thereof, provided that their activities are limited to the publication or broadcast of news items, editorials or other comment, or paid advertisements;

5. Persons who participate as witnesses, attorneys or other representatives in public rule making or rate making proceedings of an agency, with respect to all participation by such persons which is part of the public record thereof and all preparation by such persons for such participation;

6. Persons who appear before an agency in an adjudicatory proceeding;

7. Persons or organizations who advertise the availability of goods or services with fliers, leaflets or other advertising circulars;

Architects & Engineers

Local Law 129 gave specific exclusions:

8. Appearances before community boards provided that the proceeding before the final decision-making board or commission is adjudicatory;

9. Designing/drafting plans even if work is preceded or followed by lobbying activity;

10. Work performed in connection with capital projects provided that such work is performed pursuant to a contract with the City; or

11. Actions designated as minor by the City Clerk (Rules).
Architects & Engineers (cont.)

• Actions designated as minor by the City Clerk:
  – Authorization by city planning commission pursuant to the zoning resolution and
  – Decision related to real property by other board or commission.

• Designated as minor based on the following factors:
  1. Size and cost of relevant project;
  2. Size, class, and/or value of the property to which the relevant project relates and
  3. The size of the architecture or engineering firm typically involved in the type of project.

WHEN IS LOBBYING REPORTABLE?

1. Did your organization engage in a lobbying activity?

2. Did your organization exceed the reporting threshold for that lobbying activity by expending or incurring in excess of $5,000 in combined compensation and expenses in a calendar year?
   • $10,000 for Architects and Engineers

WHEN IS LOBBYING REPORTABLE?

The Reporting Threshold

To determine if your organization exceeds the reporting threshold:

COMPENSATION
1. Salary paid to employees who engage in lobbying
2. Pro-rate portion of the salary paid for lobbying efforts
3. Lobbying efforts
   a. Preparation work
   b. Staff meetings
   c. Telephone calls
   d. Time spent making photocopies

EXPENSES
Total amount of expenses incurred for lobbying
WHEN IS LOBBYING REPORTABLE?

If the total amount of salary combined with expenses exceeds $5,000 then the organization is required to comply with the lobbying law.

HOW TO COMPLY WITH THE LOBBYING LAW

• Statement of Registration;
• Periodic Reports;
• Fundraising and Political Consulting Reports (if applicable);
• Client Annual Report (if applicable) and
• Subject to other restrictions outlined in the Administrative Code.

REGISTRATION PROCESS: ENROLLMENT IN E-LOBBYIST

• Prior to filing a Statement of Registration, must enroll in the e-Lobbyist System
• Enrollment is a one-time process
• No fee to enroll
• Terms of use agreement
• Enroll as lobbyist AND client
• Submit proof of corporate filing
Principal Officer (PO)

Chief administrative officer or the person who has the legal capacity to enter into a contract on behalf of the organization.

- PO must complete the enrollment form
- PO may designate an employee to complete all reports
- Only PO can certify all reports

STATEMENT OF REGISTRATION

- If employed to lobby prior to December 15: file by January 1
- If employed to lobby after December 15: filed within 15 days
- Required to be filed each year - automatically expires on December 31
- Registration Fee: $150 for the first statement of registration
- Anticipatory filing: a description of the lobbying activities the organization anticipates it will be engaging in in the upcoming year.
- Filed in the name of the organization and list employees that you anticipate will lobby in upcoming year

STATEMENT OF REGISTRATION

- Must submit an authorization letter signed by the PO authorizing the employees listed on the statement of registration to lobby on behalf of the entity (online form).
  - Upload in PDF form or
  - Mail to the Lobbying Bureau
- Each time an employee is added, must file an amended statement of registration and submit an authorization for the additional employee together with all authorizations that are in effect in the filing year.
- Start date in authorization MUST match start date on statement of registration
  - The start date is the date the employee started lobbying on behalf of the entity NOT the date employment began
STATEMENT OF REGISTRATION

• Incorrect information on the retainer agreement and/or statement of registration must be corrected.
  – If the start and/or ends dates on the statement of registration do not match the start and end dates on
    the authorization the filer is required to either:
    • File an amended statement of registration and correct the dates on the registration OR
    • File an amended statement of registration, indicate there was a change in the authorization and submit the amended
      authorization letter together with all authorizations that were in effect in the filing year.

• May be subject to a civil penalty if not corrected in a timely manner.

PERIODIC REPORTS

• Six Periodic Reports per year

• Reporting Periods:
  • January 1 through last day of February, due March 15
  • March 1 through April 30, due May 15
  • May 1 through June 30, due July 15
  • July 1 through August 31, due September 15
  • September 1 through October 31, due November 15
  • November 1 through December 31, due January 15

• If a filing deadline falls on a weekend or city holiday, the deadline is the next
  business day.

