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Regulating Vendor Lobbyists: A New Trend

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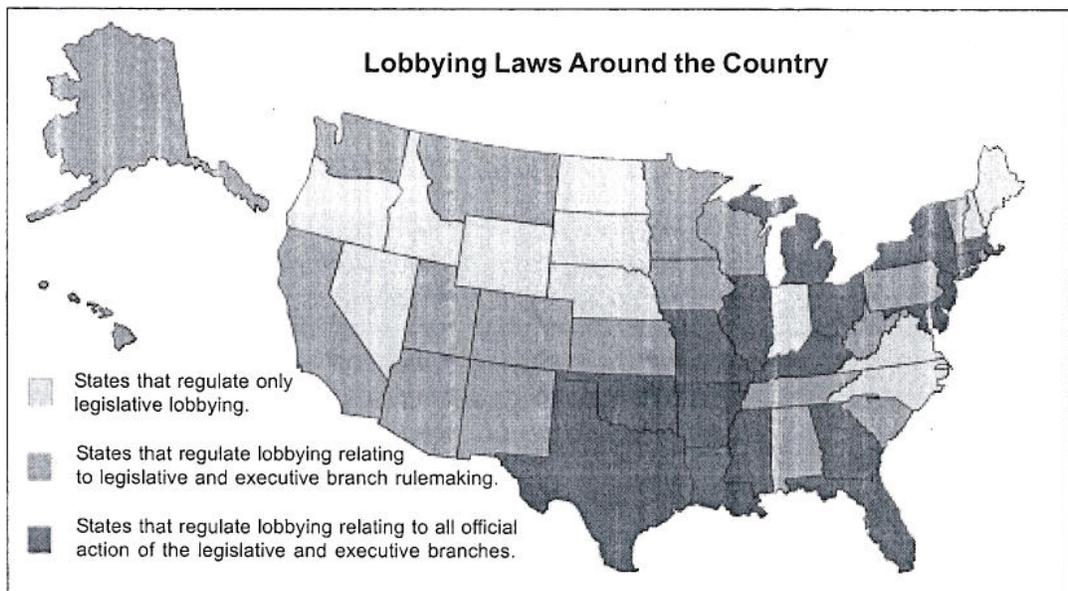
Lobbying is a fundamental part of our representative democracy.

Lobbying, sometimes considered a bad word, is a fundamental part of our representative democracy. The concept of lobbying—citizens attempting to influence their elected officials—is as old as our nation itself. James Madison, in *The Federalist Papers: No. 10*, understood that it’s in our nature to organize into factions for some common interest or passion. “The protection of these faculties is the first object of government,” he wrote. And when the founding fathers constructed the Bill of Rights, the right to petition the government for a redress of grievances became part of the freedom of speech guaranteed in the First Amendment. Though the most common way of lobbying is through an organized group who employs an advocate, lobbying also occurs when citizens spontaneously tell lawmakers how they feel about a bill. Lobbying is so important to the legislative process that some refer to it as the “third house.”

All states require lobbyists to register and disclose certain information about their expenditures.

State Action

As the number of lobbyists has escalated, states have increasingly regulated the practice. The movement toward more transparency in government has led all 50 states to require lobbyists to register and regularly disclose information about their expenditures. State lawmakers are also often required to report the sources of gifts they receive, most of which may be from lobbyists. In some states, lobbyists aren’t allowed to give gifts, or gifts above a certain value, to legislators.



Lobbying laws continue to evolve. The latest trend involves broadening the definition of the term, so that people who conduct more types of interactions with public officials must register. Increasingly, states are requiring vendors trying to secure state contracts to register as lobbyists. Today, 18 states have adopted this practice. And others are considering it.

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Kenneth Gross, who analyzes states' lobbying laws for the Council on Governmental Ethics Laws, divides states according to the breadth of their provisions. Category 1 includes 12 states that regulate lobbying the legislature only. Category 2 consists of 20 states that add executive branch lobbying that attempts to influence the making of regulations and rules. In Category 3 are 18 states that regulate lobbying related to all official action of the legislative and executive branches.

An increasing number of states regulate more practices, including vendor lobbying.

Georgia moved from Category 1 to Category 3 in 2003 with an executive order requiring vendor lobbyists to register. The order says the meaning of "lobbyist" includes anyone who is either compensated for, or spends more than \$250 a year, attempting to influence a public employee or a state agency in the selection of a vendor for contracts worth \$50,000 individually or \$100,000 in aggregate a year. (Written bids are exempt.) New York Governor George Pataki wrote a similar executive order in 2003. "Increased disclosure regarding persons and organizations contacting state government regarding procurement and real estate transactions would enhance public confidence in the procurement process," the order says.

In most states with these provisions, the requirement for vendor lobbyists to register is in statutes. A new law that took effect in January puts this into the Louisiana code. And in Wisconsin, Assembly Speaker John Gard has introduced a bill this session that requires the same thing. Under his proposal, those who hire lobbyists to help them win state contracts must register. "Hire" is the operative word, for in Gard's proposal, and in some states' laws, company salespeople, and other company employees who are in regular contact with public officials, are exempt. Connecticut and Maryland are two states that specifically exempt salespeople. Missouri exempts vendors who are attempting to influence only the person authorized to enter into the contract.

The broadening of the definition of "lobbying," includes more than just vendors. Today, 26 states require organizers of grassroots efforts to make their role public. And an increasing number of states are requiring those who lobby executive branch rulemaking to register.

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