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State seeks dismissal of lobbyist gift ban lawsuit

Missouri Attorney General Josh Hawley is asking a federal judge to dismiss a lawsuit that sought to overturn a ban on workers in the governor's office receiving gifts from lobbyists.

Last month, Gov. Mike Parson [rewrote an order issued](#) by his predecessor, Eric Greitens, that had prohibited all gifts from lobbyists. The change was aimed at allowing groups to distribute informational booklets to employees of the state's chief executive.

In October, [the libertarian-leaning Institute for Justice](#) said the Greitens-era ban on gift-giving violated the organization's First Amendment rights to free speech because it prohibits them from giving workers in Parson's office two books.

In a court filing, Hawley's office said the change makes the lawsuit unnecessary.

"In short, Plaintiff's challenge to Executive Order 17-02 is moot because Executive Order 17-02 is no longer Missouri law," the motion notes.

For years, [state lawmakers have been unable to agree on regulations](#) that could end or put limits on freebies handed out by lobbyists.

In response, Greitens issued his original executive order on his first day in office in 2017.

On Nov. 6, Missouri voters voted to impose limits on lawmakers receiving gifts. The \$5 threshold for expenditures made by lobbyists, however, only applies to members of the House and Senate, not to members of the executive branch.

An Institute for Justice attorney said last month that lawyers for the organization were reviewing Parson's new order to determine if the change allows the group to distribute its books.

"If so, it ends the case," said attorney Paul Sherman.

Major Jefferson City event cancelled due to Clean Missouri ballot measure

The annual "Taste of Jefferson City" reception won't happen in January because of the passage of a constitutional amendment known as Clean Missouri. Columbia radio station KSSZ reports the Jefferson City Chamber of Commerce has cancelled the popular meet-and-greet event that brings together lawmakers, lobbyists and Capitol City restaurants.

The amendment passed in November by Missouri voters caps all gifts to lawmakers at \$5, restricts campaign donations, makes legislators wait two years before becoming lobbyists and redraws the state's legislative districts.

Many restaurants aren't happy with the decision and say the move will negatively affect their business during the session.

Overreach a concern with proposed “indirect lobbying” rule

By its own admission, the Oklahoma Ethics Commission has more on its plate than it can handle, so one wonders why it would consider rules potentially impacting thousands of Oklahomans and dramatically increasing the agency's workload. Worse, the proposed rules may infringe on basic First Amendment rights.

Under a proposed rule amendment that could be considered next month, the agency would create a new category of people subject to state regulation and reporting requirements: those involved in “indirect lobbying.”

The proposed rules define “indirect lobbying” to include citizens who communicate “support or opposition of pending legislation” to influence “a vote on pending legislation.” This seems to include activity for which a person isn't financially compensated. The rules apply to communications made on the internet, among other venues.

Put simply, if someone sets up a Facebook group and encourages other people to contact legislators to oppose a specific bill, it appears the organizer and group members could be considered “indirect” lobbyists subject to various reporting requirements.

The rules include provisions that verge on self-contradiction. The proposal exempts “communications made exclusively to one or more legislators, the governor, or the staff of the legislature or governor.” So one could directly urge lawmakers to oppose a bill and face little red tape, but urging one's neighbors to contact lawmakers and express the exact same message could subject you to new reporting requirements.

The rule wouldn't apply to an opinion column in a newspaper, but if the author posts that same commentary on social media or emails it to associates, along with a call to action, then the author could suddenly be an indirect lobbyist.

The executive director of the Ethics Commission told The Frontier, an online news outlet, that the proposal was sought by a lawmaker who wants greater disclosure for organized lobbying efforts. This year's “Wind Waste” campaign, funded by The Oklahoma Property Rights Association, was cited as an example of the type of activity officials are trying to target. Among its activities, the “Wind Waste” campaign sent out emails and engaged in social media campaigns to encourage passage of a bill ending refundability for wind tax credits.

