

**STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

.....
October 6, 2023
Room 212
Centennial Office Building
.....

MINUTES

The meeting was called to order by Chair Soule.

Members present: Asp, Flynn, Leppik, Rashid, Soule, Swanson

Others present: Sigurdson, Engelhardt, Olson, staff; Hartshorn, counsel

MINUTES (September 6, 2023)

The following motion was made:

Member Leppik's motion: To approve the September 6, 2023, minutes as drafted.

Vote on motion: Unanimously passed.

CHAIR'S REPORT

2023 meeting schedule

The next Board meeting is scheduled for 9:30 a.m. on Wednesday, November 1, 2023.

EXECUTIVE DIRECTOR'S REPORT

Mr. Sigurdson presented members with a memorandum that is attached to and made a part of these minutes. Mr. Sigurdson stated that Greta Johnson has been hired to fill the vacant legal/management analyst position and her first day with the Board will be October 16, 2023.

Mr. Sigurdson said that the Board has received September 2023 reports disclosing activity related to elections in Hennepin County. Mr. Sigurdson stated that the reports collectively included about \$55,000 in contributions to local candidates, \$89,000 spent on independent expenditures to influence local elections, and \$400 spent to influence local ballot questions. Mr. Sigurdson explained that there is one more report that will be due before local general elections are held, which will be due on October 30, 2023.

Mr. Sigurdson stated that the Board has entered into a service agreement with MNGEO, a division of MNIT, to evaluate how to develop maps, graphs, and charts of campaign finance data for the Board's website. Mr. Sigurdson said that a visual presentation of the campaign finance data collected by the Board will hopefully be more approachable and understandable.

Mr. Sigurdson stated that on September 13, 2023, he made a presentation on changes to the lobbying program by video conference hosted by the Minnesota Governmental Relations Council (MGRC), and there were 102 MGRC members in attendance. Mr. Sigurdson said that the presentation seems to have sparked interest in, and questions about, changes to the lobbying program, as he has now been asked to present on the lobbying program by five other associations and law firms.

Mr. Sigurdson also stated that Board staff has continued to work on the annual reconciliation audit and the total amount of 2022 contributions that remains unreconciled has gone down since the last Board meeting from \$86,717 to approximately \$49,500.

ENFORCEMENT REPORT

A. Discussion Items

1. Security Waiver Request of Eric Meittunen (Department of Veterans Affairs)

Ms. Engelhardt stated that Eric Meittunen is a Deputy Commissioner of Veterans Affairs and due to past threats and a concern for the safety of his family, he would like a waiver under Minnesota Statutes section 10A.09, subdivision 9, so that he does not have to disclose the address of a secondary residence. In response to a question from Member Swanson, Ms. Engelhardt said that Mr. Meittunen did not provide examples of the threats he has received.

The following motion was made:

Member Flynn's motion: To grant the request.

Vote on motion: Unanimously passed.

B. Waiver Requests

Hugo McPhee appeared before the Board by Webex and spoke in favor of waiver request 1. Ashley Millerbernd appeared before the Board by Webex and spoke in favor of waiver request 3. Rachael Bucholz and Robert Rutherford appeared before the Board by Webex and spoke in favor of waiver requests 8 and 9. A motion was made by Vice Chair Asp to fully waive the amount owed by Rachael Bucholz for House, but after further discussion that motion was withdrawn and waiver requests 8 and 9 were addressed as detailed within the chart below.

Entity	Late Fee/ Civil Penalty	Report Due	Factors and Recommended Action	Board Member's Motion	Motion	Vote on Motion
1. Hugo McPhee (Private Detective Board)	\$100 LFF \$1,000 CP	2022 Annual EIS	Statement due January 30, 2023, and received September 20, 2023. Mr. McPhee left the Board in June 2022. All correspondence was sent to the Minnesota Private Detective Board, but was not forwarded to Mr. McPhee. Kate White, from the Private Detective Board, agrees that they did not forward to Mr. McPhee. As soon as he was contacted by Board staff, Mr. McPhee filed his EIS. RECOMMENDED ACTION: Waive	Asp	Waive	Unanimously approved
2. IAFF FIREPAC Non-federal (#80031)	\$1,000 LFF	2022 Year- End Report	Report due January 31, 2023, and received April 28, 2023. The political fund thought they had filed their report at the end of January 2023; however, the Board never received the report and did not contact the treasurer because political funds are not required to file if there has been no financial activity. When they filed the report in April, they checked the box for amendment as they assumed the report had already been filed. The fund was registered in 2013 and has no history of late filings. The ending cash balance as of December 31, 2022, was \$0. RECOMMENDED ACTION: Waive	Leppik	Waive	Unanimously approved
3. Ashley Millerbernd (Sunrise River WMO)	\$100 LFF \$1,000 CP	2022 Annual EIS	Statement due January, 30, 2023, and received September 19, 2023. Ms. Millerbernd served at one meeting in 2022, but then did not attend any more watershed management organization meetings. Ms. Millerbernd has since resigned. She had filed the original EIS, but failed to file the annual EIS until contacted by Board staff. RECOMMENDED ACTION: Waive	Flynn	Waive	Unanimously approved

<p>4. Northstar Pellets LLC (#7689)</p>	<p>\$1,000 LFF \$1,000 CP</p>	<p>2022 Lobbyist Principal Report</p>	<p>Report was due March 15, 2023, and received September 13, 2023. There was a disagreement between the lobbyist(s) and the principal about who should be preparing the report. The lobbyist(s) prepared the principal report in 2020 and 2021, but did not file the 2022 report. Principal filed report on September 13, 2023. RECOMMENDED ACTION: Waive CP only</p>	<p>Flynn</p>	<p>Waive CP only</p>	<p>Unanimously approved</p>
<p>5. Black Lives Matter Coalition (#7510)</p>	<p>\$1,000 LFF \$1,000 CP</p>	<p>2022 Lobbyist Principal Report</p>	<p>Report was due March 15, 2023, and received September 13, 2023. Director for the lobbyist principal thought he completed the form, but did not submit it. He has been helping his disabled mother recover from surgery and will ensure to file the report on time in the future. The principal also has a \$25 late filing fee for the 2021 principal report which has not been paid yet. RECOMMENDED ACTION: Waive CP only</p>	<p>Swanson</p>	<p>Waive CP and reduce LFF to \$475</p>	<p>Unanimously approved</p>
<p>6. SEIU Healthcare Minnesota (#30093)</p>	<p>\$100 LFF</p>	<p>2023 Pre-Primary Report</p>	<p>The 2023 pre-primary report, due July 24, 2023, was required for entities that have given more than \$200 in aggregate to certain races in Hennepin County. The political fund's treasurer did not realize that a contribution to the local candidate would require the fund to file a pre-primary report, and therefore the report was filed two days late. The ending cash balance as of September 19, 2023, was \$101,319.34. RECOMMENDED ACTION: No recommendation</p>		<p>No motion</p>	

