MULTISTATE

Council to Continue Tweaking Lobbying Law (California)

October 24, 2022 -- The City Council on Tuesday is expected to further revise a lobbying law it spent "many months" tweaking in 2015 and 2016 before approving a compromise version.

The proposed changes would prohibit lobbyists from serving on boards, commissions, task forces and advisory boards, according to the latest changes proposed by staff.

The revised ordinance would preclude any person who "in the prior two years has been acting as a lobbyist/legislative advocate" in Santa Monica from being appointed to a government body.

It also would preclude any member of an appointed body from "simultaneously acting as a lobbyist/legislative advocate."

The revised ordinance -- which is based on a similar law in place in Beverly Hills -- would also further define "lobbying activity."

The latest version comes six years after the Council adopted an ordinance that "was debated at several Council meetings over two years and many months in 2015 and 2016," staff said.

The law was revised several times after some versions "were deemed too elaborate and complex," while others were considered "too simple and threadbare."

At an October 2015 meeting, now Mayor Sue Himmelrich deemed the proposed version "not ready for prime time."

After much debate, the Council directed the City Attorney to rework specific language involving updates on who is being lobbied and how much is being spent, among other information.

On March 1, 2016, the Council adopted the re-written measure that included language that was more specific about who to include as a City official, how to define lobbyist and how to require up-to-date information from lobbyists detailing who they've spoken with and why.

"I think the third time is the charm," said then Council Member Kevin McKeown.

But the adopted "compromise" version modeled after an ordinance in effect in West Hollywood "was viewed then as perhaps a first step, a work in progress," staff said in its report for Tuesday's meeting.

Even if the Council adopts the revisions Tuesday, staff anticipates the tweaking could continue.

"If the Council wishes to consider further changes to the Lobbying Ordinance, it is recommended that the Council schedule and conduct a study session on lobbying," staff wrote.

Former Arkansas senator and lobbyist Gilbert Baker relieved after case dismissed (Arkansas)
LITTLE ROCK, Ark. – A former Arkansas senator and lobbyist expressed thankfulness after a years-long legal battle ended with charges being dismissed on Monday.

Gilbert Baker released a statement Tuesday thanking his legal team for its efforts after difficult years as his case wound through the court system. Court records show that the indictment against the 66-year-old Baker was initially filed in 2019 and the charges were dismissed by United States District Judge D.P. Marshall Jr. on Oct. 24.

"The last 8 or 9 years have been very difficult. But these years have been good for me personally. I am grateful," Baker's statement said, concluding "At the end of it all ….. the US legal system worked!!"

Baker had represented Arkansas District 30 as a Faulkner County Republican from 2001 to 2012. Before that, he was the chair of the county Republican Party.

The case was initially tried in August 2021, ending when Baker was acquitted on one conspiracy charge, with the jury hanging on the eight remaining charges of bribery and wire fraud. Due to the hung jury, the judge declared a mistrial.

Baker was due to be retried on those charges in November, but the government asked the judge to dismiss charges on Oct. 20. The judge agreed to dismiss the charges in the Oct. 24 order.
The charges were dismissed "with prejudice," meaning the charges may not be brought against Baker again.
Baker's charges originated in the sentencing of then Circuit Judge Michael Maggio in 2015 after he pleaded guilty to bribery. The bribery scheme was alleged between Maggio and nursing home operator Michael Morton in 2013, with Baker as an intermediary.

Morton has denied involvement in any bribery scheme and has never been indicted.

Kristi Noem's campaign alleges her Democratic challenger violated campaign finance laws (South Dakota)

Gov. Kristi Noem's (R-SD) campaign is accusing her Democratic opponent of violating campaign finance laws in a filing ahead of the November general election.

Campaign finance reports released Monday showed Noem raised $3.1 million from people, political action committees, and political parties, while her state representative challenger Jamie Smith accepted around $595,000 from people. Smith's campaign, however, committed "33 pages of campaign finance violations" in its filing, a spokesman for Noem alleged Monday.

