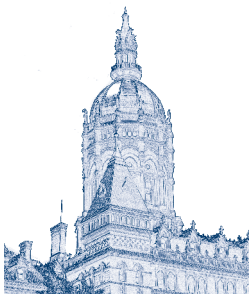


The Capitol Update

SEPTEMBER 2010

**MURTHA
CULLINA**



An update on Connecticut State Government and Politics from The Government Affairs Group of Murtha Cullina LLP.

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CLIENT ALERT: CONNECTICUT MODIFIES STATE CONTRACTOR AND LOBBYIST CAMPAIGN CONTRIBUTION RESTRICTIONS (PUBLIC ACT 10-1, JULY SESSION)

This past summer, a three-judge panel of the Second Circuit Court of Appeals upheld Connecticut's "**pay-to-play**" ban which prohibits state contractors from contributing to the campaigns of certain state candidates, while striking down the state's **ban on contributions by communicator lobbyists** and its prohibition on campaign contribution **solicitations by state contractors and lobbyists**.

As a result of the U.S. Court of Appeals ruling in **Green Party of Connecticut, et al. v. Garfield, et al.**, the Connecticut General Assembly met in Special Session on July 30 to amend, in part, existing state law governing campaign contributions by contractors doing business with the state and campaign contributions from registered lobbyists.

State Contractors

Prior to enactment of Public Act 10-1, state contractors, prospective state contractors, prequalified contractors and their principals were barred from making contributions or soliciting donations to candidate committees for the offices of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, and political action committees authorized to make contributions to candidates for such offices if they held threshold contracts with the executive branch of the state government or a quasi-public state agency.

Similarly, such contractors were barred from donating to candidate committees and political action committees authorized to make campaign donations to candidates for the General Assembly if the contractors held threshold contracts with the legislative branch of state government. Both executive and legislative branch contribution bans also extended to the spouse of state contractors and dependent children of the principals.

For purposes of the old and the new law, a "**threshold state contract**" is defined as an agreement or contract with a state executive or legislative branch agency, or quasi-public state agency, valued at \$50,000 or more in a fiscal year, or a combination of contracts or agreements with one or more agencies that are valued at \$100,000 or more in a fiscal year for the following: rendering personal services; furnishing any material, supplies or equipment; construction, alteration or repair of any public building or public work; acquisition, sale or lease of any land or building; a licensing agreement; and a grant, loan or loan agreement.

"**Principals of businesses**" have been, and continue to be, defined as board members of a business entity holding

or seeking a qualifying contract, individuals owning 5% or more of the business, senior officers (president, executive officer, treasurer and senior vice presidents) of the business, employees having responsibility for the state contract, and state political action committees established by the above individuals.

Implications for State Contractors and Subcontractors

The new law **retains the existing contribution ban** for state contractors, prequalified contractors and their principals but **eliminates the absolute ban on solicitations**. Beginning January 1, 2011, such contractors and principals may solicit contributions for state executive branch candidates and legislative candidates as long as they do not solicit their employees, subcontractors engaged with the state contractor's state contract and the principals of the subcontractor. The prohibition on soliciting a subcontractor and a subcontractor's principals extends to December 31st of the year the subcontract terminates.

The new law defines "**principals of a subcontractor**" the same way existing law defines principals of a contractor. "**Solicit**" is defined as requesting a contribution, participating in any fundraising activity for a candidate or exploratory committee, political action committee or party committee, and serving as an officer of such committee or establishing a political action committee for the sole purpose of soliciting or receiving contributions for any state political committee. Soliciting has been defined to include forwarding tickets and receiving contributions.

