MINNESOTA
CAMPAIGN FINANCE BOARD

Possible Adoption, Amendment, and Repeal of Rules Governing Campaign Finance Regulation and Reporting; Lobbyist Regulation and Reporting; Audits and Investigations; and Other Topics, Minnesota Rules, chapters 4501 through 4525; Revisor's ID Number 4809

Comments Received During Public Comment Period

July 24, 2023 through September 22, 2023

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For TTY/TDD communication, contact us through the Minnesota Relay Service at 800-627-3529

Conrad Zbikowski · Citizen · (Postal Code: unknown) · Jul 24, 2023 2:02 pm

My name is Conrad Lange Zbikowski, and I am the Chair of Minnesota Senate District 59 DFL and a former treasurer of Minnesota Young DFL under the old PC-based software. I am commenting today on monthly fees in support of having monthly fees or in-kind contributions for one single vendor like Google LLC or Zoom Communications, Inc. be able to be combined together, including with changes in usage or prices. I appreciate how busy our our treasurers of all parties across the state have day jobs and are not paid to be manually entering in each month of an email service, Zoom, website hosting, etc. If the service and vendor are the same, I think it's just fine to add up the total bill for the period and denote that it was a monthly expense. For our Senate District 59 DFL report, I can see that would make what used to be about 36 entries into 3 entries that are billed monthly. Thank you!

From: James Newberger
To: Olson, Andrew (CFB)
Subject: Rule Change Submission
Date: Tuesday, July 25, 2023 10:37:58 AM

Dear MN CFB,

Please consider limiting the loan amount a candidate can apply to their primary and/or general election campaigns.

I propose that the loan amount a candidate can apply to their campaign shall not exceed the amount of the potential campaign subsidy for the race they are running in.

For example.

Candidate A raises $3,000 for their campaign.
Candidate B raises $2000 but then also loans his/her campaign $25,000.

The public subsidy for the primary winner, would be $1,500.

Any loan to this race should not exceed $1,500.

This proposed rule would level the playing field and ensure fairness in our elections.

A real life example is,

In the 2022 Primary election SD 10.

I raised about $25,000
I took out no loans.

One of my opponents, Wesenberg, raised about $15,000
He also secured a loan for $10,000

Another candidate, Wenzel, raised about $15,000.
He also loaned himself about $55,000

The public subsidy for the primary winner was about $6,000.

$6,000 should have been the total loan limit for this race.
You could even set the loan limit at 2 times the subsidy amount and it would still be fair.

Thanks,
Jim Newberger
763.482.9486

Sent from Mail for Windows

From: suer11995@nutelecom.net
To: Olson, Andrew (CFB)
Subject: Possible Topic for Rulemaking - EP-3 Political Refund Receipt Forms
Date: Wednesday, August 02, 2023 4:15:45 PM

Hello Andrew,

I have comments about the EP-3 Political Refund Receipt forms. I am not sure if this falls within the purview of the CFB Rulemaking group.

I am treasurer for two party units and a campaign committee. I issue PCR receipts for every contribution accepted.

I like that the CFR software can create the receipts when I have entered a contribution and that I can alternately handwrite receipts from the booklets supplied by the CFB. However, many of the contributors make contributions every month, often for $5 or $10. This necessitates printing or writing 5 or 10 separate receipts to equal the $50 refund amount and more for the $100 refunds. Printing a full sheet of paper for each contribution takes a lot of paper, ink, and postage to mail the receipts to the contributors; handwriting receipts is time consuming.

Is there a way to revise the CFR form to print multiple lines of contributions on one form? Likewise, is there a way to revise the EP-3 paper receipts to show multiple contributions on one form?

If this is not in the purview of your rulemaking, is there another way to address this issue? Is this a matter for the legislature? Is it a matter for the Department of Revenue?

Thank you for your time.

Best,

Sue Rasmussen

Sue Rasmussen
Treasurer, Goodhue County DFL
Treasurer, Senate District 20 DFL
Treasurer, Elise Diesslin for House
651-253-2935
suer11995@nutelecom.net

Ethel Cox · Citizen · (Postal Code: unknown) · Sep 08, 2023 12:59 pm

As treasurer of a small DFL organizing unit in Meeker County, I have two suggestions for improvement: (1) have some official way to make adjustments to the CFB compliance report (e.g., fix mistakes from past who-knows-what-happened-before-I-was-treasurer) so that it matches my actual real bank account balance; periodically audit us so that the compliance numbers actually mean something (e.g, they match our actual dollars in our actual bank account, and all our bank transactions are reflected in our compliance reports).

HOUSING FIRST MINNESOTA SM

September 22, 2023

Minnesota Campaign Finance and Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Re: Proposed Rules for Lobbyist and Lobbying Principal Changes

Executive Director Sigurdson and Campaign Finance Board Members,

On behalf of the housing industry in Minnesota, Housing First Minnesota offers this letter with concerns related to the proposed rules related to lobbying and lobbyist principals.

By way of background, Housing First Minnesota is a trade association of nearly one thousand members of the homebuilding industry with the mission of homeownership opportunities for all. Our members are developing, building, and enhancing homes throughout the state. As such, we have concerns with the proposed registration of new lobbyists and lobbying principals when dealing with housing applications at the local government level.