Smith's filing did not include the addresses for over 1,000 contributors of over $100 in a supporting document, according to a *Washington Examiner* review. South Dakota requires candidates to disclose the "mailing address, city, and state of each person making a contribution of more than one hundred dollars," according to state law.

"There is not a single itemized contribution in his filing that complies with the most basic requirements of the law," Ian Fury, spokesman for Noem, said in a statement Monday. "How can we trust him to follow the laws of our state and faithfully execute the duties of Governor? We are calling for an immediate investigation into these violations."

South Dakota law also holds that "if any information required by the section is unknown to the political committee, the political committee may not deposit the contribution."

"It seems that Jamie Smith's campaign illegally deposited more than half-a-million dollars in contributions," Fury also said.

Smith's campaign told the *Argus Leader* on Monday that "any clerical errors" with the report will be "addressed immediately."

A poll released on Oct. 11 found Noem had a mere 4 percentage point lead over Smith, which is roughly the margin the Republican won over Democratic candidate Billie Sutton in 2018. There were 565 registered South Dakota voters surveyed.

Still, *FiveThirtyEight's* elections model holds that Noem will win the gubernatorial race 99 in 100 times and is "very likely" to do so.

Smith's campaign did not respond to a request for comment.

New ethics commissioner attended assemblyman's campaign fundraiser (New York)

ALBANY — This summer, Leonard B. Austin was asked how he'd ensure the state's new ethics commission gained public confidence.

Austin, who'd been nominated to serve on the new panel by Assembly Speaker Carl E. Heastie, said there was a single most important factor: commissioners having independence from the politicians who appointed them.

Yet Austin — who is serving as interim vice-chair of the new ethics oversight panel — recently attended a campaign fundraiser for an influential member of the state Assembly, according to a person with knowledge of the matter.

Assemblyman Charles Lavine, a Long Island Democrat, confirmed that on Oct. 9 Austin attended a brunch that served as a campaign fundraiser for Lavine's re-election bid.

Under state ethics law, members of the Commission on Ethics and Lobbying in Governments are strictly prohibited from contributing to any candidate for state-level office, including Assembly members.

According to Lavine, Austin did not make a donation. But his wife, Debbie Austin, did make a contribution to the assemblyman's campaign account.

State law does not address that situation — where an ethics commissioner attends a campaign fundraiser and their spouse makes a donation.

Lavine did not answer a question about whether Debbie Austin bought two tickets and paid for the couple to attend. Campaign finance records covering Oct. 9, which would shed more light on the matter, are not yet publicly available.

Lavine said Debbie Austin is an "old friend," and called the Oct. 9 event a "highly successful fundraising brunch" that featured a speech by former U.S. Rep. Steve Israel on the future of democracy.

Austin, who could not be reached for comment, is a former state Supreme Court appellate justice in a 10-county judicial district that includes Long Island. A Democrat, Austin was appointed to that post by Gov. David Paterson in 2009 and retired from the bench in early January.

Austin was appointed to the new ethics body in mid-July by Heastie, who leads the Assembly Democratic conference of which Lavine is an influential member. Austin was confirmed to the position on Aug. 31, and two weeks later, was elected by fellow commissioners as the body's interim vice-chair.

When Austin sought to be confirmed to the new ethics panel this summer, he and other nominees were asked questions about campaign donations. In one questionnaire, they were asked they had raised campaign funds in the last five years for anyone who "would appear or have business before the commission."

In response to another questionnaire, Austin repeatedly cited "independence" as the crucial factor in restoring public faith in New York ethics enforcement.

"Keep the appointees away from those who appointed them," Austin wrote.

Lavine did not answer a question about whether he'd played a role in recommending Austin's appointment to the new ethics body.

Lavine is the chair of the Assembly Judiciary Committee, an entity that released a lengthy report last year examining possible legal violations committed by former Gov. Andrew M. Cuomo, including the details of a lucrative book deal that was approved by the state's prior ethics oversight body.

Susan Lerner, executive director of the good-government group Common Cause New York, released a statement after this article's publication on Monday criticizing Austin's attendance at the event.

