

CALIFORNIA

LOBBYING DISCLOSURE

These resources are current as of 2/28/14. 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 of this guide:

- ◆ Comprehensive AFJ guide on Lobbying in California: [Shaping the Future](#)
- ◆ Information on the FPPC's new regulation of "placement agents," which are now included in the definition of "[lobbyist](#)"
- ◆ Updated lobbyist [registration fee](#) (\$100) and [gift limits](#) (now \$440).

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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OVERVIEW

Whereas the Federal Lobbying Disclosure Act (LDA) regulates lobbying at the federal level, [California's Political Reform Act \(PRA\)](#) regulates lobbying at the state level. Much like the Federal LDA, the PRA imposes registration and reporting requirements on individual lobbyists and lobbyist employers who meet certain threshold levels of lobbying. California also places ethics-related limitations and prohibitions on those who lobby.

In summer 2012, AFJ released a comprehensive manual on Lobbying in California, titled [Shaping the Future: A Compliance Guide for Nonprofits Influencing Public Policy in California](#).

DEFINITIONS

Lobbying:

- Engaging in direct communication with state officials (e.g., state legislators and governor) for the purpose of attempting to influence legislative and/or administrative (i.e., state agency) action. See Cal. Govt. Code §§ 82002, 82037; [2 CCR § 18239](#).
- In California, only paid lobbying activity is regulated; purely volunteer efforts are not. See [2 CCR § 18239](#).
- *Direct* lobbying of state officials, as well as efforts to encourage others (including an organization's members) to lobby state officials (also referred to as *grassroots lobbying*), is regulated. See Cal. Govt. Code § 86115(b); [2 CCR § 18616\(a\)\(4\)\(C\)](#). However, it is important to note that while both direct and [grassroots lobbying](#) must be reported if the requisite thresholds are met, only direct lobbying is counted in determining whether an individual qualifies as a lobbyist. (See "*In-House Lobbyist*," below.)

Types of Lobbyists:

- Lobbyist – a person qualifies as a lobbyist by meeting either a “time spent” threshold for an in-house lobbyist, or by meeting a “compensation received” threshold for contract lobbyists and lobbyists who work for lobbying firms.¹ Cal. Govt. Code § 82039; [2 CCR § 18239](#).

¹ Individuals may also qualify as a lobbyist by virtue of their status as a “placement agent.” Cal. Govt. Code §§ 82039(a)(2), 82047.3, [2 CCR 18239](#). Although the new rules do not generally apply to the type of lobbying conducted by non-profit entities, we note that they apply to those attempting to influence the sale of financial products and services to any state public investment funds in California. For more information, see [AB 1743 FPPC factsheet](#) on the lobbying

- *In-House Lobbyist*: Registration as a lobbyist is required when an individual spends one-third or more of his or her time in any calendar month for his or her employer engaging in direct communication with state officials for the purpose of attempting to influence legislative or state agency action(s). Cal. Govt. Code § 82039, [2 CCR § 18239](#). Time spent engaged in grassroots lobbying is not included in this calculation.
- *Lobbyist at a Lobbying Firm*: Registration as a lobbyist is required when a person receives \$2,000 or more in a calendar month from the lobbying firm in salary or wages, for engaging in direct communications with state officials on behalf of the lobbying firm's clients for the purpose of attempting to influence legislative or state agency action. Cal. Govt. Code § 82039, [2 CCR § 18239](#). Money earned for grassroots lobbying is also not included in this calculation.