Whether it is building one home or one hundred homes, as part of the application process, builders and developers are routinely engaged with city staff and city councils to get approval to proceed with proposed housing. Much of this discussion is often related to answering technical questions related to land use, engineering, construction codes, etc.

The city is serving as the regulatory authority to approve or deny a permit based upon existing state and local ordinances. And asking for said permit approval is not typically considered a form of lobbying, as they are not normally asking for a wholesale ordinance change.

Requiring dozens, possibly hundreds, of businesses and their representatives to register as lobbyist principals and lobbyists will be burdensome for both the campaign finance board and these businesses. While we share your stated goal of greater transparency, we question what knowledge the public would gain through these new requirements that does not already exist in the public hearing process for housing projects hosted by planning commissions and city councils.

Finally, we would raise a question for homeowners that are simply looking for variance approvals, a request that happens in cities throughout the state nearly every day. Would an existing homeowner looking for a variance now be considered a lobbyist? If yes, this seems unnecessary and onerous.

Thank you for your consideration and we urge you to adjust these rules.

Sincerely,

Mark Foster,

Vice President, Legislative & Political Affairs

Housing First Minnesota

COALITION OF GREATER MN CITIES

DEDICATED TO A STRONG GREATER MINNESOTA

September 21, 2023

Minnesota Campaign Finance and Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Re: Possible Adoption, Amendment, and Repeal of Rules, Revisor's ID Number 4809

Dear Members of the Campaign Finance Board,

On behalf of the Coalition of Greater Minnesota Cities (CGMC), I am writing to submit comments on the Possible Adoption, Amendment, and Repeal of Rules Governing Lobbyist Regulation and Reporting. My comments pertain solely to changes regarding the definition of lobbying as it applies to local subdivisions.

The CGMC is a group of more than 100 cities throughout the state dedicated to developing viable progressive communities for families and businesses through good local government and strong economic growth. The organization employs a team of lobbyists and other staff that work with our cities to ensure that the needs of Greater Minnesota cities are understood and addressed by the Minnesota legislature. That work includes requests from the CGMC staff to contact legislators and to pass resolutions of support for our policy agenda, which is voted on by our member cities every year.

During the 2023 session, the legislature made changes to the Campaign Finance and Public Disclosure (CFPD) statute that will likely affect our member cities in several ways. We are writing to urge the Campaign Finance and Public Disclosure Board (CFB) to narrowly interpret those changes. We are concerned that if the changes are read broadly, it will needlessly increase costs for our member cities and potentially make fewer services available without providing a public benefit.

As the CFB considers how to interpret the rules, we urge it to be mindful of the many public disclosure requirements and other laws promoting transparency that political subdivisions already comply with. Most purchasing decisions are subject to competitive bidding statutes. City council decisions and discussions are subject to open meeting laws. The availability of information with respect to what a city or similar subdivision is deciding and the information that goes into those decisions is much more readily available than at a state level.

Requests From Member Organizations to Members Should Not Be Considered Lobbying

The legislature amended the CFPD statute so that attempting to influence the official action of a political subdivision is considered lobbying. Official action is now defined to mean "any action that requires a vote or approval by one or more elected local officials while acting in their official capacity; or an action by an appointed or employed local official to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money."

At a September 13 discussion of the proposed rules between the CFB's executive director and the Minnesota Government Relations Council, we understand that an audience member posed the question of whether asking a city council to contact their legislators would constitute lobbying, and the response indicated that it would. Due to time constraints, this issue was not explored further to determine whether political subdivision member organizations, such as the CGMC, would be affected when they ask their members to contact legislators.

My own city and all other CGMC member cities choose to belong to organizations such as the CGMC, the League of Minnesota Cities, the Organization of Small Cities, Greater Minnesota Parks and Trails, and others. Metropolitan cities do the same with organizations such as Metro Cities. We join these organizations because we do not have the staff or funding to be at the legislature full-time to monitor and advocate on city-specific issues. As part of this membership, we expect they will tell us what is happening at the legislature and when we need to ask our legislators to act. We do not believe the statute should be interpreted to require that when an organization to which we belong urges us to contact our legislators or to pass a resolution of support, this request be categorized as lobbying.

Requiring these organizations to report to the CFB when they ask us to reach out to our legislators would be burdensome and nonsensical. The additional reporting would only drive up costs for these organizations, which would, in turn, be paid for by our cities. The reporting would add little value because it would simply reflect the organizations performing the advocacy services we are paying them to do. We do not believe that was the intention of the legislature in making the change to this law. Therefore, we urge that as you draft the rules for this legislation, you make it clear that when a political subdivision belongs to a membership organization, a request from that organization to contact our legislators is not considered lobbying.

Official Action Should Be Interpreted Narrowly

The new definition of official action, which includes advocacy on "major decisions regarding the expenditure or investment of public money," appears potentially to conflict with an existing portion of the statute that excludes an individual engaged in "selling goods or services to be paid for by public funds." Decisions regarding the expenditure of public money are often closely tied to the purchase of goods or services and cannot be easily separated. Therefore, we urge the CFB to narrowly interpret this aspect of official action and limit it to such activities as the adoption of the overall budget, not individual purchasing decisions.