"Whether Mr. Austin made a mistake or misrepresented himself to the vetting panel that approved him, he should not be supporting — financially or otherwise — the people he's supposed to be overseeing," Lerner said. "That's ethics 101, and we expect Mr. Austin to make better decisions going forward that don't undermine his colleagues and the body of which he is now a part. It should go without saying that other members of the commission should not follow Mr. Austin's poor example. New Yorkers expect him to do better and be cognizant of the requirements of his newly appointed role."

The state's recently abolished ethics commission, the Joint Commission on Public Ethics, faced a decade of criticism over the perception that its commissioners were often influenced by the politicians they were supposed to regulate. In January, Gov. Kathy Hochul proposed scrapping the former ethics panel and replacing it with a new one in which commissioners are not appointed by the executive branch or Legislature.

But the Legislature balked: When Hochul's proposal was brought up in an Assembly conference that took place early in the last legislative session, some members laughed and rolled their eyes.

In April's state budget agreement, the Legislature agreed to a compromise. Under the deal, the state's top elected officials would still appoint the 11 members of the new panel, but the nominees would be vetted by deans heading the state's 15 accredited law schools. A coalition of good-government groups harshly criticized the new law as falling "so far short, we would prefer they had not been enacted."

"We believe by far the biggest flaw in this latest effort at ethics reform is the new commission's utter lack of independence," the groups wrote to top lawmakers on April 22.

The vetting process this summer resulted in seven nominees' appointments being confirmed — including Austin's — and three being vetoed. The reason that some commissioners were approved, and others disapproved, remains a mystery.

Among the vetting panel's key criteria for approving nominees: whether they are "impartial and independent."

Meta fined $24.7M for campaign finance disclosure violations (Washington)

SEATTLE (AP) — A Washington state judge on Wednesday fined Facebook parent company Meta nearly $25 million for repeatedly and intentionally violating campaign finance disclosure law, in what is believed to be the largest campaign finance penalty in U.S. history.

The penalty issued by King County Superior Court Judge Douglass North was the maximum allowed for more than 800 violations of Washington's Fair Campaign Practices Act, passed by voters in 1972 and later strengthened by the Legislature. Washington Attorney General Bob Ferguson argued that the maximum was appropriate considering his office previously sued Facebook in 2018 for violating the same law.

Meta, based in Menlo Park, California, did not immediately respond to an email seeking comment.

Washington's transparency law requires ad sellers such as Meta to keep and make public the names and addresses of those who buy political ads, the target of such ads, how the ads were paid for and the total number of views of each ad. Ad sellers must provide the information to anyone who asks for it. Television stations and newspapers have complied with the law for decades.

But Meta has repeatedly objected to the requirements, arguing unsuccessfully in court that the law is unconstitutional because it "unduly burdens political speech" and is "virtually impossible to fully comply with." While Facebook does keep an archive of political ads that run on the platform, the archive does not disclose all the information required under Washington's law.

“I have one word for Facebook’s conduct in this case — arrogance,” Ferguson said in a news release. “It intentionally disregarded Washington’s election transparency laws. But that wasn’t enough. Facebook argued in court that those laws should be declared unconstitutional. That’s breathtaking. Where’s the corporate responsibility?”

In 2018, following Ferguson’s first lawsuit, Facebook agreed to pay $238,000 and committed to transparency in campaign finance and political advertising. It subsequently said it would stop selling political ads in the state rather than comply with the requirements.

Nevertheless, the company continued selling political ads, and Ferguson sued again in 2020.

“Meta was aware that its announced ‘ban’ would not, and did not, stop all such advertising from continuing to be displayed on its platform,” North wrote last month in finding that Meta violation’s were intentional.

Each violation of the law is typically punishable by up to $10,000, but penalties can be tripled if a judge finds them to be intentional. North fined Meta $30,000 for each of its 822 violations — about $24.7 million. Ferguson described the fine as the largest campaign finance-related penalty ever issued in the U.S.

Meta, one of the world’s richest companies, reported quarterly earnings Wednesday of $4.4 billion, or $1.64 per share, on revenue of nearly $28 billion, in the three month period that ended Sept. 30.