



Political Law Alert

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New Hampshire Moves to Require Corporations to Register as PACs; New York Codifies Placement Agent Ban

Below, please find a discussion of recent developments in New Hampshire and New York.

New Hampshire

The New Hampshire Office of the Attorney General recently has indicated that, going forward, it will interpret state campaign finance law to require certain corporations making contributions in the state to register and report as political committees. In the same guidance, the Attorney General’s Office noted an increased focus on enforcement surrounding campaign finance filings in general.

Under New Hampshire law, a “political committee” includes, among others, “any organization that does not have as its major purpose to promote the success or defeat of a candidate or candidates or measure or measures but that makes expenditures that total \$5,000 or more in a calendar year.” The Attorney General’s Office, which enforces the law, issued written guidance recently that suggested in a footnote that the Attorney General’s Office interprets this provision to require a corporation to register if it contributes at least \$5,000 in the state in a calendar year. The Attorney General’s Office subsequently confirmed this new interpretation of the law informally by phone.

Thus, though this law has been in place for several years and corporations have not to this point been registering, going forward corporations that contribute in New Hampshire should track their contributions towards the \$5,000 per calendar year threshold and should register and report if required.

New York

New York Gov. Andrew Cuomo recently signed Assembly Bill 3137 (the law), codifying the New York comptroller’s long-standing policy against placement agents soliciting the New York State Common Retirement Fund (the CRF). The policy has been in place since 2009, implemented through a series of temporary regulations. Effective on August 21, 2018, the law incorporates the policy into statute. Under the law, the CRF may not engage, hire, invest with or commit to an investment manager that has used the services

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of a placement agent or other intermediary to assist in obtaining CRF investments. The law defines “placement agent or other intermediary” to include any person or entity, including a registered lobbyist, that is directly or indirectly engaged and compensated by an investment manager to promote investments to or solicit investment by the CRF, whether compensated on a flat fee, a contingent fee or any other basis. However, the term does

not include employees of the investment manager or its affiliates unless they are employed principally for the purpose of securing or influencing the decision to secure a particular investment transaction or investment by the CRF. Furthermore, the CRF may not engage, hire, invest with or commit to an investment manager without obtaining a certification that the investment manager has complied with this prohibition.

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