Other Actors:

- Lobbying Firm – A sole proprietor qualifies as a lobbying firm if he or she receives any compensation for lobbying state officials on behalf of a third party. A business qualifies as a lobbying firm by receiving any compensation for lobbying state officials and having at least one owner, officer or employee who qualifies as a lobbyist. A business may also qualify as a lobbying firm if it receives at least \$5,000 in compensation for lobbying state officials in a calendar quarter and someone in the firm engages in direct communication with state officials but does not qualify as a lobbyist. Cal. Govt. Code § 82038.5, [2 CCR § 18238.5](#).
- Lobbyist Employer – An individual or entity that has an in-house lobbyist employee or retains a lobbying firm. Cal. Govt. Code § 82039.5; *See also* [2 CCR § 18239.5](#).
- Lobbying Coalition – Ten or more individuals and/or entities that pool their resources and that either employ a lobbyist or contract with a lobbying firm. [2 CCR § 18616.4](#).
- \$5,000 Filer – An entity that does not have an in-house lobbyist and does not contract with a lobbying firm, but which spends \$5,000 or more in a calendar quarter to influence or attempt to influence legislative or administrative action. This includes spending funds on grassroots lobbying to encourage the general public or the entity's members to contact state officials. Cal. Govt. Code § 86115(b).

registration requirements for placement agents. *See also* [FPPC Recht Advice Letter, No. I-11-015](#).

Grassroots Lobbying:

- Efforts to influence legislative or administrative action, but which do not include directly contacting public officials, do not count toward the registration thresholds for lobbyists. However, as noted above, an entity that does not have a lobbyist but spends more than \$5,000 *in a calendar quarter* on grassroots lobbying, may be required to file disclosure reports as a \$5,000 filer. Cal. Govt. Code § 86115(b).

REGISTRATION

Registration of Lobbyist Employer and Lobbying Coalitions:

A lobbyist employer or lobbying coalition with at least one in-house employee lobbyist must register with the California Secretary of State by filing an FPPC [Form 603](#), available on the [Secretary of State's website](#). A lobbyist employer or lobbying coalition that contracts with a lobbying firm – and does not have an in-house employee lobbyist – does not need to register (but must file a [Form 602](#) authorizing the lobbying firm to lobby on its behalf). Cal. Govt. Code §§ 86100, 86105.

- Timing – A lobbyist employer required to register must do so within 10 days of its in-house employee meeting the “time spent” threshold for qualifying as a lobbyist. Cal. Govt. Code § 86101.
 - An amended registration must be filed within 20 days of any change in the information regarding a filer. Cal. Govt. Code at § 86107.
- Disclosures – A lobbyist employer’s registration requires the following information:
 - The employer’s name and contact information;
 - A list of all lobbyists employed by that lobbyist employer;
 - An FPPC [Form 604](#) Lobbyist Certification for each lobbyist employed by the filer (see “[Registration of Lobbyists](#),” below);
 - Information identifying the filer’s interests; and
 - A list of the state agencies which the filer will attempt to influence.

Cal. Govt. Code § 86105.

- Renewing Registration – Each filer must renew its registration between November 1 and December 31 of an even-numbered year or within 10 days of qualifying during the subsequent legislative session. Cal. Govt. Code § 86106.

- Fee – The Lobbyist Employer must pay a \$100 registration fee (\$50/year). Additionally, a \$100 fee is required for each in-house employee lobbyist. Cal. Govt. Code § 86102.

Registration of Lobbyists:

- As noted in the [definition of lobbyist above](#), a person qualifies as a lobbyist by meeting either a “time spent” threshold for an in-house lobbyist or by meeting a “compensation received” threshold for lobbyists who work for a lobbying firm.
- Timing – An individual must file a certification within 10 days of meeting the “time spent” or “compensation received” threshold. See Cal. Govt. Code § 86101.
- Disclosures – A lobbyist registers with the California Secretary of State by filing FPPC [Form 604](#), available on the [Secretary of State's website](#), within 10 days of qualifying as a lobbyist, along with a \$100 fee and photo. [Form 604](#) is filed as a companion to the organization’s Lobbyist Employer Registration Statement (FPPC [Form 603](#)) or Lobbying Firm Registration Statement ([Form 601](#)).
 - Each lobbyist must attend an ethics orientation course, in Sacramento, conducted by the state Legislature. New lobbyists must sign a statement that they will take the ethics course within 12 months of registration, and those lobbyists’ certifications are accepted on a conditional basis until the course is completed. Failure to complete the course will void the certification, preventing the person from acting as a lobbyist. Lobbyists whose certifications have expired must state either that they have completed an ethics course within the past 12 months, or that they will complete the course no later than June 30 of the following year. Cal. Govt. Code § 86103(d).
 - Lobbyists must submit a photo of themselves with their certification. The photo is printed in a lobbyist directory published by the secretary of state and is available on the state website. Cal. Govt. Code §§ 86109, 86103(a).
- Renewing Registration – The lobbyist registration is effective for the rest of the two-year legislative session, at which time it automatically terminates, unless status as a lobbyist terminates earlier by filing a Notice of Termination (FPPC [Form 606](#)). Each legislative session begins on January 1 of each odd numbered year and ends on December 31 of the following even numbered year. Lobbyists who will lobby in the next legislative session are required to renew their registrations between