Vendors for large expenditures, such as building a new city wastewater facility or park infrastructure, tend to work with multiple political subdivisions. When selecting the vendor, the choice is often made through public bidding. If a vendor is required to report their efforts to win a contract as lobbying, they may be less likely to pursue a contract, especially with smaller cities. Such a result would not serve the public.

Thank you very much for your time and consideration. If you have any questions or would like to discuss this issue further, please contact me or our attorney, Elizabeth Wefel, at eawefel@flaherty-hood.com.

Sincerely,

Rick Schultz, Mayor of St. Jospeh
President, Coalition of Greater Minnesota Cities

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September 22, 2023

VIA EMAIL
Mr. Andrew Olson
andrew.d.olson@state.mn.us
Campaign Finance and Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Re: Request for Comments on Potential Administrative Rulemaking

Dear Andrew:

We represent the Minnesota DFL Party and submit this letter in response to the Campaign Finance Board's request for comments on potential administrative rulemaking. The DFL Party supports the Board's plan to engage in rulemaking and believes that this presents an opportunity to provide necessary clarification and updates to the Board's campaign finance regulations.

The DFL Party believes each of the topics related to (1) campaign finance regulation and reporting and (2) audits and investigations identified in the Board's request for comments should be addressed in the rulemaking. The Party looks forward to providing substantive comments on the draft/proposed rules when they are available. We provide additional comments on several topics below.

Joint Purchases of Goods and Services

Rules addressing the reporting of goods and services purchased jointly by two or more reporting entities should reflect the actual costs to each purchaser and rather than the assumed fair market value of the goods and services if they were purchased separately by each entity. For example, if a photographer charges $100 for a photo shoot with a single candidate or $150 for a photo shoot with two candidates, each candidate would report a payment of $75 for the joint photo shoot (not the $100 they each would have paid for separate photo shoots).

Circumstances in which Candidate will not be Responsible for Actions of Vendor

The Board must be extremely careful when drafting rules addressing the circumstances in which a candidate will not be responsible for the actions of a vendor. Rules on this topic may create the opportunity for candidates to look the other way as their vendors engage in activities which would otherwise undermine the independence of purportedly independent expenditures.

The existing law on this issue is sufficient and any claims that a candidate should not be held accountable for a vendor's actions are best addressed on a case-by-case basis.

Disclaimers on Social Media

Any rule addressing the requirement for disclaimers on social media must balance the primary concern of providing transparency for the public with the fact that it is impractical for every social media post to contain the full written disclaimer. Ideally, the rule would provide clarity on whether a new disclaimer is required each time a statement on social media is reposted or shared and also account for the fact that individuals frequently repost and share campaign materials on their own personal social media pages.

Definition of "Headquarters"

The definition of "headquarters" for purposes of Minn. Stat. § 211B.15, subd. 8 which allows political parties to establish a non-profit corporation for the sole purpose of holding real property to serve as a headquarters, should be defined in a manner that recognizes that a political party may have more than one location which serves as a headquarters as well as temporary or seasonal headquarters. Additionally, the rule should make clear that the phrase "holding real property" includes leases or similar property interests in addition to fee ownership of the property. Finally, the rule should provide guidance regarding the relationship between the non-profit and the party.

Conducting Audits of Campaign Finance Filers

The Board should consider adopting a streamlined process for reconciling discrepancies between the balances reflected on bank account statements and campaign finance reports. Reconciling discrepancies can be burdensome for both the Board and the reporting entity while providing marginal benefit in terms of disclosure. The Board should consider establishing a threshold (a total dollar amount or a percentage of annual receipts/expenditures) below which a reconciliation could occur without requiring a full accounting. This would be subject, of course, to enhanced oversight by the Board for an appropriate period of time.

Procedures Used After a Finding of Probable Cause

The Board should allow complainants to continue to be involved in the Board's processes following a probable cause determination. At a minimum, this should include allowing complainants to review any proposed resolution of the matter—whether through findings and an order or through a conciliation agreement—and to present the complainant's perspective to the Board before any final action is taken. This serves the public interest by ensuring that the Board's ultimate decision will be informed by the perspectives of the complainant, in addition to the respondent.

Please feel free to contact me with questions. We look forward to participating in the rulemaking process.

Thank you.

Very truly yours,

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

David J. Zoll

c: Minnesota DFL Party
Charles N. Nauen
Rachel A. Kitze Collins

ELIAS LAW GROUP

250 Massachusetts Ave NW, Suite 400 | Washington, DC 20001

September 22, 2023

Andrew Olson
Campaign Finance and Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155

VIA EMAIL

Re: Comment on Possible Rule Adoption Concerning Advisory Opinions 436 and 452

Dear Mr. Olson,

We write on behalf of the Democratic Governors Association ("***DGA***") to submit the following comment regarding the Minnesota Campaign Finance and Public Disclosure Board ("***Board***")'s possible adoption of, amendment to, and repeal of rules governing campaign finance regulation and reporting. Among other things, the Board is considering rulemaking to "establish how campaign finance filers may jointly purchase goods or services without making or receiving a donation in kind, as discussed in Advisory Opinions 452 and 436." We believe that these opinions were rightly decided, and, if the Board decides to adopt rules on the topic, ask that it issue rules that conform to the outcome in both opinions.

