

LOBBYING GUIDANCE ON IMPLEMENTATION OF HB 519

OHIO'S CASINO GAMING LAW

On June 10, 2010, Governor Strickland signed into law HB 519 which creates the Ohio Casino Control Commission (Commission), effective September 10, 2010. This legislation also modified Ohio's lobbying laws relative to lobbying the Commission and attempts to affect the outcome of the various regulations under the Commission's jurisdiction. This guide is being created by the OLIG to assist the lobbying community and others who may interact with the newly created Ohio Casino Control Commission, or the legislative oversight committee, the Joint Committee on Gaming and Wagering.

Among the key provisions of HB 519 which may affect the lobbying community are those that include but are not limited to:

1. The inclusion of individual members of the Commission, the Executive Director of the Commission and an employee or agent of the Commission in the statutory definition of "legislative agent" under O.R.C. §101.70.

- For purposes of lobbyist registration and reporting requirements found in O.R.C. §101.70 to §101.79, the above individuals are defined as legislative agents ***regardless of the amount of time spent*** attempting to influence the outcome of legislation of interest to the Commission or the gaming industry as a whole.
- Within ten days of being confirmed by the Senate as a member of the Commission, being appointed as the Executive Director of the Commission, or accepting employment as an employee or agent of the Commission, these individuals should file an Initial Registration Statement with the Office of the Legislative Inspector General registering as a legislative agent, with the Ohio Casino Control Commission listed as the Employer of the legislative agent.
- "Employee" or "agent" of the Commission shall have the same meaning as "staff" found in O.R.C. §101.70.
- The date of engagement provided on the initial registration statement should be the date the individual is confirmed as a member of the Commission, appointed as the Executive Director or hired as an employee or agent.

- The OLIG will invoice the Commission via the ISTV process in the State’s OAKS system for payment of the \$25 registration filing fee for each individual submitting an initial registration statement.
- An individual’s registration as a legislative agent will become active upon submission of the required signature page by the individual and an authorized representative (Commission Chair or Executive Director) of the Commission and remittance of the filing fee.
- Once registered, a legislative agent acting on behalf of the Commission must report all lobbying activity by that person during the applicable reporting period on the agent’s activity and expenditure report. However, pursuant to O.R.C. §101.72, the agent need not disclose expenditures made by the legislative agent during a reporting period as the agent is an officer or employee of a state agency who actively advocates in a fiduciary capacity as a representative of that state agency. (O.R.C. §121.41 includes the Commission as a state agency)
- An individual, who is not a Commission member, the Executive Director of the Commission or an employee or agent of the Commission who is compensated to affect the outcome of legislation and spends five percent or more of the time for which that individual is being compensated having direct contact with:
 - a member of the General Assembly;
 - a member of the Controlling Board;
 - a member of the Joint Committee on Gaming and Wagering;
 - the Governor;
 - the Director of a Department as provided in O.R.C. §121.02; or
 - a member of the Commission, the Executive Director of the Commission, or an employee or agent of the Commission,

should register with the OLIG as a legislative agent.

2. **HB 519 includes decisions of the Commission with regard to the expenditure of state funds in the form of a grant, contract, lease or other financial arrangement as well as regulatory decisions of the Commission in the definition of “executive agency lobbying activity” in O.R.C. §121.60.**

- O.R.C. §121.60 continues to exempt from the definition of executive agency decisions:
 - A purchasing decision for which a vendor has filed a statement certifying that the vendor has not made campaign contributions in an amount such that section 3517.13 of the Revised Code would invalidate the decision, if that vendor has not engaged an executive agency lobbyist;
 - The award of a competitively bid contract for which bid specifications were prepared and for which at least three eligible competitive bids were received by the executive agency.
- Regulatory decisions of the Commission have the same meaning as defined in O.A.C. §101-11-01 (C).
 - “A regulatory decision of an executive agency or any board or commission of the state” means a decision made by an agency, board or commission **which has broad, universal application to all persons under the jurisdiction of such agency, board or commission**. Such regulatory decision specifically includes the adoption of an administrative rule, bulletin, directive, or other policy statement or guideline, formal or informal, which the executive agency or board or commission intends to apply generally to all persons under the jurisdiction of such agency, board or commission, **but does not include the decision of an executive agency or board or commission which is made solely with respect to one or more persons named in a particular case or similar matter**. (emphasis added)
 - **Regulatory decision would not include individual licensing decisions of the Commission.**
 - Licenses issued by the Commission include but are not limited to:
 - casino operators, management companies, or holding companies to conduct casino gaming at a casino facility as provided in the Casino Gaming Law;
 - gaming-related vendors;
 - key employees; and
 - casino gaming employees.
- Contacts with a member of the Commission, the Executive Director of the Commission or a Commission employee or agent which **would** be subject to Ohio’s executive agency lobbying laws found in O.R.C. §121.60 through §121.69 include but are not limited to:
 - rules promulgated by the Commission involving the issuing, certification, renewal or revocation of any of the licenses listed above,
 - the standards and certification process of independent testing laboratories, or
 - involving any rules or standards adopted by the Commission pursuant to O.R.C. §3772.03,

3. Acceptance of gifts, emoluments, or other expenditures by Commission members, the Executive Director of the Commission or an employee or agent of the Commission, and reporting of these expenditures by registered lobbyists and/or employers.

- O.R.C. §102.02(M) provides:

A member of the Ohio Casino Control Commission, the Executive Director of the Commission, or an employee of the Commission shall not:

(1) Accept anything of value, including but not limited to a gift, gratuity, emolument, or employment from a casino operator, management company, or other person subject to the jurisdiction of the commission, or from an officer, attorney, agent, or employee of a casino operator, management company, or other person subject to the jurisdiction of the commission;

(2) Solicit, suggest, request, or recommend, directly or indirectly, to a casino operator, management company, or other person subject to the jurisdiction of the commission, or to an officer, attorney, agent, or employee of a casino operator, management company, or other person subject to the jurisdiction of the commission, the appointment of a person to an office, place, position, or employment;

(3) Participate in casino gaming or any other amusement or activity at a casino facility in this state or at an affiliate gaming facility of a licensed casino operator, wherever located.

In addition to the penalty provided in section 102.99 of the Revised Code, whoever violates division (M)(1), (2), or (3) of this section forfeits the individual's office or employment.

- The Ohio Ethics Commission is the appropriate ethics commission for enforcement of O.R.C. §102.02(M). Questions relative to the applicability of this section should be directed to the Ohio Ethics Commission.
- If the Ohio Ethics Commission determines that a gift or expenditure is not prohibited by O.R.C. §102.02(M), any individual registered as an executive agency lobbyist or any entity registered as the employer of an executive agency lobbyist making such expenditures should contact the OLIG regarding how to appropriately report the expenditures on the applicable activity and expenditure report.

This guide is intended for informational purposes only and should not be interpreted as, or relied upon for legal advice. If an individual or entity is unsure of whether their activity is

implicated by the implementation of HB 519, the individual should contact the OLIG at 614-728-5100.