November 1 and December 31 of the even numbered year. Cal. Govt. Code §§ 86100, 86106, 86107. If the Lobbyist may not qualify as a lobbyist in the next legislative session, they can wait and register once they qualify in the next session.

- Fee – A \$100 fee is required for each lobbyist listed on the lobbyist employer’s or lobbying firm’s registration statement. Cal. Govt. Code § 86102.

REPORTING

- Lobbyists, lobbying firms, lobbyist employers, lobbying coalitions, and \$5,000 Filers file **quarterly disclosure reports** with the Secretary of State, which are due on the last day of the month following the end of each calendar quarter. If the deadline falls on a weekend or holiday, the report is due on the next business day. Reports are required to be electronically filed once the total amount of any category of reportable payments totals \$2,500 or more in a calendar quarter. Once a filer is required to file electronically, all future filings must be filed electronically, including those required to renew registration. See Electronic Filing, below.

Reporting by Lobbyist Employers and Lobbying Coalitions:

Lobbyist Employers and Lobbying Coalitions both report their activities using an FPPC [Form 635](#). In addition, a lobbying coalition must file an FPPC [Form 635C](#) to disclose payments received from its members.

- Timing – Disclosure reports are due quarterly, on the last day of the month following the end of each calendar quarter. If the deadline falls on a weekend or holiday, the report is due on the next business day. Cal. Govt. Code § 86117.
- Disclosures – The following information must be reported on the quarterly reports filed by Lobbyist Employers and lobbying coalitions:
 - Legislation and agency administrative actions actively lobbied.
 - Payments (such as gifts, honoraria, consulting fees, salaries, and any other form of payment) benefiting a state elected official, legislative or agency official, state candidate, or their immediate family members, arranged, incurred or paid by the lobbyist, including:
 - date and total amount of the payment;
 - payee name;

- description of the goods, services, etc., provided; and
 - name of official benefited and his or her official position.
- Total payments made in connection with attempts to influence legislative or state agency action, including:
 - payments in connection with direct communication with state officials;
 - payments in connection with urging other persons to directly communicate with state officials; and
 - compensation paid to employees who spend 10 percent or more of their compensated time in a calendar month in connection with lobbying activities.
 - Political contributions made by the organization or its Political Action Committee to:
 - committees controlled by state candidates or elected officers (including ballot measure committees); and
 - committees primarily formed to support or oppose state candidates or elected officers.
 - Name and address of each lobbying coalition paid, and total amount paid to each lobbying coalition. If the lobbyist employer makes payments to a lobbying coalition, it must also file an FPPC [Form 630](#).

Cal. Govt. Code §§ 86115, 86116; 2 CCR § 18615, 18616.

- Electronic filing – Reports are required to be electronically filed when lobbying activity reaches \$2,500 in a calendar quarter. Once this threshold is met, all subsequent disclosure filings are required to be filed electronically and paper reports are no longer required. (All *registration* documents must still be filed both electronically and by paper.) Entities that do not trigger the electronic filing threshold may opt to file their disclosure reports online; however, once an entity begins filing its reports electronically, all subsequent reports must also be filed electronically. Information on electronic filing is available at (http://www.sos.ca.gov/prd/electronic_filing_info.htm).