I. Background

Advisory Opinions 436 and 452 state that Minnesota political committees and candidates may make joint purchases of research and polling services from a commercial vendor, without making an in-kind contribution, as long as each committee has a bona fide use for the services and pays an equal or proportionate share of the cost of the service.

Specifically, in Advisory Opinion 436,[1] a vendor asked the Board to confirm that its proposed flat-fee pricing model for a defined package of research and opinion polling services would not create an in-kind contribution between committees who jointly purchase (i.e., split the cost of) the same package of services. In considering this question, the Board confirmed that the flat-fee pricing models would *not* result in an in-kind contribution if multiple candidates or committees purchase

[1] Minn. Campaign Fin. & Public Disclosure Bd., Adv. Op. 436 (2013), https://cfb.mn.gov/pdf/advisory_opinions/AO436.pdf?t=1690247502.

the services jointly, provided all buyers have a bona fide use for the services and each committee pays an equal or proportionate share of the cost of the service.

In Advisory Opinion 452,[2] the Board clarified its holding in Advisory Opinion 436 by confirming that as long as committees determine beforehand that each have a bona fide use for the services and each will pay an equal or proportionate share of the services, then the use of a third-party intermediary is not required to facilitate the joint purchase.

II. The Board Should Adopt its Position in Advisory Opinions 436 and 452

The Board rightly decided Advisory Opinions 436 and 452 and it should adopt regulations in line with these holdings. As the Board noted in Advisory Opinion 452, committees and candidates, "like any other consumer, try to derive the best value possible for their money."[3] The Board's analysis acknowledged that, as long as buyers have a legitimate use for the services, joint purchases can be "a way to buy needed services at a reduced cost" and "[a]n in-kind contribution does not occur if an action has the inadvertent result of reducing the cost of goods or services to another committee."[4]

For these reasons, the Board has correctly adopted the position that joint purchases should not result in an in-kind contribution as long as all parties to the joint purchase (1) have a bona fide use for the services purchased, and (2) pay a share equivalent to the proportionate benefit they expect to receive. By allowing parties with a legitimate use for the services to engage in joint purchases, the Board makes it easier for committees and candidates of all backgrounds to participate in our political process. We encourage the Board to conform its written rules to the holdings of Advisory Opinions 436 and 452 to allow for this practice to continue.

Sincerely,

Jon Berkon
Courtney Weisman
Mary Samson

Counsel to DGA

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[2] Minn. Campaign Fin. & Public Disclosure Bd., Adv. Op. 452 (Feb. 5, 2020), https://cfb.mn.gov/pdf/advisory_opinions/AO452.pdf?t=1690247502.
[3] *Id.*
[4] Adv. Op. 436 at 3.

MGRC
Minnesota Governmental Relations Council

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September 22, 2023

VIA EMAIL AND ONLINE SUBMISSION

Andrew Olson
Campaign Finance and Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

On behalf of the Board of Directors and membership of the Minnesota Governmental Relations Council (MGRC), we appreciate the opportunity to submit questions and comments from our membership.

The Minnesota Government Relations Council (MGRC) is a Minnesota nonprofit organization serving government relations professionals by providing advocacy, professional development, networking, and an enhanced working experience inside and outside the Capitol. We are a network of more than 500 lobbyists and public relations professionals in Minnesota, whose common goal is to influence the public policy process through ethical representation.

For several years, MGRC board members have been meeting with legislators and representatives of the Minnesota Campaign Finance and Public Disclosure Board (CFB) to discuss legislation relating to lobbyist disclosure. MGRC has engaged our full membership at several points during the process for feedback on various iterations of the language. As CFB enters into rulemaking, we again engaged our membership for comments and questions on the new statute and how it will impact lobbyist disclosure and regulation. A compilation of these comments and questions is attached as an appendix to this letter.

Overall, the following themes are clear in comments from our members:

1. **The new statute significantly changes WHO is deemed a lobbyist and WHAT must be reported**. The new law (2023 Minn. Laws, Chapter 62, Article 5) changes not only the registration requirements but also which persons meet the definition of lobbying (Minn. Stat. 10A.01, Subd. 21) and what activities constitute legislative action (Minn. Stat. 10A.01, Subd. 19).

2. **Our members need clarity and specificity.** Government relations professionals conduct themselves professionally and with integrity, and we take disclosure and reporting seriously. None of us want to inadvertently misreport or omit a reporting requirement. Thus, we request **clear guidance** on the new reporting requirements and **ample time** to adjust our reporting protocols.

The confluence of the changes in Chapter 62 means that thousands of people who did not previously meet the definition of "lobbyist" will now be required to report. Examples of persons who may now be required to register include: paid student interns; trade association staff; business owners; citizen lobbyists; public affairs professionals; etc. While professionals whose work is to influence legislation certainly understand that they must register, the combination of factors in the new legislation creates many gray areas.