PERIODIC REPORTS

• Reports the lobbying activity that actually takes place in the given period.

• Information listed in the Periodic Report:
  • The employees who lobbied (pre-populated from the Statement of Registration);
  • A description of the subject(s) lobbied;
  • The person/agency lobbied;
  • The salary paid to the employees who lobbied (itemized by employee in the report); and
  • The expenses incurred for lobbying in the period.
PERIODIC REPORTS

Periodic reports must be filed regardless of if lobbying activity took place within the period. If your organization files a statement of registration, it must file a periodic report for each applicable period.

- Except if a termination notice is filed with e-Lobbyist.
- A termination notice is filed when lobbying activity ceases.
  - No further periodic reports are required to be filed, unless:
    - The termination is in the middle of a reporting period, the periodic report for that period is required to be filed, even if no lobbying activity took place.
    - The sixth periodic report/annual report must always be filed.

PERIODIC REPORTS: LOCAL LAW 129

- Lobbyist/client filers whose combined compensation and expenses for lobbying is between $5,000 and $10,000
  - Less filing requirements
    - Statement of registration
    - Two periodic reports - P3 and P6
  - Effective when DOITT has certified that the City Clerk is capable of implementing

FUNDRAISING AND POLITICAL CONSULTING REPORT

If file a Statement of Registration and
- In given year or in past 6 months engage in fundraising or political consulting.
  - Reporting pertinent information regarding such activities. Including expenses incurred for such activities.
- Same schedule as Periodic Reports, but only if engage in such activities.
- Compare reports filed with NYC Campaign Finance Board.
CLIENT ANNUAL REPORT

- Report to be filed by clients who retain a lobbyist to lobby on its behalf and exceeds the $5,000 reporting threshold.

- Lobbyist/client filers are only required to file a client annual report if retain an outside lobbyist and exceed the $5,000 reporting threshold.

Mandatory Training Requirement

- All first time filers must register to attend training within 15 days of commencement of lobbying.

What do the changes mean for filers?
- May be penalized if not registered for training
- Training program to begin in 2015

REVIEW OF REQUIREMENTS

- If your organization
  - Exceeds the reporting threshold
  - For engaging in one of the eight lobbying activities
- A Statement of Registration
- Six Periodic Reports per year (unless terminate)
- Fundraising and Political Consulting Reports (if applicable) and
- Client annual report (if applicable).
- Extensions to file any report may be granted if made in writing, for good cause no later two business days prior to the deadline.
**Review of Changes: Local Law 129**

- Increase in activities that are deemed lobbying = increase in reporting
- Increase in threshold = decrease in filers
- Lobbyist/client filers between $5,000 and $10,000 must continue to file 6 periodic reports per year until e-Lobbyist is changed
- Client annual report not required if the $5,000 threshold for cumulative outside lobbying activity is not exceeded
- Must list expenses incurred for fundraising and political consulting activities
- At least one employee of all first time filers must register to attend training starting in 2015

**Other Requirements of the Administrative Code**

- Retain records for five years including books, papers and documents to substantiate finances in reports.
- Prohibited from compensating a lobbying employee on a contingent basis.
- “Willful” violations of the Lobbying Law may be referred to the Department of Investigations. (DOI)
- Prohibited from making gifts to public servants. (COIB)
- Campaign contributions are ineligible for taxpayer-financed public matching funds. (CFB)

**Violations of the Lobbying Law**

- Knowing and willful violation
  - May be subject to a cease order and/or
  - A civil penalty of up to $30,000.
- Violation of the prohibition on contingent salaries, may be subject to a civil penalty of up to $30,000.
Late Filing Penalties: Local Law 129
As of May 16, 2014, the late filing penalties are:
• $10 per day per filing for first time filers and
• $25 per day per filing for repeat filers.

Waiver/Reduction of Late Filing Penalties based on:
• whether/how often late in the past;
• annual operating budget of filer;
• lobbyist/client filer;
• periodic reports - amount of unreported detail and
• significance of the impediments to timely filing.

Non-Filing or Late Filing of Reports
Prior to May 16
• The entity may be subject to late filing penalties that are capped at $1,000 per late filing.
• Late filing penalties are automatic and are not reduced or waived.
• A civil penalty up to $20,000 if violation is not cured may be imposed after a hearing at the Office of Administrative Trials and Hearings (OATH).

Civil Penalties
• Violations subject only to civil penalties
  • Failure to correct an incorrect report
  • Failure to file a termination notice (by client and/or lobbyist)
• Only subject to penalty if fail to file within 14 business days from the date of the mailing of a notice to cure