7. Joint Council 32 DRIVE (#30013)	\$100 LFF	2023 Pre-Primary Report	The 2023 pre-primary report, due July 24, 2023, was required for entities that have given more than \$200 in aggregate to certain races in Hennepin County. The political fund's treasurer did not realize that those races included contributions to Hennepin County candidates that are not on the ballot this year, but have candidate committees registered in Hennepin County. The ending cash balance as of September 19, 2023, was \$63,625.13. RECOMMENDED ACTION: No recommendation		No motion	
8. Rachael Bucholz for House (#18328)	\$150 LFF	2019 Year-End Report	The 2019 year-end report, due January 31, 2020, was filed February 10, 2020. Candidate and her treasurer were inexperienced. They had several miscommunications about the filing requirements. RECOMMENDED ACTION: No recommendation	Asp	Waive	Unanimously approved
9. Rachael Bucholz for House (#18328)	\$1,000 LFF \$1,000 CP	2020 Year-End Report	The 2020 year-end report, due February 1, 2021, was filed September 26, 2023. Candidate and her treasurer were inexperienced. They had several miscommunications about the filing requirements. Candidate finally filed all the required reports to terminate the candidate committee. RECOMMENDED ACTION: No recommendation	Leppik	Reduce to \$250 total	Five members voted in the affirmative, Asp voted in the negative

C. Informational Items

1. Final payment toward civil penalties for false certification

Theis (Tama) for Senate, \$400

2. Payment of civil penalty for excess party unit contributions

People for (Rick) Hansen, \$205

3. Payment of late filing fee for 2023 pre-primary report of receipts and expenditures

Plumbers Local Union #15 COPE Account, \$250

4. Payment of late filing fee for 2022 pre-general report of receipts and expenditures

CMVC Fund (Conservation MN Voter Center), \$1,000

5. Payment of late filing fee for September 2022 report of receipts and expenditures

CMVC Fund (Conservation MN Voter Center), \$1,000

6. Payment of late filing fee for 2022 pre-primary report of receipts and expenditures

CMVC Fund (Conservation MN Voter Center), \$1,000

7. Payment of late filing fee for June 2022 report of receipts and expenditures

CMVC Fund (Conservation MN Voter Center), \$1,000

8. Payment of late filing fee for 2022 1st quarter report of receipts and expenditures

CMVC Fund (Conservation MN Voter Center), \$1,000

9. Payment of late filing fee for 2022 pre-primary large contribution notice

CMVC Fund (Conservation MN Voter Center), \$1,000

10. Payment of late filing fee for lobbyist disbursement report due June 15, 2023

Stu Lourey, \$225

Joseph Schulte, \$50 (\$25 x 2)

Boe Carlson, \$25

Douglas Franzen, \$25

Paul Kaspszak, \$25

11. Payment of late filing fee for lobbyist disbursement report due June 15, 2018

Joseph Schulte, \$25

RULEMAKING UPDATE

Mr. Olson presented members with a memorandum that is attached to and made a part of these minutes. Mr. Olson stated that during the public comment period that ended September 22, 2023, the Board received a total of nine comments, six of which were received after the September Board meeting. Mr. Olson said that the treasurer of a county-level political party unit suggested that there be an official process for treasurers to resolve errors that occurred before their tenure that have resulted in a cash balance discrepancy. Mr. Olson explained that currently a treasurer dealing with a cash balance discrepancy is encouraged to review their financial records and amend previously filed reports as needed, and if they are unable to resolve the discrepancy after seeking assistance from Board staff, to request an administrative adjustment to the reported cash balance. Mr. Olson stated that the treasurer also stated that the Board should periodically audit filers to ensure that their campaign finance reports match their financial records, and the topic of audits of campaign finance filers will be addressed during the rulemaking process.

Mr. Olson said that the Democratic Governors Association commented in support of a rule establishing 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.

Mr. Olson stated that the Minnesota DFL Party (DFL) commented on several specific topics. Mr. Olson said that the DFL supported a rule stating that when goods or services are jointly purchased, the filers involved should report the actual costs to each purchaser. Mr. Olson explained that the DFL urged caution regarding the topic of a rule that would “establish criteria required in order for a candidate to be deemed not responsible for the actions of a vendor or subcontractors of a vendor hired by the candidate's committee, such as when those actions unintentionally result in coordinated expenditures.” Mr. Olson stated that the DFL said “it is impractical for every social media post to contain the full written disclaimer” and wants any rule concerning disclaimers to clarify “whether a new disclaimer is required each time a statement on social media is reposted or shared. . . .” Mr. Olson said that the DFL advocated in favor of a broad definition of the term headquarters as used in Minnesota Statutes section 211B.15, subdivision 8. Mr. Olson explained that the DFL feels the Board should consider rules establishing a streamlined process to address cash balance discrepancies of campaign finance filers. Mr. Olson stated that the DFL also advocated in favor of allowing a complainant to remain involved in an investigation after the Board has made a probable cause determination.