Examples of gray areas include the following scenarios that raise the question of whether the person must register as a lobbyist:

- A paid student intern attends a meeting with legislators, and legislators ask the intern for their thoughts on legislation being discussed;
- A nonprofit executive who goes on an educational trip abroad with elected officials during which issues are discussed;
- A business owner or company executive who attends a dinner with the Governor and/or the Mayor, and the conversation is about specific legislation;
- A local union lead who participates in the collective bargaining process with local school board members;
- A state-level lobbyist who, on their own time and outside the scope of their paid work, talks with a city council member about a local issue;
- A person running a grassroots campaign on a legislative initiative who does not talk to legislators but encourages others to do so;
- A staff member who works on events and administrative matters and assists in the planning of a day at the capitol or scheduling legislative meetings, but who does not directly meet with elected officials;
- A company executive who travels from out of state for one day of legislative meetings and/or hearings;
- A member of a trade association who attends a board meeting at which municipal and legislative issues are being discussed and states an opinion about how the issue will impact their business;
- A private-sector fire chief who works with local cities and counties to create mutual aid agreements.

These and other examples will continue to arise as the statute is examined; however, we hope it is helpful to have a preview of scenarios already coming to the surface.

The cumulative effect of the statutory changes on our industry leads us to pose the question: what public purpose does the information collected serve? MGRC members conduct themselves professionally and ethically at the Capitol, and we have a robust ethics code in place to address concerns raised by members of the government relations community (including legislators and staff).

We are concerned that the interpretation of the expanded definitions – taken together – may go beyond legislative intent. Moreover, we are concerned that there may be First Amendment implications if new disclosure requirements chill the speech of members of the public who are exercising their right to petition the government. To reiterate – government relations professionals who are paid to influence legislative action recognize the government's interest in disclosure; however, we ask that during rulemaking you carefully consider the government's interest in requiring disclosure from persons who are not professional lobbyists.

We also ask you to **carefully consider the level of detail** required to meet the intent of the new law – registration requires that certain details be made available to the public. MGRC members have been subject to harassment because their personal information is available on the Campaign Finance Board website, and with the expanded definitions and disclosures, lobbyists may face implications of additional information being made public.

As rulemaking progresses, we look forward to additional conversations with the Campaign Finance Board about the statutory changes, clarifications sought in rulemaking, and the new reporting schema.

Sincerely,

Michael Karbo, MGRC President

APPENDIX

MGRC WEBINAR COMMENTS

During a virtual session hosted by the MGRC on September 13, 2023, with Executive Director Jeff Sigurdson, members of the MGRC community had the opportunity to ask questions about implementation and pose specific questions. We include those questions and comments below:

- Is the PUC an agency that requires lobbying reporting under the new law?
- If a registered lobbyist contacts a school board member or county commissioner as a citizen of that district or county regarding an issue before that board, is that considered lobbying?
- Does an official action authorizing budget for the purchase of goods/services trigger the lobbying definition? Or just policy change?
- Using the housing development example - is a city's planning commission considered part of a political subdivision?
- New definition of lobbyist – can you talk about what "direct or indirect" job duties means? Do I need to register our events team because they plan events with legislators? How about communications team who helps me draft letters and testimony?
- What about contract lobbyists for those government entities that are no longer considered lobbying principals? Will disbursement reports be filed when that government entity is not a lobbying principal anymore? Or other reporting?
- How about a grassroots effort to educate Mayors, City Councilmembers etc. that includes requests to sign onto letters of support for a larger issue campaign? Is that state lobbying, local lobbying, both, or neither?
- Will you ask Jeff to clarify whether people at a company (e.g., executives) who are not paid to be lobbyists would have to register/report as a lobbyist if they have regular meetings with municipal elected officials?
- Wouldn't business owners only need to register if they are asking for an official decision versus educating about their business or community issues?
- Following up on grassroots question - what about if the city councils are members of an organization - if the org is asking them to do something - would that be considered lobbying?
- Can you please clarify if the threshold is a percentage (3%) or dollar amount ($3K)?
- What if our colleagues have contracts with counties, they aren't the lobbyists, but I am. Does the gift prohibition apply to my colleagues as well given that our organization is a lobbying organization?
- Will this be for new clients going forward or will we amend our current registrations also?
- For citizen lobbyists, how does advocacy that takes place during [paid time off] from employment count - as personal expense and thus needing to register?
- What if the administrative person contacts legislative staff to schedule meetings with a legislator but does not attend the meetings?

- Thinking of those who attend capitol rallies as an example; possibly on [paid time off], possibly on stipend, possibly through affiliation with a lobby org… will they need to register?
- Is it correct that lobbyist disbursement reports will not include any reporting of dollar amounts? Only the topics?
- I'm interested in what the CFB envisions lobbyists who find themselves caught in a public discussion based on misunderstanding additional disclosure should do? Disclosure is good! But not without context, and [as one lobbyist] just pointed out, we face new the threat of new exposure. It quickly becomes a First Amendment issue if 'misinformation' is weaponized. (Citing the comments section on MinnPost and the changes they have made recently)
- [Disclosure] puts many people unintentionally at risk
- What if a specific sub-issue you work on is not listed, do you pick the next closest thing or do you leave it blank?
- Some principals work with DOZENS of political subdivisions (perhaps more?) - is it accurate that each one would require this level of specificity once the $3,000 threshold is triggered?
- Will there be an "Other" option; or will we HAVE to call and have a new subdivision added?
- Another subdivision question, if your client is an organization made up of local governments, and you ask those members to contact their legislators, is that required to be reported?
- When will model forms be available? We will need to have a lot of people look at them to set up procedures to track this information.
- The new law changes the standard for "express advocacy" from the magic words test (vote for, vote against) to the functional equivalent test (what a reasonable person thinks). As lobbyists, sometimes our associations and clients do "issue advocacy" work to talk about issues impacting them at the legislature – and there is some nervousness that folks might trip the wire on communications they think are issue advocacy but trigger express advocacy and the reporting that goes with it. Can you provide any thoughts on this? What does the "reasonable person" standard look like? Will you be issuing guidance?
- Is there a definition of "expenditures or investments of public money" in terms of actions of a political subdivision? Does that only pertain to that political subdivision's expenditures or investments? Or does it mean ALL public money, including state and federal funds that the public subdivision is allowing or approving?

