GUIDE TO LOBBYING IN THE STATE OF MAINE

These resources are current as of 11/1/18. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law.

Please email us at advocacy@afj.org.

WHAT’S NEW IN THIS GUIDE?

The following changes/additions have been made since the previous version:

- Updated to reflect new harassment training for lobbyists
  - Includes links to the most recent Lobbying Handbook

This guide summarizes key aspects of laws and regulations governing lobbying on the state level. It is not intended to provide legal advice or to serve as a substitute for legal advice.

In some jurisdictions, city and/or county regulations may also apply to certain political activities.

Check with the appropriate local jurisdiction before undertaking any activity.
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DEFINITIONS

Covered Official
"Covered official" means an official in the executive branch, an official in the legislative branch, a constitutional officer, the Governor and the Governor's cabinet and staff.

Official in the Executive Branch – An individual in a major policy-influencing position in certain departments or agencies (listed in Section 959 or in Title 5, chapter 71) and the Governor's cabinet and staff.

Official in the Legislative Branch – A member, member-elect, candidate for or officer of the Legislature or an employee of the Legislature.

Lobbying
Lobbying occurs when an individual is paid in exchange for:

- communicating directly with any official in the legislative branch, the executive branch or a constitutional officer, for the purpose of influencing any legislative action, or
- communicating with the Governor or the Governor’s cabinet and staff for the purpose of influencing the approval or veto of a legislative action.

“Lobbying” includes the time spent to prepare and submit oral or written proposals, testimony or analysis concerning a legislative action to the Governor, to an official in the legislative or executive branch, to a constitutional officer or to a legislative committee.

3 M.R.S.A § 312-A(9).

Legislative action – The drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature, by either the House of Representatives or the Senate, any committee or an official in the Legislative Branch acting in his official capacity, or action of the Governor in approving or vetoing any legislative document presented to the Governor for his approval.

3 M.R.S.A § 312-A(8).

If a person’s regular employment does not otherwise include lobbying, then they will not become a lobbyist simply by being named or asked by an official to participate in a subcommittee, stakeholder group, task force or other work group regarding a legislative action.
Indirect Lobbying

Indirect lobbying (formerly referred to as “grassroots lobbying”) means to communicate with members of the general public to solicit them to communicate directly with any covered official for the purpose of influencing legislative action, other than legislation that is before the Legislature as a result of a direct initiative, when that solicitation is made by:

- A broadcast, cable or satellite transmission;
- A communication delivered by print media; or
- A letter or other written communication delivered by mail or by comparable delivery service. E-mail is not considered a letter for the purposes of this definition.

3 M.R.S.A § 312-A(7-B).

Indirect lobbying expenditures only need be reported on monthly disclosure reports if they exceed $15,000 per calendar month.

3 M.R.S.A. § 317(E-1).

Lobbyist

An individual is a “lobbyist” (and must be licensed and registered as such) if:

- the individual is specifically employed by another person, company, or organization for the purpose of lobbying, and that individual spends more than eight hours engaging in lobbying in any calendar month; or
- the individual, as a regular employee of another person, spends more than eight hours in any calendar month on lobbying.

"Lobbyist" does not include individuals lobbying on a volunteer basis who receive no compensation for lobbying other than reimbursement for lobbying-related travel within the State and for certain out-of-pocket expenditures made by the individual in connection to the lobbying activities. Such out-of-pocket expenditures include:

- Printing,
- Postage, and
- Food and lodging.

3 M.R.S.A § 312-A(10).

Lobbyist Associate

A “lobbyist associate” is an individual who:

- is a partner, associate, employee or co-worker of a registered lobbyist; and
- lobbies on behalf of the employer named on the lobbyist registration for more than eight hours in any calendar month.

3 M.R.S.A § 312-A(10-A).
Lobbyist Employer (Client)
A lobbyist employer is the person or entity paying a lobbyist to engage in lobbying on the employer's behalf. 3 M.R.S.A § 312-A(5).

REGISTRATION

Timing and Threshold for Registration
The registration is due within 15 business days after an individual qualifies as a lobbyist by spending more than eight hours lobbying for a particular client in a single calendar month. Each registration expires on November 30th of the year in which it was filed.

3 M.R.S.A § 314.

How to Register
Every lobbyist and lobbyist employer (client) must file a joint registration. In practice, a lobbyist generally prepares the form and it is signed by the client and submitted to the Ethics Commission. The registration may be completed online or on paper.

3 M.R.S.A § 313.

Fee
The registration fee for each joint lobbyist–client (employer) registration is $200. There is an additional $100 fee per lobbyist associate included in the registration.

Disclosures
The following information must be disclosed at the time of registration:

• Business addresses of the lobbyist and lobbyist employer(s),
• Nature of the employer’s business,
• Legislative interest of the business,
• Committee(s) that the business plans to be active at, and
• A statement regarding the lobbyist’s compensation for providing lobbying services. If an exact amount of compensation cannot be ascertained, the registration must disclose the basis upon which the lobbyist will charge for services.
3 M.R.S.A § 315-A.