Perhaps one can understand that motivation, but the rules are written so broadly they appear to apply to routine activity. People constantly post political opinions on social media and encourage associates to act, and mass emails are not rare. Even individuals who copy a homemade flyer and distribute it in their neighborhood might be impacted.

Had this rule been in place this year, one wonders how many striking teachers would have qualified as “indirect lobbyists” subject to reporting requirements. The proposal's broad reach makes consistent enforcement all but impossible.

Most importantly, the proposed rules appear to impose burdens on Oklahomans engaged in standard political speech, which is among the fundamental freedoms enshrined in the Bill of Rights.

Thus, the “indirect lobbying” rules appear impractical, unenforceable and constitutionally dubious. The Ethics Commission would do well to shelve this idea and stay focused on its current mission.

[How the Alabama Ethics Commission gutted campaign finance law](#)

This is an opinion column.

This week Alabama Attorney General Steve Marshall came just one vote away from being referred for prosecution by the Alabama Ethics Commission.

In a split decision, Wednesday, the Commission voted 3-to-2 that there was insufficient evidence Marshall violated Alabama's Fair Campaign Practices Act when he accepted \$735,000 in PAC-to-PAC contributions across state lines — but not before two Commission members, Beverlye Brady and Charles Price, pushed to hand Marshall over to the Montgomery County District Attorney.

Chew on that for a moment.

We were *one vote away* from one of our state's constitutional officers falling into Montgomery's politics-to-prison pipeline — *again*.

Don't be so relieved, though, that it didn't happen.

The Ethics Commission's decision will have serious consequences beyond Marshall's future. With their vote, the Commission gave its blessing to a new loophole in our state's campaign finance laws which will now let public officials legally launder campaign donations again.

Here's the backstory.

Before 2010, lobbyists and politicians hid the flow of money from special interests to campaigns by shuffling that money back and forth between political action committees (PACs).

Following the money was impossible.

After Republicans took control of the Legislature in 2010, they passed a package of reforms that shut down this money laundering machine. They made PAC-to-PAC contributions, as they're called, illegal.

However, that didn't stop Steve Marshall from accepting \$735,000 from the Republican Attorneys General Association's PAC which is based in Washington, D.C. That PAC takes money from other PACs.

But because it's an out-of-state federal PAC, Marshall's campaign argued that it wasn't subject to Alabama's PAC-to-PAC ban.

Guidance issued by the Alabama Secretary of State's office concurred with Marshall's opinion. The Secretary of State's website says that federal PACs aren't subject to Alabama law.

The only trouble is, no one seems able to show where *the law* actually says that.

And the Alabama law's definition of a PAC is pretty clear: "Whether in-state or out-of-state," if it's trying to influence an Alabama election, it's a PAC subject to the state law.

At least that's what Ethics Commission Director Tom Albritton has told others in the past, and it's pretty clear — despite the closed-door session — that's what Ethics Commission staff argued on Wednesday.

And that's the argument the Commission rejected.

The staff also submitted an opinion, for the Commission to approve, that would have made the law clear — that going forward, all PACs contributing to Alabama candidates would have to register with the state and obey Alabama campaign finance laws.

The Commission rejected that, too, voting again in the same 3-to-2 split.

The bottom line: There's nothing now to stop lobbyists and special interests from cranking up their old money laundering machine as long as they do it across state lines.

What's worse, this loophole could be used to skirt more than the PAC-to-PAC ban.

Currently, Alabama law limits campaign fundraising to a year before an election.

But I can't find anything would stop public officials from getting around this prohibition, too — using Marshall's loophole.

Here's how anyone could do it.

Step One: Open an out-of-state PAC.

Step Two: Solicit donations for that PAC when the state's legal window is closed.

Step Three: When the window opens, transfer the money from the out-of-state PAC to the campaign.

If I'm right, we might as well not have campaign finance laws in Alabama. Because you've read this column, you too know enough to get around them.

Whether it felt Marshall deserved to be prosecuted or not, the Commission had an opportunity to close an open door for corruption in Alabama.

Instead, it took that door off its hinges.