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ADDITIONAL MEMBER FEEDBACK

The good:

- I am fine with the new definitions of who counts as a lobbyist and appreciate that "citizen lobbyists" will have to register as I feel that has been abused by some people.

- I appreciate that the list of administrative costs is being simplified or done away with because it is confusing and I don't think it adds any value for citizens to know how much I spent on photocopying or cell phones.

The bad:

- The new expanded list of topics (nearly 700) is ridiculously large and I don't know what extra value it will provide Minnesotans. It seems like it will be very cumbersome to fill out and time-consuming to figure out which one you should pick. The more topics, the harder it will be to link lobbyists together working on similar issues.

- I don't understand why we are "rounding" at $9000. That is not a round number. It will only confuse people. Lobbyists are not good at math. What extra value did we get from not picking $10,000?

Overall:

I think these changes, particularly the new list of topics and reporting, is going to cause substantial confusion, and I hope that we can either push the new reporting date out further to give people time to understand them, or at least simplify them so that they are not so different from the old categories.

I appreciate that the CFB is working constructively with MGRC and hope that these good faith efforts will continue.

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My first bit of feedback is to please extend the deadline for feedback. Given that there were a lot of questions raised by Mr. Sigurdson's presentation, I am confident that our organization is not the only one that needs time to adequately determine how those changes affect us and to be able to provide helpful feedback that isn't rushed is a vital component. My biggest takeaway is that there is more gray area than before and that is very concerning.

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My name is Josh Downham and I lobby on behalf of Minneapolis Public Schools. I am a member of a group of lobbyists, Bell Group, that represent school districts and school officials across the state. Several of us attended the MGRC event with you and appreciate you taking the time to help us better understand the new laws and how we may prepare to follow them.

The group asked me to connect with you to hopefully arrange a time to meet. The Minnesota School Boards Association among others are hoping to get more clarity on how the changes in law may impact school officials. Many school officials are engaged in the work of associations that do direct lobbying. They also do day-on-the-hill, meet with their local legislators and help organize grassroots efforts.

We would like to get clarity on which of our school officials would need to register as lobbyists and what new reporting requirements may mean for data collection and retention.

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One question that could be impacted by how the rules get put together is this:

Subd. 6, paragraph (c)(3) adds a word to the reporting of "administrative expenses," which now reads "administrative <u>overhead</u> expenses." What does that mean? How does it change what we have been doing?

I would like to impress on the Board that this information is not going to be very useful if everyone interprets it differently. We see that even under the current language where different people might have a different idea of what an "administrative expense" is. Now it seems even more confusing since no one knows what an "administrative overhead expense" is. (I did not follow this closely in the legislative process, so maybe there is a clear explanation of it somewhere, but I am unaware of it).

I would also urge the Board to take a narrow view of what is included in this term. The more stuff you put in that category, the more likely that we will be comparing apples and oranges when the reports are made.

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Here are a few comments related to 2023 Minn. Laws Ch. 62, Art. 5:

The impact of the new legislation to already strained cities should be minimal. The League is fully supportive of transparency in government. We regard it as integral to the excellence in government that we exist to promote. At the same time, the League is uniquely aware of the shortage of staff and resources available to small cities in particular. We make an enormous effort at the Capitol explaining the difficulty of unfunded Legislative mandates and the financial strain the cities of Minnesota already face. Many cities to whom this new expansion of lobbying disclosure will apply have minimal staff, and in some cases only a single part-time employee. (Roughly 12% of the cities in the state have a population around 100 or less.) Any impact this disclosure expansion creates for cities already struggling to keep up with the city's business should be minimized.

City staff and city contractors who attempt to affect official actions of their nearby local governments serve the public interest and should not be considered lobbyists for that activity. The new law requires registration and disclosure of any lobbying to influence "official action of a political subdivision." The definition of this term is very broad and could include not only approval of applications or service agreements by private interests, but also agreements between political subdivisions for mutual aid, joint powers and other multi-governmental efforts. These arrangements may necessitate city staff or contractors (e.g., attorneys) interacting with more than one governing body, attempting to influence terms of the agreements. It is critical that cities--particularly those in Greater Minnesota--have minimal obstacles to collaboration since that is often the most efficient and cost-effective way for cities to serve the public.