Reporting by Affiliated Entities:

- Entities that are affiliates of the same organization should file a single consolidated lobbyist employer report. 2 CCR § 18614; [Macklin Advice Letter, No. A-86-217](#); [Petersen Advice Letter, No. A-10-086](#). For example, organizations with parent-subsidiary relationships, and similarly related entities, are considered “affiliated” and must file consolidated reports.

Reporting Grassroots Lobbying (“\$5,000 Filers”):

An entity that does not have an in-house lobbyist and does not contract with a lobbying firm, but which spends \$5,000 or more in a calendar quarter to influence or attempt to influence legislative or administrative action, must disclose that activity. This includes spending funds on grassroots lobbying to encourage the general public or the entity's members to contact state officials. Cal. Govt. Code §§ 86115(b), 86116.

- Timing – Disclosure reports are due for any quarter in which the entity spends \$5,000 or more to influence legislative or administrative action. Reports are due on the last day of the month following the end of each calendar quarter. If the deadline falls on a weekend or holiday, the report is due on the next business day. If the \$5,000 threshold is not met in any given quarter, no report is required regardless of past filing history. Cal. Govt. Code § 86117.
- Disclosures – \$5,000 Filers use FPPC [Form 645](#) to report their activities. The required disclosures are similar to those required for lobbyist employers, described above. Cal. Govt. Code § 86116; 2 CCR §§ 18615, 18616.
- Fees -- \$5,000 Filers are not required to register or to pay the \$100 registration fee.

Reporting by Lobbyists:

Lobbyists must report their activities using an FPPC [Form 615](#).

- Timing – Each lobbyist must submit his or her report to his or her lobbyist employer or lobbying firm within two weeks of the end of each calendar quarter. The report must be filed with the Secretary of State (along with either the Lobbyist Employer Report ([Form 635](#)) or Lobbying Firm Report ([Form 625](#)) on which the lobbyist is listed) no later than the last day of the month following the end of each calendar quarter. If the deadline falls on a weekend or holiday, the report is due on the next business day. Cal. Govt. Code § 86113(b).
- Disclosures – Each lobbyist must itemize:
 - Payments (such as gifts, honoraria, consulting fees, salaries and any other form of payment) benefiting state elected officials, legislative or agency officials, state candidates or their immediate family members, arranged, incurred or paid by the lobbyist or by the firm, including:
 - date and total amount of the payment;
 - payee name;

- description of the goods, services, etc., provided; *and*
 - name of official benefited and his or her official position.
- Campaign contributions personally made or delivered by the lobbyist to:
 - committees controlled by a state candidate or elected officer (including ballot measure committees); and
 - committees primarily formed to support or oppose a state candidate or elected officer.

Cal. Govt. Code § 86113.

Note that lobbyists are prohibited from making contributions to certain state candidates and officials. ([See below.](#))

LOBBYING REGULATIONS

Time Restrictions on Lobbying:

- No time restrictions exist on lobbying in California.

Identification of Lobbyists:

- Lobbyists are not required to identify themselves, or display any item that identifies them, as a lobbyist.

Note that California rules on gifts, travel and other benefits provided to public officials are complex. The laws outlined below are only summaries of some of the more commonly encountered issues; organizations and lobbyists are advised to consult with legal counsel for a complete analysis of their proposed activities prior to giving gifts or providing other benefits to officials. For additional information, please view this [FPPC Summary of Gift Rule Changes in 2012](#) as well as factsheets on gifts to [state officials/candidates](#) and to [local officials/candidates](#).

Gifts:

- State lobbyists and lobbyist firms may give a public official gifts valued at up to \$10 per month. This includes the lobbyist delivering a gift to the recipient, acting as a representative of the donor, acting as an agent or intermediary or arranging for the making of the gift by another person. Cal. Govt. Code § 86203.
- Lobbyist employers and lobbying coalitions may give gifts valued at up to \$440 per calendar year to public officials. Cal. Govt. Code §§ 82028, 89503; 2 CCR § 18940.2.