**Updating Registration**
Amendments to the registration may be made at any time by contacting the Ethics Commission staff.

**Termination of Registration**
Each joint registration automatically expires on the last day of the year during which the person was registered to lobby, unless as otherwise provided.

A joint registration expires if the employer notifies the commission in writing that the lobbyist is no longer engaged by the employer to lobby.

The Commission will waive the monthly reporting requirement for the rest of the lobbying year if a termination report is received by the Commission prior to November 30.

3 M.R.S.A § 314.

**REPORTING**

**Monthly Reporting**
During the legislative session, all registered lobbyists must file monthly reports detailing their activities for each employer. Monthly reports must be filed during the legislative session even if the lobbyist spent less than 8 hours lobbying in the previous, or did not engage in any lobbying during the previous calendar monthly (may file a Short Form if there has been no time spent lobbying). The 2013 Lobbyist Handbook has additional information on lobbyist reporting.

The reports, which must be filed electronically, are required even if no lobbying has been performed and no compensation or reimbursements have been received.

Reports are due by the 15th of the month, covering the prior month's activities.

Information to be reported includes:
- Names of the individuals who lobbied during the month;
- Specific dollar amounts of compensation received for the preparation of documents and research for the primary purpose of lobbying;
Compensation must be divided into amounts received for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers;

In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to lobbying by the employee’s regular rate of pay based on a 40-hour week;

- The specific dollar amount of expenditures made during the month for lobbying activity for which the lobbyist has been or expects to be reimbursed, specifying the amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers separately;

- The total amount of money expended directly to or on behalf of one or more officials of the legislative branch, including members of the official’s immediate family, and the amount, if any, for which the lobbyist has been or expects to be reimbursed;

- The name of an official in the legislative branch or a member of that official’s immediate family on whose behalf an expenditure or expenditures totaling $25 or more were made in any one calendar month and the date, amount and purpose of the expenditure or expenditures;

- A list of each legislative action by Legislative Document or, if unknown, by Senate Paper or House Paper number or, if unknown, by topic or nomination in connection with which the lobbyist is engaged in lobbying;

- A list specifically identifying each legislative action, Legislative Document, Senate Paper, House Paper or nomination for which the lobbyist was compensated or expects to be compensated, or expended in excess of $1,000 for lobbying activities related to those actions.

Indirect lobbying expenditures only need be reported on monthly disclosure reports if they exceed $15,000 per calendar month.

3 M.R.S.A § 317

Monthly Nonsession Reporting
When the Legislature is not in regular session, every registered lobbyist must either file:
1. A statement that the lobbyist will not engage in lobbying activities when the Legislature is not in session (must be filed with the last monthly report for the previous regular session); or

2. If the lobbyist is engaged in lobbying in any months the Legislature is not in session, a monthly report in the manner prescribed for lobbyists during the legislative session must be completed.
Annual Reporting
As of September 2011, registered lobbyists are no longer required to submit annual reports. The e-filing system will calculate all of the necessary information automatically at the end of the lobbying year (lobbyists should check that all of their monthly reports have been processed and are not “pending” at the end of the calendar year).

LOBBying REGulations

Testifying in the Legislature
A lobbyist or lobbyist associate who testifies before a joint select or joint standing committee of the Legislature must disclose to the committee as part of the testimony the name of the person or organization that the lobbyist or lobbyist associate is representing. 3 M.R.S.A § 319-A.

Contingency Fees
Employment as a lobbyist on a basis contingent upon the outcome of any legislative action is prohibited. 3 M.R.S.A § 318(1).

Restriction on Introducing Legislation
No one may instigate the introduction or commencement of any legislative action for the purpose of obtaining employment as a lobbyist to oppose or support such legislative action. 3 M.R.S.A § 318(2).

Revolving Door
Executive employees: Former executive employees face restrictions on their activities after leaving their state jobs. For matters which were pending before the state agency and which were directly within the employee's responsibilities during their final 12 months in their job, the ban is infinite. However, the ban extends only for one year on matters which were not pending before the agency and within the employee’s responsibility during the employee's final 12 months in their job. 5 M.R.S.A § 18(3).

Legislators: Starting in December 2014, an individual who served as a Legislator may not engage in more than 8 hours of lobbying in a calendar month until one year after their term in office ends. This ban does not apply to uncompensated lobbying. 1 M.R.S.A. § 1024.