Mr. Olson said that the Coalition of Greater Minnesota Cities (CGMC) urged that any rules adopted by the Board interpret the changes made by the legislature in 2023 to the lobbying program narrowly. Specifically, Mr. Olson explained that the CGMC believes that a membership organization such as itself, whose membership is comprised of municipalities, should not be considered to be engaged in lobbying when it urges its members to contact legislators or pass a resolution concerning a particular topic. Mr. Olson stated that the CGMC is also concerned that the term “official action” may be interpreted to include potential vendors seeking to sell their products or secure contracts with municipalities.

Mr. Olson said that Housing First Minnesota submitted a comment expressing concern about requiring more individuals to register as lobbyists, specifically individuals involved in the homebuilding industry who may have contact with municipalities while seeking approvals for building projects.

Mr. Olson stated that the Minnesota Governmental Relations Council (MGRC) submitted a comment regarding the legislative changes to the lobbying program and seeking “clear guidance on the new reporting requirements and ample time to adjust our reporting protocols.” Mr. Olson explained that the MGRC identified a number of scenarios in which it feels that it is unclear whether an individual would be required to register as a lobbyist or report certain activity as lobbying. Mr. Olson said that the MGRC also provided an appendix with feedback from its members. Mr. Olson stated that the appendix includes feedback from the League of Minnesota Cities expressing a concern similar to that raised by the CGMC regarding the possibility of membership organizations being considered to be engaged in lobbying when encouraging its members, which consist of municipalities, to make a statement for or against an issue being considered by the legislature. Mr. Olson explained that the appendix also includes feedback from the Minnesota Multi Housing Association expressing a concern similar to that raised by Housing First Minnesota regarding the possibility of interactions with municipalities related to zoning and building permits being considered lobbying.

Mr. Olson stated that Board staff has prepared draft rule language for the rulemaking topics that have been deemed technical or not controversial by Board staff. Mr. Olson said that Board staff anticipates that the draft rule language will be considered by the Board’s rulemaking committee at a future date. Mr. Olson explained that Board staff would appreciate feedback from members of that committee regarding whether Board staff should start drafting proposed language for the remaining rulemaking topics in advance of any meeting of the rulemaking committee. Vice Chair Asp and Members Swanson and Rashid discussed the matter and generally supported Board staff drafting language for the remaining rule topics prior to the first meeting of the Board’s rulemaking committee.

LEGAL REPORT

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn stated that default judgment hearings have been scheduled for the Thompson and Trace matters for November 9 and 13, 2023, respectively. Mr. Hartshorn said that the Trace matter may be resolved prior to the date of the default judgment hearing in that matter.

EXECUTIVE SESSION

Chair Soule recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, Chair Soule had nothing to report into regular session.

There being no other business, the meeting was adjourned by the chair.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeff Sigurdson". The signature is written in a cursive, flowing style.

Jeff Sigurdson
Executive Director

Attachments:
Executive Director's Report
Memorandum regarding rulemaking
Comments received during rulemaking public comment period
Draft language for rules deemed not controversial
Legal report



MINNESOTA CAMPAIGN FINANCE BOARD

Date: September 29, 2023

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Executive Director's Report

Board Staff: Greta Johnson has been hired to fill the legal/management analyst position formerly held by Will Hager. Ms. Johnson recently finished law school and was previously employed in the Hennepin County Attorney's Office. Her first day with the Board will be October 16, 2023.

Hennepin County Elections: Political committees and funds, and party units registered with the Board that make contributions, expenditures, or independent expenditures to influence elections for Hennepin County office, or for municipal office or ballot questions in a city with a population of 75,000 or more in Hennepin County, or for a ballot question or school board election in Special School District 1 (Minneapolis), are required to file reports of receipts and expenditures during 2023. The most recent report was due September 26, 2023, and covered the period of January 1 through September 19, 2023. Thirty-three committees and funds filed reports which show about \$55,000 in contributions to local candidates, \$89,000 spent on independent expenditures to influence local elections, and \$400 spent to influence ballot questions. The last report before the local general election in Hennepin County is due October 30, 2023.

Website: The Board has entered into a service agreement with MNGEO, which is a division of MNIT, to conduct an evaluation of how best to develop maps, graphs, and charts of campaign finance data for the Board's website. The maps will show campaign finance information reported to the Board by legislative district, and graphs and charts will show data across legislative districts. This visual presentation of the campaign finance data collected by the Board will hopefully be more approachable and consolidated for the public and media. The service agreement will produce an evaluation of what will be needed to complete the project, and also determine if this is a project that MNGEO can complete for the Board, or if an outside vendor would be the best approach.

Staff Presentations: On September 13, 2023, I presented on the changes to the lobbying program at a Minnesota Governmental Relations Council (MGRC) video conference. There were 102 MGRC members in attendance. That presentation seems to have raised the level of interest in the lobbying program changes, as I have now been asked to present on the lobbying program by five other associations and law firms. Ms. Engelhardt will be presenting information on the new campaign finance and lobbying provisions at a video conference scheduled for October 17, 2023.



MINNESOTA CAMPAIGN FINANCE BOARD

Date: September 29, 2023

To: Board members
Nathan Hartshorn, counsel

From: Andrew Olson, Legal/Management Analyst **Telephone:** 651-539-1190

Subject: Rulemaking update

The comment period for the request for comments published on July 24 ended on September 22, 2023. The Board received a total of nine comments, six of which were received after the September Board meeting. The newly received comments are briefly summarized below and copies of all comments received by the Board are attached.

County-level party unit treasurer

The treasurer of a county-level party unit suggested that there be an official process for treasurers to resolve errors that occurred before their tenure that have resulted in a cash balance discrepancy. Currently, the Board uses a process whereby a treasurer dealing with a cash balance discrepancy is encouraged to review their financial records and amend previously filed reports as needed, and if they are unable to resolve the discrepancy after seeking assistance from Board staff, to request an administrative adjustment to the reported cash balance. The Board has empowered the executive director to approve cash balance adjustments of \$200 or less, and any cash balance adjustment greater than that amount must be approved by the Board. Minnesota Statutes section 10A.025, subdivision 4, requires treasurers to correct errors within reports filed with the Board, but there is no provision within Chapter 10A that directly addresses administrative adjustments to a filer's reported cash balance.

