



Back to the Future with Campaign Contribution Reforms

by René L. Rimelspach

In December of 2006, the Ohio General Assembly attempted to enact legislation referred to as “Amended Substitute House Bill 694” (HB 694). The purpose of the legislation was to enact even more stringent limits on political campaign contributions by government contractors or any potential vendors seeking government contracts. Additionally, the amendments extended the prohibitions to many local political subdivisions that were not covered previously under the law, including county commissioners, city council members, township trustees, school board members and other local boards, commissions and authorities. Since that time, government contractors and potential government vendors have been restricted greatly in their political contributions. Most government contracts have incorporated such restrictions, though the status of the legislation has been in limbo since enactment.

The legislation was challenged by various parties in the Franklin County Court of Common Pleas (*United Auto Workers Local Union 1112 v. Brunner*). The challenging parties alleged there were various procedural irregularities in the enactment of the new law. Both Houses of the Ohio General Assembly passed House Bill 119 in June 2007. Provisions of the bill attempted to address a number of the concerns raised in the lawsuit. Despite this, the Franklin County Court of Common Pleas ruled in December 2007 that HB 694 as originally adopted was in violation of the procedural requirements of

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the Ohio Constitution and, thus, void. In June 2008, the Common Pleas Court again reiterated the finding that HB 694 was unconstitutional. It also struck down the attempted legislative fix enacted by HB 119.

The Ohio Attorney General appealed the decision on behalf of the General Assembly to the Tenth District Court of Appeals in Franklin County. In *Brunner*, the Court of Appeals upheld the common pleas court ruling, and struck down the law. Since the time has now passed to appeal the decision to the Ohio Supreme Court, the decision stands. As a result, the law has now reverted back to the way it stood as of April 2007.

Under the previous law, the contracts covered are unbid contracts for goods or services worth \$500 or more. Competitively bid contracts are exempt, and there is no longer a requirement to certify compliance with the law in public contracts. Covered offices include the governor, chief elected officials of municipalities and public officials employed by those individuals. Other county officials, townships, school boards and governmental bodies are no longer included. Furthermore, cumulative contributions and contributions by PACs no longer are regulated, as they were not included in the former version of the law.

Partners of a partnership, shareholders of an association, administrators or executors of an estate, trustees of associations or trusts, 20% or more owners of corporations, and their spouses and children are covered individuals under the law. Contributions made by any of those individuals of more than \$1,000 in the two calendar years before the contract is awarded disqualifies that individual from a government contract with that government office. However, this prohibition does not include contributions to campaigns for a different public office than would have ultimate responsibility for the contract. For example, campaign contributions made by an individual in the previous two years in excess of \$1,000 for the office of governor would not prohibit a city from awarding a public contract to that individual.

It is possible the Ohio General Assembly may attempt to enact campaign finance reforms again. It is important that any business or individual that wishes to do business with the state or a local government entity carefully pay attention to campaign contributions and changes in the law, so as to not be shut out from doing business with the government.



Ms. Rimelspach is an associate of the Firm's Environmental and Public Law Sections. Her practice includes representing clients in environmental issues as well as advice on public records, open meetings, public contracting and other issues unique to the public sector clientele. Please call our Columbus office (614-280-1770) if you would like to discuss campaign contribution reform with her.

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