

PUBLICATION

What Companies Can Do in Response to New Voting Laws

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In the wake of Georgia's new voting law – and as nearly every other state in the country considers its own voting bills – business leaders are seeking to understand what their companies can do about such legislation, particularly, whether they are permitted to take a stance on it. Although the decision to enter the political fray is not a simple one and often involves multiple factors, what is clear is that companies wishing to speak out do not face significant obstacles from state and federal restrictions on corporate political activity.

The Supreme Court of the United States has largely given corporations the freedom to engage in "issue ads" that comment on broad policy issues but do not identify a particular candidate or take a stance on a particular law. What this means is that most corporate or CEO statements that speak out in general are allowed.

The Federal Election Commission (FEC) has also issued regulations that provide companies with a wide range of activities that are permissible in this context. Although Congress has banned companies from making direct or indirect contributions to federal candidates and political parties, the FEC has outlined several activities that are not considered "contributions" and therefore are permitted under the regulations.

For example, under the FEC regulations, companies are allowed to fund and conduct their own non-partisan voter engagement efforts. More specifically, as long as they do so on a non-partisan basis, companies can promote voter registration and get-out-the-vote drives (which in most states also includes online voter registration drives) for their employees, their customers, or the general public. The FEC regulations also permit companies to provide local voting instructions and information on voter ID requirements and early voting dates to employees and the general public. Additionally, the FEC regulations allow companies to educate their employees and customers on where their members of Congress stand on federal voting rights legislation by distributing voter guides and voting records as well as to provide resources directly to underfunded state and local election officials to help cover election administration costs.

As the foregoing makes clear, companies do not have to remain silent on political issues. If they wish to take a stand for or against certain legislation, as long as they follow certain guidelines, they are legally permitted to speak out. If you have any questions, please contact the author or your Baker Donelson attorney.