The treasurer also stated that the Board should periodically audit filers to ensure that their campaign finance reports match their financial records. One of the topics included within the Board's request for comments is rules that "establish procedures and criteria to be used when conducting audits of campaign finance filers," so that issue will be addressed during the rulemaking process.

Democratic Governors Association

The Democratic Governors Association (DGA) submitted a comment in support of one of the topics included within the Board's request for comments, which involves a rule that would

“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.” The DGA feels that those advisory 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.” The attached draft rule language includes language to be codified at Minnesota Rules, Part 4503.0400, that would address joint purchases in a manner consistent with Advisory Opinions 452¹ and 436².

Minnesota DFL Party

The Minnesota DFL Party (DFL) submitted a comment in support of addressing each of the campaign finance and audits and investigations topics identified within the Board’s request for comments. The DFL offered input regarding several specific topics. First, the DFL supported a rule stating that when goods or services are jointly purchased, the filers involved should report “the actual costs to each purchaser.” The attached draft rule language includes language to be codified at Minnesota Rules, Part 4503.0400, that would address joint purchases and require each filer to report the actual costs incurred when making a joint purchase.

Second, the DFL urged caution regarding the topic of a rule that would “establish criteria required in order for a candidate to be deemed not responsible for the actions of a vendor or subcontractors of a vendor hired by the candidate’s committee, such as when those actions unintentionally result in coordinated expenditures.” The DFL stated that “[r]ules 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.”

Third, the DFL stated that “it is impractical for every social media post to contain the full written disclaimer” and wants any rule concerning disclaimers to clarify “whether a new disclaimer is required each time a statement on social media is reposted or shared. . . .”

Fourth, the DFL advocated in favor of a broad definition of the term headquarters as used in Minnesota Statutes section 211B.15, subdivision 8.³

Fifth, the DFL said that the Board should consider rules establishing “a streamlined process for reconciling discrepancies between the balances reflected on bank account statements and campaign finance reports,” including 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.”

Sixth, the DFL advocated in favor of allowing a complainant “to continue to be involved in the Board’s processes following a probable cause determination,” including allowing the complainant to review any draft findings or conciliation agreement to be considered by the Board and to appear before the Board prior to any final action being taken. Any rules

¹ cfb.mn.gov/pdf/advisory_opinions/AO452.pdf

² cfb.mn.gov/pdf/advisory_opinions/AO436.pdf

³ revisor.mn.gov/statutes/cite/211B.15#stat.211B.15.8

addressing that issue would need to conform to Minnesota Statutes section 10A.022, subdivision 5, which provides in relevant part that “a member, employee, or agent of the board must not disclose to an individual information obtained by that member, employee, or agent concerning a complaint or investigation except as required to carry out the investigation or take action in the matter.”

Coalition of Greater Minnesota Cities

The Coalition of Greater Minnesota Cities (CGMC) submitted a comment regarding rules governing lobbying that would involve political subdivisions. The CGMC urged any rules adopted by the Board to interpret the changes made by the legislature in 2023 narrowly. The CGMC said it is “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.” Specifically, the CGMC said that a membership organization such as itself, whose membership is comprised of municipalities, should not be considered to be engaged in lobbying when it urges its members to contact legislators or pass a resolution concerning a particular topic.

The CGMC also stated that it is concerned that the term “official action” may be interpreted to include potential vendors seeking to sell their products or secure contracts with municipalities in possible conflict with Minnesota Statutes section 10A.01, subdivision 21, which defines the term “lobbyist” in a way that excludes “an individual while engaged in selling goods or services to be paid for by public funds.”⁴

Housing First Minnesota

Housing First Minnesota submitted a comment expressing concern about requiring more individuals to register as lobbyists, specifically individuals involved in the homebuilding industry who may have contact with municipalities while seeking approvals for building projects. That concern appears to stem from the legislature’s amendment of the definition of “lobbyist” that will take effect on January 1, 2024, expanding the definition to include an individual who seeks to influence the official actions of political subdivisions outside the seven-county metro area.

Minnesota Governmental Relations Council

The Minnesota Governmental Relations Council (MGRC) submitted a comment referencing the legislative changes to the lobbying program that will take effect on January 1, 2024, and seeking “clear guidance on the new reporting requirements and ample time to adjust our reporting protocols.” The MGRC identified a number of scenarios in which it feels that it is unclear whether an individual would be required to register as a lobbyist or report certain activity as lobbying. The MGRC said that it is “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.” The MGRC

⁴ revisor.mn.gov/laws/2023/0/62/laws.5.5.0#laws.5.5.0

encouraged the Board to “carefully consider the level of detail required to meet the intent of the new law” and noted that “MGRC members have been subject to harassment because their personal information is available on the Campaign Finance Board website. . . .”

With its comment the MGRC provided an appendix with comments and questions from its members, including copies of the comments submitted directly by the CGMC and Housing First Minnesota. The appendix includes feedback from the League of Minnesota Cities expressing a concern similar to that raised by the CGMC regarding the possibility of membership organizations being considered to be engaged in lobbying when encouraging its members, which consist of municipalities, to make a statement for or against an issue being considered by the legislature. The appendix also includes feedback from the Minnesota Multi Housing Association expressing a concern similar to that raised by Housing First Minnesota regarding the possibility of interactions with municipalities related to zoning and building permits being considered lobbying.

Draft language for rule topics not considered controversial

Attached to this memorandum is draft rule language regarding rulemaking topics that have been deemed technical or not controversial by Board staff. The document containing the draft rule language includes comments identifying the rule topics being addressed and the rule topic numbers correspond to the numbers listed within the Board’s request for comments.⁵ Some provisions that were originally considered by Board staff to be not controversial have been reserved for the batch of rule language addressing rules that will potentially be controversial.

Board staff anticipates that the draft rule language will be considered by the Board’s rulemaking committee at a future date. Board staff seeks guidance from the rulemaking committee members regarding whether they would like Board staff to prepare draft rule language for the rules deemed potentially controversial prior to the subcommittee meeting to consider appropriate language. Alternatively, the rulemaking subcommittee could meet and discuss the language to be drafted prior to Board staff drafting language for the rules deemed potentially controversial. The Board does not need to take any action at this time regarding administrative rulemaking.