The League of Minnesota Cities and other political subdivision membership organizations should not be considered lobbyists when reporting to their members a legislative issue which may result in official action by a city in the form of a statement for or against a legislative issue of importance to the city. The League's lobbyists provide a valuable service to its members (the cities of Minnesota) by representing city government in general. We do not represent any particular city at the Legislature, and we only pursue policies developed by committees of city officials and approved by our Board (also city officials). For this advocacy at the Legislature, we file disclosures with the CFB. Periodically, in the pursuit of a legislative policy approved by the Board, we notify city councils they may wish to sign a letter of position on an issue, or contact their legislative representatives—both of which would fall into the definition of the new term "official action of a political subdivision." However we do not do so to influence any action by the council for the League's benefit, and we don't do so for any issue unique to a city itself. In short, our communications to members are akin to a lobbyist reporting back to a principal about their issue

and what they may wish to do for their own sake. As cities are already overwhelmed by their local concerns, this is one of the League's most valued services to its members.

The League is always eager to spread the word about the excellent work of cities and how the state can be contribute to their success. We look forward to assisting in any way in the development of reasonable interpretations of these new disclosure requirements.

HOUSING FIRST MINNESOTA SM

September 22, 2023

Minnesota Campaign Finance and Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Re: Proposed Rules for Lobbyist and Lobbying Principal Changes

Executive Director Sigurdson and Campaign Finance Board Members,

On behalf of the housing industry in Minnesota, Housing First Minnesota offers this letter with concerns related to the proposed rules related to lobbying and lobbyist principals.

By way of background, Housing First Minnesota is a trade association of nearly one thousand members of the homebuilding industry with the mission of homeownership opportunities for all. Our members are developing, building, and enhancing homes throughout the state. As such, we have concerns with the proposed registration of new lobbyists and lobbying principals when dealing with housing applications at the local government level.

Whether it is building one home or one hundred homes, as part of the application process, builders and developers are routinely engaged with city staff and city councils to get approval to proceed with proposed housing. Much of this discussion is often related to answering technical questions related to land use, engineering, construction codes, etc.

The city is serving as the regulatory authority to approve or deny a permit based upon existing state and local ordinances. And asking for said permit approval is not typically considered a form of lobbying, as they are not normally asking for a wholesale ordinance change.

Requiring dozens, possibly hundreds, of businesses and their representatives to register as lobbyist principals and lobbyists will be burdensome for both the campaign finance board and these businesses. While we share your stated goal of greater transparency, we question what knowledge the public would gain through these new requirements that does not already exist in the public hearing process for housing projects hosted by planning commissions and city councils.

Finally, we would raise a question for homeowners that are simply looking for variance approvals, a request that happens in cities throughout the state nearly every day. Would an existing homeowner looking for a variance now be considered a lobbyist? If yes, this seems unnecessary and onerous.

Thank you for your consideration and we urge you to adjust these rules.

Sincerely,

Mark Foster,

Vice President, Legislative & Political Affairs

Housing First Minnesota

COALITION OF GREATER MN CITIES

DEDICATED TO A STRONG GREATER MINNESOTA

September 21, 2023

Minnesota Campaign Finance and Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Re: Possible Adoption, Amendment, and Repeal of Rules, Revisor's ID Number 4809

Dear Members of the Campaign Finance Board,

On behalf of the Coalition of Greater Minnesota Cities (CGMC), I am writing to submit comments on the Possible Adoption, Amendment, and Repeal of Rules Governing Lobbyist Regulation and Reporting. My comments pertain solely to changes regarding the definition of lobbying as it applies to local subdivisions.

The CGMC is a group of more than 100 cities throughout the state dedicated to developing viable progressive communities for families and businesses through good local government and strong economic growth. The organization employs a team of lobbyists and other staff that work with our cities to ensure that the needs of Greater Minnesota cities are understood and addressed by the Minnesota legislature. That work includes requests from the CGMC staff to contact legislators and to pass resolutions of support for our policy agenda, which is voted on by our member cities every year.

During the 2023 session, the legislature made changes to the Campaign Finance and Public Disclosure (CFPD) statute that will likely affect our member cities in several ways. We are writing to urge the Campaign Finance and Public Disclosure Board (CFB) to narrowly interpret those changes. We are concerned that if the changes are read broadly, it will needlessly increase costs for our member cities and potentially make fewer services available without providing a public benefit.

As the CFB considers how to interpret the rules, we urge it to be mindful of the many public disclosure requirements and other laws promoting transparency that political subdivisions already comply with. Most purchasing decisions are subject to competitive bidding statutes. City council decisions and discussions are subject to open meeting laws. The availability of information with respect to what a city or similar subdivision is deciding and the information that goes into those decisions is much more readily available than at a state level.

Requests From Member Organizations to Members Should Not Be Considered Lobbying

The legislature amended the CFPD statute so that attempting to influence the official action of a political subdivision is considered lobbying. Official action is now defined to mean "any action that requires a vote or approval by one or more elected local officials while acting in their official capacity; or an action by an appointed or employed local official to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money."

At a September 13 discussion of the proposed rules between the CFB's executive director and the Minnesota Government Relations Council, we understand that an audience member posed the question of whether asking a city council to contact their legislators would constitute lobbying, and the response indicated that it would. Due to time constraints, this issue was not explored further to determine whether political subdivision member organizations, such as the CGMC, would be affected when they ask their members to contact legislators.

