



Clean Politics Act of 2018: Bill Would Cut Fundraising by Lobbyists & Reveal More Lobbying Activity

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On July 25, 2018, Senator Michael Bennett (D-CO) and Representative John Sarbanes (MD-3) announced the, Curtailing Lobbyists and Empowering Americans for a New (CLEAN) Politics Act of 2018. The CLEAN Politics Act of 2018 would amend the federal Lobbying Disclosure Act (LDA) to drastically lower the threshold triggering registration as a lobbyist, and change federal campaign law to curtail lobbyist involvement in fundraising by limiting the amounts they can solicit and bundle from other sources. It would also ban solicitation of contributions for legislators' campaigns from lobbyists during the legislative session. While proposals to change the registration threshold and place limits on the timing and bundling of contributions by lobbyists have been considered and rejected by Congress in the past, the bill also contains a provision to require disclosure of strategic advice that has been sought by some associations of professional lobbyists as well as reform groups. Finally, like many other pieces of legislation introduced this Congress, it would require Foreign Agent Registration Act (FARA) registration by lobbyists representing bona fide commercial entities with foreign headquarters, who are already filing LDA reports according to a FARA exemption. Sen. Bennett and Rep. Sarbanes are just the latest of a growing number of Members of Congress attempting to force lobbying registrants that are not representing foreign governments or political parties to register and file the more detailed reports required by FARA, but with the greater frequency of reporting required under the LDA. This is a provision Nossaman has vigorously opposed and will continue to do so.

According to the CLEAN Politics Act of 2018 anyone who, in a two year period, makes more than one attempt to influence anyone in Congress, or certain executive branch officials, would become a lobbyist. There would be no percentage or amount of time required to meet the threshold, and no exception for isolated, incidental or infrequent contacts, as found in many states. The bill would also require federal

lobbying registration and reporting by a consultant who provides strategic advice in support of a lobbying contact made by someone else. The bill seeks to make contributions solicited or bundled by lobbyists, their employers and PACs count against the current federal contribution limits applicable to those lobbyists and PACs. Lobbyists and PACs sponsored by their employers now tracking their compliance with contribution limits would also need to be concerned about not just contributions that they forward on, but also contributions sent directly to candidates or political parties at their urging, and contributions that the recipients credit them with raising.

The single proposal in this bill most likely to gain traction is the one that would require disclosure of strategic advice. It is aimed at former high profile Members of Congress and administration officials who have entered the consulting world and seek to avoid the 'lobbyist' label. This bill would bring their activity to light by treating, legislative, political, and strategic counseling services, that support a lobbying contact, the same as a direct contact that will trigger registration and reporting. If this were to become law, guidance regarding the scope of its application would need to be issued by the United States Congress through the Clerk of the House and the Secretary of the Senate. It could, together with the more than one contact in two years threshold, capture high level executives who have minimal involvement with the lobbying strategy of their company or its trade associations. Nonetheless, the legislation would capture this activity immediately upon enactment.

The CLEAN Politics Act of 2018 is not likely to become law this year. However, it could serve as the basis for a reform effort in the next Congress, just six months from now, particularly if partisan control of either chamber switches. Nossaman will track the prospects for the CLEAN Politics Act of 2018 to become law, as we do with all other lobbying and campaign reform proposals on the local, state and federal levels. Please contact us if you have any questions about the many recent changes to these laws, or about how proposed reforms may impact your government relations program.