Attachments:

Comment from Conrad Zbikowski
Comment from James Newberger
Comment from Sue Rasmussen
Comment from Ethel Cox
Comment from Housing First Minnesota
Comment from the Coalition of Greater Minnesota Cities
Comment from the Minnesota DFL Party
Comment from the Democratic Governors Association
Comment and appendix from the Minnesota Governmental Relations Council
Draft language for rules deemed not controversial

⁵ cfb.mn.gov/citizen-resources/the-board/statutes-and-rules/rulemaking-docket/

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

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

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

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

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).



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,

A handwritten signature in black ink that reads "Mark Foster". The signature is fluid and cursive, with the first name "Mark" and last name "Foster" clearly legible.

Mark Foster,

Vice President, Legislative & Political Affairs

Housing First Minnesota





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 ewefel@flaherty-hood.com.

Sincerely,

A handwritten signature in black ink that reads "Rick Schultz". The signature is written in a cursive style with a large, stylized "R" and "S".

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

David J. Zoll
djzoll@locklaw.com
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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.

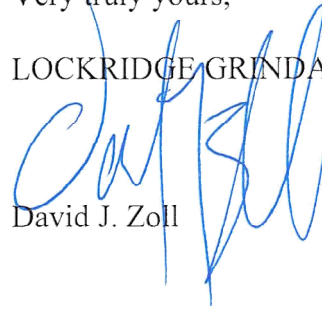
Mr. Andrew Olson
Campaign Finance and Public Disclosure Board
September 22, 2023
Page 3

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

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

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.

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,

A handwritten signature in black ink, appearing to read "Michael Karbo". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Karbo".

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?

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.

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.

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.

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 overhead 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.

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.



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,

A handwritten signature in black ink that reads "Mark Foster". The signature is fluid and cursive.

Mark Foster,

Vice President, Legislative & Political Affairs

Housing First Minnesota





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,

A handwritten signature in black ink that reads "Rick Schultz". The signature is written in a cursive style with a prominent "R" and "S".

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

DRAFT



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:

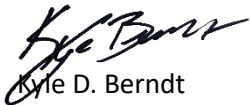
- c. The Minnesota Housing Finance Agency allocates tens of millions of dollars to housing developments each year and ensures compliance with federal law for funded housing. Collaborating with the agency for compliance with federal law or proposing a project has not previously been classified as lobbying 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,



Kyle D. Berndt

Director of Public Policy

Minnesota Multi Housing Association

Cell: (763) 318-5328

Office Direct: (952) 548-2216

www.mmha.com

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CHAPTER 4501, GENERAL PROVISIONS

4501.0100 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter and chapters 4503 to 4525 and Minnesota Statutes, chapter 10A. The definitions in Minnesota Statutes, chapter 10A, also apply to chapters 4503 to 4525.

Subp. 2. **Address.** "Address" means the complete mailing address, including the zip code. An individual may use either the person's business address or home address. An association's address is the address from which the association conducts its business.

Subp. 32a. **Audit trail.** "Audit trail" means documentation of submission of an electronic file or facsimile transmission to the board. The audit trail includes the date and time at which the facsimile transmission or electronic file submission was made and a copy of any verification report or message received from the board.

Subp. 43. **Business day.** A "business day" is from 8:00 a.m. to 4:30 p.m., Monday through Friday, except for official state holidays.

Subp. 54. **Compensation.** "Compensation" means every kind of payment for labor or personal services. Compensation does not include payments of Social Security, unemployment compensation, workers' compensation, or pension benefits.

Subp. 64a. **Electronic file.** "Electronic file" means a report or statement required by Minnesota Statutes, chapter 10A, and submitted to the board using an electronic filing system.

Subp. 74b. **Electronic filing system.** "Electronic filing system" means the computer-based systems developed by the board to transfer an electronic file of data that meets the filing and reporting requirements of Minnesota Statutes, chapter 10A.

Subp. 84e. **Facsimile transmission.** "Facsimile transmission" means the use of a fax machine or e-mail to submit an electronic image of a report or statement to the board.

Subp. 95. **Honorarium.** "Honorarium" means anything of value given or received for services such as making speeches, writing articles, or making presentations when there is no obligation on the part of the giver to make payment.

Subp. 106. **Money.** "Money" means cash and cash equivalents such as checks, money orders, travelers checks, negotiable instruments, and other paper commonly accepted by a bank as a deposit. A transfer of money includes an electronic transfer of funds.

Subp. 117. **Occupation.** "Occupation" means a person's usual trade, profession, employment, or other similar endeavor, and includes categories for which there is no direct

financial compensation, such as homemaker.

Subp. 12. Original signature. "Original signature" means:

A. a signature in the signer's handwriting, or if the signer is unable to write, the signer's mark or name written in the handwriting of another or applied by stamp at the request, and in the presence, of the signer;

B. an electronic signature consisting of the letters of the signer's name, applied using a cursive font or accompanied by text or symbols clearly indicating an intent to apply a signature, including but not limited to the letter s with a forward slash mark on one or both sides of the letter s or the placement of a forward slash mark before and after the signer's name; or

C. the signer's name on the signature line of an electronic file submitted using the filer's personal identification code.

Subp. 137a. **Personal identification code.** "Personal identification code" is a confidential user name and password provided by the board and required to use an electronic filing system.

Subp. 148. **Principal place of business.** "Principal place of business" means:

A. for an employed person, the name of the employer and the address from which the employee conducts the employer's business;

B. for a self-employed person or a person not employed, the address from which the person conducts business or personal matters; or

C. for an association, the name and business address of the association.

Subp. 159. **Promptly.** "Promptly" means within ten business days after the event that gave rise to the requirement.