Implications for Lobbyists

Previous state law established an absolute ban on communicator lobbyists and their immediate families soliciting for and donating to candidates for state executive branch offices, candidates for the General Assembly and political action committees authorized to donate to the same. Passage of Public Act 10-1 immediately **permits** communicator lobbyists and their immediate families to make contributions **not in excess of \$100** to candidates for executive branch offices, candidates for the General Assembly and political action committees. Under the old and new law, a "**communicator lobbyist**" is an individual who communicates directly or solicits others to

communicate with state officials, state employees, legislators or members of quasi-public agencies for the purpose of influencing legislative or administrative action and who receives \$2,000 or more for such services in a calendar year. Beginning January 1, 2011, communicator lobbyists **may solicit contributions and advertising book purchases** for executive branch and legislative candidates and political action committees. Communicator lobbyists are **restricted**, however, from soliciting the board of directors, partners, employees, and individuals who have a five percent interest in a **client lobbyist** for which the communicator lobbies. For purposes of the old and new law, a "**client lobbyist**" is an individual or organization for whom lobbying takes place and who expends or agrees to expend \$2,000 or more for such services in a calendar year.

Effective January 1, 2011, the new law **prohibits** communicator lobbyists from **bundling** contributions for executive branch and legislative candidates, political action committees controlled by candidates, legislative leadership and caucus committees and party committees, which includes town committees. "**Bundling**" under the new law is defined as raising and/or forwarding five or more contributions to a candidate committee.

Additionally, Public Act 10-1 immediately **reinstates a sessional ban** on all lobbyists, communicator and client, prohibiting contributions and solicitations during regular sessions of the General Assembly, special sessions of the General Assembly and veto-override sessions in odd-numbered years.

Summary of Changes to Connecticut Election Law for State Contractors and Lobbyists

State Contractors

	Prior Law	New Law
Donations to Executive Branch Candidates	Donations to Executive Branch Candidates Prohibited if Holding a Threshold Contract with the Executive Branch	Same**
Donations to General Assembly Candidates	Donations to General Assembly Candidates Prohibited if Holding a Threshold Contract with the General Assembly	Same**
Donations to Executive Branch and General Assembly Candidates Participating in the Citizens' Election Program	Prohibited	Prohibited**
Solicitation of Contributions for Executive Branch Candidates	Prohibited if Holding a Threshold Contract with the Executive Branch	May Solicit Contributions for Executive Branch Candidates with Certain Exceptions* (effective January 1, 2011)
Solicitation of Contributions for General Assembly Candidates	Prohibited if Holding a Threshold Contract with the General Assembly	May Solicit Contributions for General Assembly Candidates with Certain Exceptions* (effective January 1, 2011)

Lobbyists

	Prior Law	New Law
Donations to Executive Branch Candidates by Communicator Lobbyists	Prohibited	May Contribute Not More Than \$100 to Each Executive Branch Candidate** (effective August 13, 2010)
Donations to General Assembly Candidates by Communicator Lobbyists	Prohibited	May Contribute Not More Than \$100 to Each General Assembly Candidate** (effective August 13, 2010)
Donation by Communicator Lobbyist to Executive Branch and General Assembly Candidates Participating in the Citizens' Election Program	Prohibited	May Contribute Not More Than \$100 to Each Candidate** (effective August 13, 2010)
Sessional Donations by Communicator Lobbyists	Prohibited	Prohibited** (effective August 13, 2010)
Sessional Donations by Client Lobbyists	Prohibited	Prohibited
Bundling by Communicator Lobbyists	Prohibited	Prohibits Bundling and Forwarding Five or More Checks to individual Candidates As Well As Raising Contributions at a Communicator Lobbyist Event** (effective August 13, 2010)

* Permits solicitation of donations for Executive Branch and General Assembly candidates with the restriction that state contractors' employees and subcontractors working for state contractors may not be solicited (effective August 13, 2010).

** Also applies to immediate family.

This Client Alert is one of a series of informational publications by the Government Affairs Group of Murtha Cullina LLP and should not be construed as legal advice or legal opinion on any specific fact or circumstance. The contents are intended for general information purposes only. If you have specific questions or require further information on the changes to Connecticut's campaign finance statutes, please contact the State Elections Enforcement Commission at (860) 256-2940.

The Capitol Update is a publication of the Government Affairs Group of Murtha Cullina LLP. For further information or assistance, please contact David McQuade at (860) 240-6141 or dmcquade@murthalaw.com.

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