

# Election and Political Law

## E-ALERT

November 6, 2009

**COVINGTON**  
COVINGTON & BURLING LLP

### ILLINOIS LEGISLATURE ENACTS CHANGES TO STATE PAY-TO-PLAY STATUTE

The Illinois legislature has recently enacted, over the amendatory veto by the Governor, several changes to the State's "pay-to-play" business registration law. See Public Act 96-0795. These changes should clarify what information must be included in a business registration.

Last year, Illinois enacted a new pay-to-play law in response to media reports of state contracting abuses. Under this law, which went into effect January 1, 2009, business entities bidding on or holding state contracts with an aggregate value exceeding \$50,000 must register with the State Board of Elections (<http://www.elections.state.il.us/BusinessRegistration/Welcome.aspx>), disclosing the names of certain affiliated persons and affiliated entities. The business entity and its affiliated persons and affiliated entities are prohibited from making political contributions to the executive branch officeholder (or any *candidate* for that office) responsible for awarding the contract.

The changes to the business registration law provide greater clarity regarding the "affiliated persons" and "affiliated entities" that must be disclosed.

**AFFILIATED PERSONS.** The new version of the law removes the obligation to disclose minor children as "affiliated persons." The spouse of any individual with an ownership interest exceeding 7.5% or of any executive employee, however, must still be disclosed.

The new version also amends the definition of the "executive employees" required to be disclosed as affiliated persons. Now, two categories of employees fall within this definition. First, the President, Chairman, or CEO (or any other individual that fulfills equivalent duties) of the business entity must be listed (other employees with "executive decision-making authority over the long-term and day-to-day affairs of the entity" no longer need to be listed). Second, any employee whose compensation is derived directly, in whole or in part, by the award or payment of the state contract, must be listed. The statute makes clear that a regular salary paid whether or not a state contract is awarded or paid does not trigger the reporting obligation.

**AFFILIATED ENTITIES.** The revised version of the pay-to-play law simplifies the definition of the "affiliated entities" that must be disclosed. Rather than using the confusing "unitary business group" concept, the revised law requires a business entity to disclose:

- Any corporate parent and each operating subsidiary of the business entity.
- Each operating subsidiary of the corporate parent of the business entity.

BEIJING

BRUSSELS

LONDON

NEW YORK

SAN DIEGO

SAN FRANCISCO

SILICON VALLEY

WASHINGTON

WWW.COV.COM

**UPDATING REGISTRATION INFORMATION.** The Illinois pay-to-play law requires that business entities ensure that the information provided in their registration forms remains accurate (including the list of the business entity's current affiliated persons and affiliated entities). The revised version of the law changes the deadlines for reporting changes in registration information:

- When a bid or proposal for a state contract is pending, any change in registration information must be reported to the Board of Elections within **five business days** (extended from the previous deadline of two business days) following such change (or no later than one day before the contract is awarded).
- A registered business entity without a pending bid or proposal must report any changes in registration information to the Board on a **quarterly** basis (on January 31, April 30, July 31, and October 31, or the first business day immediately following those dates) each year (replacing the previous 10-day deadline).

Failure to comply with the requirements of the business registration law may lead to the cancellation of state contracts or a period of debarment.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our election and political law practice group:

Robert K. Kelner	202.662.5503	<a href="mailto:rkelner@cov.com">rkelner@cov.com</a>
Bob Lenhard	202.662.5940	<a href="mailto:rlenhard@cov.com">rlenhard@cov.com</a>
Scott Gast	202.662.5533	<a href="mailto:sgast@cov.com">sgast@cov.com</a>

This information is not intended as legal advice, which may often turn on specific facts. Readers should seek specific legal advice before acting with regard to the subjects mentioned herein.

Covington & Burling LLP is one of the world's preeminent law firms known for handling sensitive and important client matters. This promotional communication is intended to bring relevant developments to our clients and other interested colleagues. Please send an email to [unsubscribe@cov.com](mailto:unsubscribe@cov.com) if you do not wish to receive future emails or electronic alerts. Covington & Burling LLP is located at 1201 Pennsylvania Avenue, NW, Washington, DC 20004-2401.

© 2009 Covington & Burling LLP. All rights reserved.