4501.0500 FILINGS, SUBMISSIONS, AND DISCLOSURES.

Subpart 1. Format. A report or statement required under Minnesota Statutes, section 10A.20, must be filed electronically in a format specified by the board, to the extent required by that section. Any other report or statement required under Minnesota Statutes, chapter 10A, must be filed submitted electronically in a format specified by the board or on the forms provided by the board for that purpose or by an electronic filing system. The board may provide alternative methods for submitting information, including other means for the electronic submission of data.

Subp. 1a. [~~Repealed, L 2018 c 119 s 34~~]

~~Subp. 2. [Repealed, L 2017 1Sp4 art 3 s 18]~~

Subp. 23. **Filings on nonbusiness days.** If a scheduled filing date falls on a Saturday, Sunday, or state holiday, the filing is due on the next business day.

~~Subp. 4. [Repealed, L 2005 c 156 art 6 s 68]~~

CHAPTER 4503, CAMPAIGN FINANCE ACTIVITIES

4503.0100 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter and Minnesota Statutes, chapter 10A, except that the definition in subpart 7 applies to Minnesota Statutes, section 211B.15. The definitions in chapter 4501 and Minnesota Statutes, chapter 10A, also apply to this chapter.

Subp. 2. **Adjournment sine die.** "Adjournment sine die" means final adjournment by the legislature in the second year of a biennium.

Subp. 3. **Anonymous contribution.** "Anonymous contribution" means a contribution for which the name and address of the donor cannot be determined.

Subp. 4. **County office in Hennepin County.** "County office in Hennepin County" means the offices of county commissioner, county attorney, and sheriff, in Hennepin County, and does not include the office of Three Rivers Park District commissioner.

Subp. 53a. **Fair market value.** "Fair market value" means the amount that an individual would pay to purchase the same or similar service or item on the open market.

Subp. 64. **Fundraising event.** "Fundraising event" means a meal, party, entertainment event, rally, or similar gathering of three or more individuals where contributions are solicited or received.

Subp. 7. **Headquarters.** For the purpose of Minnesota Statutes, section 211B.15, subdivision 8, "headquarters" means a building or other structure that is used for all or part of the year as the primary location where the party's business is conducted.

...

Subp. 125. **Receipted bill.** "Receipted bill" means an invoice marked paid by the vendor or a canceled check with a corresponding invoice indicating the purpose of the expenditure.

Subp. 6. [~~Repealed, L 2018 c 119 s 34~~]

Subp. 137. **Statewide election.** "Statewide election" means an election for a statewide constitutional office, appeals court, or supreme court office, or an election in which a question or proposition on the ballot can be voted on by all voters of the state.

Subp. 148. **Unpaid bill.** "Unpaid bill" means an advance of credit for which payment has not been made. An advance of credit is an unpaid bill from the time it is incurred, regardless of when an actual invoice is received.

4503.0200 ORGANIZATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS.

Subpart 1. **Organizational information to be provided by a political party.** The statement of organization of a political party must include a list of the names of the party units organized in each house of the legislature and in congressional districts, counties, legislative districts, municipalities, and precincts, along with the name and address of the treasurer and chair of each unit, and must be updated annually.

Subp. 2. **Officers of principal campaign committee.** A candidate may be chair, treasurer, or both, of the candidate's own principal campaign committee. The candidate is ultimately responsible for the principal campaign committee's compliance with Minnesota Statutes, chapter 10A.

Subp. 3. **When registration is not required.** When a person or group merely solicits contributions with the approval of a candidate or the treasurer, deputy treasurer, or agent of a political committee or political fund and when those contributions are made directly to the reporting committee or fund, that person or group need not establish a separate political committee or political fund.

Subp. 4. [Repealed, L 2005 c 156 art 6 s 68]

Subp. 45. **Termination of responsibility of former treasurer.** A former treasurer who transfers political committee or political fund records and receipts to a new treasurer or to the chair of the committee or fund is relieved of future responsibilities ~~when notice required under subpart 4 is filed or~~ when the former treasurer notifies the board in writing of the change.

Subp. 6. [Repealed, L 2017 1Sp4 art 3 s 18]

4503.0400 JOINT PURCHASES

Subpart 1. [Repealed, L 2017 1Sp4 art 3 s 18] **General requirement.** Principal campaign committees, political party units, and political committees and funds may jointly purchase goods or services without making or receiving a donation in kind. If each purchaser pays the vendor for their share of the fair market value of the purchase, each purchaser must report that amount to the Board as an expenditure or noncampaign disbursement as required by Minnesota Statutes, section 10A.20. If a purchaser pays the vendor for the total amount of the purchase and obtains payment from another purchaser for that purchaser's share of the fair market value of the purchase, each purchaser must use the same reporting method under Minnesota Statutes, section 10A.20, subdivision 13.

Subp. 2. [Repealed, L 2005 c 156 art 6 s 68] **Proportionate shares of joint purchase.** If a purchaser pays a vendor for the total amount of a joint purchase and each joint purchaser receives goods or services of equal value, each joint purchaser must pay the purchaser that

paid the vendor an amount equal to the total amount paid to the vendor divided by the number of joint purchasers in order to prevent the occurrence of a donation in kind. If a purchaser pays a vendor for the total amount of a joint purchase and joint purchasers receive goods or services of differing value, each joint purchaser must pay the purchaser that paid the vendor in proportion to the value of the goods or services received in order to prevent the occurrence of a donation in kind. If a joint purchaser pays the purchaser that paid the vendor less than its proportionate share of the fair market value of the joint purchase, the difference must be reported as a donation in kind from the purchaser that paid the vendor to the joint purchaser as required by Minnesota Statutes, section 10A.20.

Subp. 3. **No impact on prohibited contributions.** Nothing in this part permits an independent expenditure or ballot question political committee or fund to make a contribution, including an approved expenditure, that is prohibited by Minnesota Statutes, section 10A.121, or alters what constitutes a coordinated expenditure.

4503.0500 CONTRIBUTIONS.

Subpart 1. **All receipts are contributions.** Any donation of money, goods, or services received by a principal campaign committee, political party unit, political committee, or political fund is considered a contribution at the time the item is received.