My own city and all other CGMC member cities choose to belong to organizations such as the CGMC, the League of Minnesota Cities, the Organization of Small Cities, Greater Minnesota Parks and Trails, and others. Metropolitan cities do the same with organizations such as Metro Cities. We join these organizations because we do not have the staff or funding to be at the legislature full-time to monitor and advocate on city-specific issues. As part of this membership, we expect they will tell us what is happening at the legislature and when we need to ask our legislators to act. We do not believe the statute should be interpreted to require that when an organization to which we belong urges us to contact our legislators or to pass a resolution of support, this request be categorized as lobbying.

Requiring these organizations to report to the CFB when they ask us to reach out to our legislators would be burdensome and nonsensical. The additional reporting would only increase costs for these organizations, which would, in turn, be paid for by our cities. The reporting would add little value because it would simply reflect the organizations performing the advocacy services we are paying them to do. We do not believe that was the intention of the legislature in making the change to this law. Therefore, we urge that as you draft the rules for this legislation, you make it clear that when a political subdivision belongs to a membership organization, a request from that organization to contact our legislators is not considered lobbying.

Official Action Should Be Interpreted Narrowly

The new definition of official action, which includes advocacy on "major decisions regarding the expenditure or investment of public money," appears potentially to conflict with an existing portion of the statute that excludes an individual engaged in "selling goods or services to be paid for by public funds." Decisions regarding the expenditure of public money are often closely tied to the purchase of goods or services and cannot be easily separated. Therefore, we urge the CFB to narrowly interpret this aspect of official action and limit it to such activities as the adoption of the overall budget, not individual purchasing decisions.

Vendors for large expenditures, such as building a new city wastewater facility or park infrastructure, tend to work with multiple political subdivisions. When selecting the vendor, the choice is often made through public bidding. If a vendor is required to report their efforts to win a contract as lobbying, they may be less likely to pursue a contract, especially with smaller cities. Such a result would not serve the public.

Thank you very much for your time and consideration. If you have any questions or would like to discuss this issue further, please contact me or our attorney, Elizabeth Wefel, at eawefel@flaherty-hood.com.

Sincerely,

Rick Schultz, Mayor of St. Jospeh
President, Coalition of Greater Minnesota Cities

Minnesota Multi Housing
a s s o c i a t i o n

Date: **September 22, 2023**
To: **Minnesota Campaign Finance and Public Disclosure Board via MGRC**
From: **Kyle Berndt, Director of Public Policy, Minnesota Multi Housing Association**
Subject: **Proposed Rules for Lobbyist and Lobbying Principal Changes**

To whom it may concern:
I am writing today to express my concerns regarding the recent CFB presentation on the new interpretation of activities that require registration as a lobbyist in 2024. I do not believe the recently-enacted legislation has provided for such an expansion and the interpretation should be reconsidered. According to the presentation, interactions with cities related to zoning, building permits, WAC and SAC compliance, and other similar activities appear to be covered as lobbying activities under the CFB interpretation. We disagree with this interpretation. In most cases, these activities involve collaborative efforts in which municipal staff engage in city mandated planning.
Here are two examples of individuals who may now be considered lobbyists under this new interpretation:

a. Developers spend many hours on activities related to the permitting of a property. These permits are often required to meet health and safety requirements mandated by the State Building Code or by ordinance. Demanding registration as a lobbyist for work within a building permitting scheme does not align with the definition of "lobbying", either under the prior definition or revised statutes, and does not serve the public interest. I am not aware of any other activity where we consider collaboratively working with state and local agencies to comply with regulation a lobbying activity.

b. Property managers and owners are often required to cooperate with state and local municipalities for items such as emergency rental assistance, long-term rental assistance, property inspections, notification of sale, among other ordinance requirements. Labeling these interactions as "lobbying" does not align with the statutory definition of "lobbying" and does not serve the public interest.

Here is an example of a current situation that functions similarly to the previous two examples (a and b) and has NOT been considered lobbying previously, despite involving a state agency:

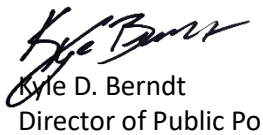
c. The Minnesota Housing Finance Agency allocates tens of millions of dollars to housing developments each year and ensures compliance with federal law for funded housing. Collaborating with the agency for compliance with federal law or proposing a project has not previously been classified as lobbying activity. It is believed that an application for a housing project through MHFA costs at least $10,000 to create. On the property side, projects funded by the agency must submit compliance information to the agency – surely these reports could cost at least $3,000 to create. These interactions are similar in style and function to the previous examples. Historically, the CFB has been correct in recognizing that example (c) is NOT lobbying

activity. Therefore, this same standard should be applied to (a) and (b) and the interpretation requiring registration reconsidered.

Finally, if I am already registered as a lobbyist and I request and receive a permit for a backyard fence at my residence, it appears that I would be required to report such permitting activity to the CFB, along with any other permits related to modifications to my house. This interpretation is clearly not in line with legislative intent and does not serve any public purpose.

Overall, the proposed changes in the interpretation of lobbying activities as it relates to housing does not align with statutory language and does not serve the public interest. The legislation does not provide such a broad expansion of the term “lobbyist” and specifically under the old language did not include similar activities which the presentation sought to add. I urge you to reconsider the new interpretation and to not include the types of development activity referenced above.

Regards,



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