

# New York State Modifies Ethics Laws and Several Jurisdictions Update Reporting Requirements in Light of COVID-19

Skadden

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If you have any questions regarding the matters discussed in this memorandum, please contact the attorneys listed on the last page or call your regular Skadden contact.

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One Manhattan West  
New York, NY 10001  
212.735.3000

1440 New York Avenue, N.W.  
Washington, D.C. 20005  
202.371.7000

As federal, state and local governments grapple with the COVID-19 outbreak, a number of jurisdictions have modified certain ethics, lobbying and campaign finance requirements in response to the crisis. Below, we describe certain steps taken by New York Gov. Andrew Cuomo to attempt to alter certain ethics laws in the state in an attempt to better allow for private sector assistance, including a clarification that gifts to the New York state government are exempt from state gift laws. We also summarize deadline extensions and other accommodations made by certain jurisdictions for filers of campaign finance and lobby reports.

## **Gov. Cuomo's Executive Order Modifying Certain Ethics Laws**

In order to eliminate as many potential legal obstacles that could hamper New York state's ability to leverage private sector resources in the fight against the COVID-19 virus, Gov. Cuomo signed an executive order (EO) on March 18, 2020, that temporarily suspended or modified a number of ethics rules. In particular, the EO lifted post-employment restrictions for individuals hired by the state in a volunteer capacity (or for a nominal salary) to assist in responding to the crisis. These restrictions would normally prohibit, among other things, a person from communicating with or appearing before certain state agencies for a certain period of time after leaving government service. This change should permit individuals with expertise that would be useful to the state's COVID-19 response to enter government service with minimal impact on their ability to interact with state agencies upon their return to the private sector.

Additionally, the EO clarified that the various laws restricting gifts to public officials will not apply to contributions or donations made to the state government and administered by a state agency in furtherance of its response to the crisis. Gift laws generally apply to things of personal value given to government officials, and for companies filing under the New York state lobbying law, the rules also cover donations made to third parties, such as charities, at the request of such official(s). As a result, this clarification does not have a significant practical effect on a company's compliance efforts, given that gifts to the government have historically not been covered. However, the clarification should serve as a reminder of the importance of properly structuring any assistance requested by government officials, even under exigent circumstances.

## **Updates to Reporting Requirements in Numerous Jurisdictions**

Below is a list of deadline extensions and other filer accommodations issued by major jurisdictions in light of the difficulties filers (and the regulators themselves) are anticipated to encounter as they cope with social distancing recommendations, closures and stay-at-home orders related to COVID-19. Please keep in mind that we expect additional

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jurisdictions to take similar actions in the coming weeks as the situation develops and other deadlines near.

## Federal

The Federal Election Commission will continue to update reporting dates and deadlines as states postpone elections. For PACs filing monthly reports, there have been no changes to any deadlines thus far.

Please note that the secretary of the Senate and clerk of the House of Representatives have no authority to extend deadlines for required reports under the Lobbying Disclosure Act. Such an extension would require an act of Congress, which is not anticipated at this time.

## Florida

The Florida Commission on Ethics has informally advised that, in lieu of a paper filing, they will accept the Form 30 quarterly gift disclosure as a scanned document attached to an email.

## California

California's Fair Political Practice Commission (FPPC) has made accommodations for filers either required or choosing to file their campaign finance reports on paper, as opposed to electronically. While paper filings typically require original signatures, the FPPC will allow filers to use digital signatures and scanned copies of forms for the time being. Filers taking advantage of this option are asked to follow up when possible with an amended hard copy with original signatures.

The FPPC has informally advised that they are unable to make similar accommodations to required lobby filings.

## District of Columbia

Though deadlines remain in place, the District of Columbia's Office of Government Ethics will not assess late fees on lobbying

filings that are delayed due to the COVID-19 crisis and will consider other measures, as needed, to assist registrants during this time. If you expect you will not be able to meet a registration or reporting deadline, you are encouraged to contact the office in advance.

## Hawaii

The Hawaii State Ethics Commission sent a notice to all filers under the lobby law that it will hold a special meeting on Friday, March 27, 2020, where the commission is expected to extend the March 31, 2020, lobbying expenditure report deadline until April 30, 2020.

## Illinois

The state of Illinois has extended deadlines for lobbying filings, including semimonthly reports, for 30 days.

The Chicago Board of Ethics has indefinitely postponed their annual June 30 deadline for lobbyist training.

## Kentucky

The Kentucky Legislative Ethics Commission has requested that all paper filings be sent by fax or email.

## New York

The New York State Joint Commission on Public Ethics and the New York City Clerk's Lobbying Division have extended the deadlines for the January-February lobbyist reports from March 16, 2020, until March 31, 2020.

## Texas

The mayor of Austin, Texas signed an executive order suspending all city deadlines, including upcoming quarterly lobbying reports, until May 1, 2020.

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## Contacts

### Kenneth A. Gross

Partner / Washington, D.C.  
202.371.7007  
kenneth.gross@skadden.com

### Ki P. Hong

Partner / Washington, D.C.  
202.371.7017  
ki.hong@skadden.com

### Matthew Bobys

Counsel / Washington, D.C.  
202.371.7739  
matthew.bobys@skadden.com

### Melissa L. Miles

Counsel / Washington, D.C.  
202.371.7836  
melissa.miles@skadden.com

### Charles M. Ricciardelli

Counsel / Washington, D.C.  
202.371.7573  
charles.ricciardelli@skadden.com

### Tyler Rosen

Counsel / Washington, D.C.  
202.371.7035  
tyler.rosen@skadden.com

### Theodore R. Grodek

Associate / Washington, D.C.  
202.371.7262  
theodore.grodek@skadden.com

### Shayla K. Parker

Associate / Washington, D.C.  
202.371.7534  
shayla.parker@skadden.com

### Jeremy F. Regan

Associate / Washington, D.C.  
202.371.7073  
jeremy.regan@skadden.com