Subp. 2. [Repealed, L 2018 c 119 s 34] **Contribution processors and professional fundraisers.** A vendor may solicit, process, collect, or otherwise facilitate the accumulation of contributions made to a principal campaign committee, political party unit, political committee, or political fund, and may temporarily retain or control any contributions collected, without thereby making a contribution to the intended recipient of the contributions, if the vendor is paid the fair market value of the services provided. Contributions collected must be transmitted to the intended recipient, minus any fees withheld by the vendor, and must be identified with the name, address, and employment or occupation information required in Minnesota Statutes, section 10A.13. A vendor that is paid the fair market value of any goods or services provided is not a political committee or a political fund by virtue of providing those goods or services. A vendor that determines which principal campaign committee, political party unit, political committee, or political fund receives the contributions collected is a political committee or political fund as provided in Minnesota Statutes, section 10A.01, even if the recipient of the contributions pays the vendor the fair market value of the services provided to collect the contributions.

Subp. 3. **Transmission of contributions.** Promptly after receipt of any contribution intended for a principal campaign committee, political party unit, political committee, or political fund, or on demand of the treasurer, any individual, association, or vendor retaining or controlling the contribution must transmit the contribution together with any required record to the treasurer.

Subp. 4. **Identification of contributor.** An individual or association that pays for or provides goods or services, or makes goods or services available, with the knowledge that they will be used for the benefit of a principal campaign committee, political party unit, political committee, or a political fund, is the contributor of those goods or services.

Subp. 5. [~~Repealed, L 2017 1Sp4 art 3 s 18~~]

Subp. 56. **Contributions by joint check.** A contribution given by a check written on a joint account is considered to be a contribution by the persons who signed the check in equal proportions unless the candidate or treasurer of the committee or fund has personal knowledge or affirmatively ascertains from any account holder who did not sign the check that the person is a joint contributor. In such cases, a written notation of the basis for considering the contribution to be a joint contribution must be made at the time the contribution is deposited and kept with the committee's or fund's official records.

Subp. 67. **Forwarding anonymous contributions.** An anonymous contribution in excess of \$20 must be forwarded to the board in its entirety within 14 days after its receipt by the treasurer along with a statement of the amount of the contribution and the date on which it was received.

Subp. 8. [~~Repealed, L 2017 1Sp4 art 3 s 18~~]

Subp. 9. [~~Repealed, L 2005 c 156 art 6 s 68~~]

4503.0700 CONTRIBUTION LIMITS.

Subpart 1. **Loans included in aggregation of contributions.** Contribution limits apply to the aggregation of:

- A. money;
- B. donations in kind;
- C. outstanding loans from the contributor; and
- D. proceeds of outstanding loans endorsed by the contributor.

Subp. 2. [~~Repealed, L 2017 1Sp4 art 3 s 18~~]**Commercial vendors not subject to bundling limitation.** A vendor retained by a principal campaign committee, political party unit, political committee, or political fund for the accumulation of contributions, and is paid by that committee, party unit, or fund the fair market value of the services provided, as described in part 4503.0500, subpart 2, is not subject to the bundling limitation in Minnesota Statutes, section 10A.27, subdivision 1.

Subp. 3. [~~Repealed, L 2017 1Sp4 art 3 s 18~~]

4503.0800 DONATIONS IN KIND AND APPROVED EXPENDITURES.



Subp. 2. **Multicandidate materials.** An approved expenditure made on behalf of multiple candidates or local candidates must be allocated between the candidates or the local candidates on a reasonable basis if the cost exceeds \$20 per candidate or local candidate.

Subp. 3. **Multipurpose materials.** A reasonable portion of the fair market value of preparation and distribution of association newsletters or similar materials which, in part, advocate the nomination or election of a candidate or a local candidate is a donation in kind which must be approved by the candidate or the local candidate if the value exceeds \$20, unless an independent expenditure is being made.

Subp. 4. **Office facilities.** The fair market value of shared office space or services provided to a candidate or a local candidate without reimbursement is a donation in kind.

Subp. 5. **Campaign expenditures for constituent services paid with personal funds.** Costs of providing constituent services that are campaign expenditures and paid with the personal funds of the candidate are a donation in kind to the principal campaign committee of the candidate.

4503.0900 NONCAMPAIGN DISBURSEMENTS.

Subpart 1. **Additional definitions.** In addition to those listed in Minnesota Statutes, section 10A.01, subdivision 26, the following expenses are noncampaign disbursements:

- A. transportation, meals, and lodging paid to attend a campaign school;
- B. costs of campaigning incurred by a person with a disability, as defined in Minnesota Statutes, section 363A.03, subdivision 12, and which are made necessary by the disability;
- C. the cost to an incumbent or a winning candidate of providing services to residents in the district after the general election in an election year for the office held;
- D. payment of advances of credit in a year after the year in which the advance was reported as an expenditure;
- E. payment of fines assessed by the board; ~~and~~
- F. costs of running a transition office for a winning gubernatorial candidate during the first six months after election; and

G. costs to maintain a bank account that is required by law, including service fees, the cost of ordering checks, and check processing fees.



Subp. 4. Equipment purchases. The cost of durable equipment purchased by a principal campaign committee, including but not limited to computers, cell phones, and other electronic devices, must be classified as a campaign expenditure unless the equipment is purchased to replace equipment that was lost, stolen, or damaged to such a degree that it no longer serves its intended purpose, or the equipment:

A. will be used solely by a member of the legislature or a constitutional officer in the executive branch to provide services for constituents during the period from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held;

B. qualifies as an expense of serving in public office under Minnesota Statutes, sections 10A.01 and 10A.173;

C. will be used solely by a winning candidate to provide services to residents in the district in accordance with subpart 1;

D. will be used solely for campaigning by a person with a disability in accordance with subpart 1;

E. will be used solely for running a transition office in accordance with subpart 1; or

F. will be used solely as home security hardware.

Subp. 53. **Reporting purpose of noncampaign disbursements.** Itemization of an expense which is classified as a noncampaign disbursement must include sufficient information to justify the classification.