Executive Branch Officials: Beginning on January 1, 2015, individuals whose salary is subject to adjustment by the Governor or who are in a “major-policy influencing” position may not engage in lobbying for more than 8 hours in a calendar month until one year after their employment in that office ends. 3 M.R.S.A. § 318-A.
Harassment Training
All lobbyists shall attend and complete a course, developed by the Legislative Council, of in-person education and training regarding harassment, including sexual harassment, at the beginning of each regular session of the Legislature. A lobbyist shall complete the training, retain proof of completion of the training for 2 years following completion and certify completion of that training to the commission at the time of registration. 3 M.R.S.A. § 312-B

Name Tags
Registered lobbyists and lobbyist associates are required to wear “clearly visible” nametags when lobbying. The name tags must include the following information:
- Lobbyist or lobbyist associate’s name
- Name of either:
  - The firm the lobbyist works for;
  - Lobbyist’s employer;
  - Organization the lobbyist represents; or
  - The word “Lobbyist”

3 M.R.S.A. § 327

Gifts
In their monthly and annual reports, lobbyists must report the names of all covered officials and members of their immediate family to whom the lobbyist or the client spent $25 or more on behalf of or gave anything with a retail value of $25 or more.

The Legislative Ethics Law forbids a Legislator or an immediate family member from accepting a gift (other than a campaign contribution) from persons affected by legislation or who have an interest in a business affected by proposed legislation, where it is known or reasonably should be known that the purpose of the donor in making the gift is to influence the Legislator in the performance of his or her official duties or vote, or is intended as a reward for action on his or her part. While there is an exception for gifts from an individual on the basis of a personal friendship, this exception does not apply to individuals registered as lobbyists or lobbyist associates.

The Bribery and Corrupt Practices provisions of the Maine’s Criminal Code (17-A M.R.S.A. § 601 et seq.) state that it is unlawful for a public servant to solicit, accept or agree to accept any pecuniary benefit from a person “if the public servant knows or reasonably should know that the purpose of the donor in making the gift is to influence the public servant in the performance of the public servant’s official duties or vote, or is intended as a reward for action on the part of the public servant.”

It is also unlawful for a person to knowingly give, offer or promise to a public servant any pecuniary benefit prohibited under the law. Pecuniary benefit is defined as any economic advantage in the form of money, property, commercial interest or anything else, the primary significance of which is
economic gain. Pecuniary benefit does not include a meal provided by industry or special interest organizations as part of an informational program presented to a group of public servants, a prayer breakfast, or a subscription to a newspaper, news magazine or other news publication.

**Campaign Contributions**

During any period of time in which the Legislature is in session, lobbyists, lobbyist associates, and lobbyist clients/employers may not intentionally give, offer or promise a campaign contribution to the Governor, members of the Legislature, constitutional officers of the State, or their staff or agents.

These prohibitions apply to contributions directly and indirectly solicited or accepted by, or given, offered and promised to a political action committee, ballot question committee or party committee of which the Governor, a member of the Legislature, a constitutional officer or the staff or agent of these officials is a treasurer, officer or primary fund-raiser or decision maker.

These prohibitions do not apply to:

- Solicitations or contributions for bona fide social events hosted for nonpartisan, charitable purposes;
- Solicitations or contributions relating to a special election to fill a vacancy from the time of announcement of the election until the election; and
- Solicitations or contributions accepted by a member of the Legislature supporting that member's campaign for federal office.

These restrictions do not prohibit the attendance of the Governor, a member of the Legislature or any constitutional officer or the staff or agent of the Governor, at fund-raising events held by a municipal, county, state or national political party, nor the advertising of the official's attendance at the event, as long as the official has no involvement in soliciting attendance at the event and all proceeds are paid directly to the political party organization hosting the event or a nonprofit charitable organization.

Lobbyists and lobbyist associates may make $5 qualifying contributions during the legislative session in support of a covered official who is a candidate for Legislature or Governor and who is attempting to qualify for public financing under the Maine Clean Election Act. Lobbyists and lobbyist associates may not make seed money contributions (donations of up to $100 from individual contributors) to a covered official who is a candidate during the legislative session, except in special elections as provided in the exceptions in 1 M.R.S.A. § 1015(3)(C).

1 M.R.S.A § 1015.
PENALTIES

Any person who fails to file a required registration or report may be assessed a fine of $100 for every month the person fails to register or is delinquent in filing a report.

If a registration or report is filed late, the commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty. If a lobbyist files a required report within 24 hours after the deadline, the amount of the preliminary penalty is $50.

The commission may waive the fine or penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances or the fine or penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public from the late registration or report. "Mitigating circumstances" include:

- A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the fine or penalty in whole or in part;
- An error by the commission; or
- Circumstances determined by the commission to warrant the waiver of the fine or penalty in whole or in part, based upon relevant evidence presented that a bona fide effort was made to file the report, including, but not limited to, unexplained delays in Internet service.

3 M.R.S.A. § 319.
CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

Commission on Governmental Ethics and Election Practices U.S. Mail:
135 State House Station
Augusta, Maine 04333

2013 Lobbyist Handbook

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