Entertainment:

- The limits on gifts, noted above, apply to entertainment payments. Cal. Govt. Code § 86203. A lobbyist may provide home hospitality (e.g., meals and occasional lodging) to a public official, but may not be reimbursed for the expense by a third party, nor may the lobbyist deduct it as a business expense. 2 CCR §§ 18942(a)(7), 18942.2.

Travel:

- The limits on gifts, noted above, apply.

Campaign Contributions:

- A lobbyist may not contribute to the campaign or controlled committees (including defense funds) of a state candidate OR ELECTED OFFICIAL if the lobbyist is registered to lobby the candidate or elected official’s agency. Cal. Govt. Code § 85702. A lobbyist is also prohibited from contributing to a committee primarily formed to support or oppose such a candidate or official. Additionally, [pending legislation](#) would ban lobbyists from hosting in-home fundraising events for candidates.

Contingent Fees:

- Contingent fees (i.e., fees based on the outcome of lobbying legislative or administrative action) are prohibited. Cal. Govt. Code § 86205.

Revolving Door:

- Former officials may not lobby for one year after they leave their agency and in certain cases are permanently prohibited from lobbying on certain matters on which they personally worked. Cal. Govt. Code §§ 87400-87406.

| Activity | Regulated by State | Statutory Citation |
|---|---|---|
| Lobbying by Former Officials | Prohibited for one year after leaving state service, and for life on certain matters. | Cal. Govt. Code §§ 87400-87406. |
| Limits on Gifts ² to Officials from Lobbyists & Lobbying Firms | Limited to \$10 per calendar month. Notice to recipient regarding value required. | Cal. Govt. Code §§ 82028, 86112.5, 86203. |

² In general, gifts are payments or other benefits, such as meals, event tickets, holiday presents, and travel, for which the official does not pay or provide an item of comparable value in exchange. Cal. Govt. Code § 82028; 2 CCR § 18940.1. State law provides for numerous exceptions to the definition of gift and the gift limit amount. Please consult legal counsel if you have questions on how to structure any potential gifts.

| | | |
|---|--|--|
| Limits on Gifts to Officials from Lobbyist Employers and Lobbying Coalitions | Limit of \$440 (2013-2014 amount) per calendar year on gifts to officials. Notice to recipient regarding value required. | Cal. Govt. Code §§ 82028, 86112.5, 89503; 2 CCR § 18940.2. |
| Home Hospitality Provided by Lobbyist to Officials | Lobbyist may provide, but may not be reimbursed by his/her firm or employer, or deduct as a business expense | 2 CCR §§ 18942(a)(7), 18942.2. |
| Trips/Travel Organized by Lobbyists | Limited to \$10 per calendar month. Notice to recipient regarding value required. | Cal. Govt. Code §§ 86112.5, 86203. |
| Contributions to Controlled Committees of State Candidates & Elected Officials from Lobbyists | Contributions are prohibited if the lobbyist is registered to lobby the candidate or elected official's agency. | Cal. Govt. Code § 85702; 2 CCR § 18572. |
| Contingent Fee Payments | Payments for lobbying that depend upon outcome of matter are prohibited. | Cal. Govt. Code § 86205(f) |

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

California Fair Political Practices Commission

428 J Street, Suite 620
Sacramento, CA 95814
866/275-3772
www.fppc.ca.gov

The Fair Political Practices Commission ("FPPC") oversees California lobbying, campaign finance and ethics laws applicable to state and local government agencies, government officials, and candidates for elective office. The FPPC enacts regulations to carry out the purposes of the Political Reform Act of 1974 (CAL. GOVT. CODE § 81000 - § 91015). In addition, the agency has authority to investigate potential violations and bring administrative or civil enforcement actions for violations.

California Secretary of State

Political Reform Division
1500 11th Street, Room 495
Sacramento, CA 95814
Telephone: 916-653-6224
www.ss.ca.gov

The Secretary of State is responsible for maintaining the list of lobbying registrations and is the filing agency for the lobbying disclosure reports. Quarterly disclosure reports are posted on its website.

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FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:

**Email: advocacy@afj.org
Telephone: 1-866-NPLOBBY
(675-6229)**

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