4503.1000 CAMPAIGN MATERIALS INCLUDING OTHER CANDIDATES.

Subpart 1. **Inclusion of others without attempt to influence nomination or election.** Campaign materials, including media advertisements, produced and distributed on behalf of one candidate which contain images of, appearances by, or references to another candidate or local candidate, but which do not mention the candidacy of the other candidate or local candidate or make a direct or indirect appeal for support of the other candidate or local candidate, are not contributions to, or expenditures on behalf of that candidate or local candidate.

Subp. 2. **Multicandidate materials prepared by a candidate.** A candidate who produces and distributes campaign materials, including media advertisements, which include images of, appearances by, or references to one or more other candidates or local candidates, and which

mention the candidacy of the other candidates or local candidates or include a direct or indirect appeal for the support of the other candidates or local candidates must collect from each of the other candidates or local candidates a reasonable proportion of the production and distribution costs.

4503.1600 AGGREGATED EXPENDITURES.

~~[Repealed, L 2017 1Sp4 art 3 s 18]~~Expenditures and noncampaign disbursements may be aggregated and reported as lump sums when itemized within a report filed under Minnesota Statutes, section 10A.20, if:

- A. each expenditure or noncampaign disbursement was made to the same vendor;
- B. each expenditure or noncampaign disbursement was made for the same type of goods or services;
- C. each lump sum consists solely of aggregated expenditures or solely of aggregated noncampaign disbursements;
- D. each lump sum consists solely of aggregated expenditures or noncampaign disbursements that are paid, are unpaid, or represent the dollar value of a donations in kind;
- E. expenditures and noncampaign disbursements are aggregated over a period of no more than 31 days; and
- F. all expenditures and noncampaign disbursements made prior to the end of a reporting period are included within the report covering that period.

Lump sums must be dated based on the last date within the period over which the expenditures or noncampaign disbursements are aggregated. This subpart does not alter the date an expenditure is made for purposes of the registration requirements provided in Minnesota Statutes, section 10A.14.

CHAPTER 4511, LOBBYIST REGISTRATION AND REPORTING

4511.0100 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter and Minnesota Statutes, chapter 10A. The definitions in chapter 4501 and in Minnesota Statutes, chapter 10A, also apply to this chapter.

Subp. 24a. **Designated lobbyist.** "Designated lobbyist" means a lobbyist responsible for reporting the lobbying disbursements of the entity the lobbyist represents. An entity that employs lobbyists may have only one designated lobbyist at any given time.



Subp. 42. **Gift.** "Gift" has the meaning given in chapter 4512 and Minnesota Statutes, section 10A.071.

Subp. 53. **Lobbying.** "Lobbying" means attempting to influence legislative action, administrative action, or the official action of a metropolitan governmental unit by communicating with or urging others to communicate with public officials or local officials in metropolitan governmental units. Any activity that directly supports this communication is considered a part of lobbying.

Subp. 64. **Lobbyist's disbursements.** "Lobbyist's disbursements" include all disbursements for lobbying made by the lobbyist, the lobbyist's employer or employee, or any person or association represented by the lobbyist, but do not include compensation paid to the lobbyist.



Subp. 85. **Original source of funds.** "Original source of funds" means a source of funds, other than the entity for which a lobbyist is registered, paid to the lobbyist, the lobbyist's employer, the entity represented by the lobbyist, or the lobbyist's principal, for lobbying purposes.

Subp. 96. **Public higher education system.** "Public higher education system" includes the University of Minnesota and the Minnesota State Colleges and Universities governed by Minnesota Statutes, chapter 136F. The board may issue advisory opinions at the request of other entities with respect to whether or not they are also included within this definition.

Subp. 107. **Reporting lobbyist.** "Reporting lobbyist" means a lobbyist responsible for reporting lobbying disbursements of two or more lobbyists representing the same entity. Lobbying disbursements made on behalf of an entity may be reported by each individual lobbyist that represents an entity, or by one or more reporting lobbyists, or a combination of individual reports and reports from a reporting lobbyist.

Subp. 11. State agency. “State agency” means the State of Minnesota and any office, officer, department, division, bureau, board, commission, authority, district, or agency of the State of Minnesota.

4511.0300 PRINCIPALS.

Individuals or associations represented by lobbyists are presumed to be principals until they establish that they do not fall within the statutory definition of a principal. A political subdivision, public higher education system, or state agency is not an association under Minnesota Statutes, section 10A.01, and is not a principal.

4511.0500 LOBBYIST REPORTING REQUIREMENTS.

Subpart 1. Separate reporting required for each entity. A lobbyist must report separately for each entity for which the lobbyist is registered, unless the disbursements are reported in the manner provided in Minnesota Statutes, section 10A.04, subdivision 9subpart 2.

~~Subp. 2. [Repealed, L 2017 1Sp4 art 3 s 18]~~

Subp. 23. Report of officers and directors information. With each report of lobbyist disbursements, a designated lobbyist must report any change in the name and address of:

A. each person, if any, by whom the lobbyist is retained or employed or on whose behalf the lobbyist appears; or

B. if the lobbyist represents an association, each officer and director of the association.

Subp. 34. Limitation on reporting of loans. A lobbyist is not required to report loans to a public official or a local official in a metropolitan governmental unit if:

A. the lobbyist's employer, principal, or association represented which made the loan is a financial institution; and

B. the loan was made in the ordinary course of business on substantially the same terms as those prevailing for comparable transactions with other persons.

Subp. 45. Reporting gifts. A gift to a public or local official from a principal for which a lobbyist is registered must be reported by the designated reporting lobbyist.

CHAPTER 4512, GIFT PROHIBITION

4512.0200 GIFTS WHICH MAY NOT BE ACCEPTED.

Subpart 1. **Acceptance.** An official may not accept a gift given by a lobbyist or lobbyist principal or given as the result of a request by a lobbyist or lobbyist principal unless the gift satisfies an exception under this part or Minnesota Statutes, section 10A.071.

Subp. 2. **Use of gift to ~~metropolitan governmental unit~~ political subdivision.** An official may not use a gift given by a lobbyist or lobbyist principal to a ~~metropolitan governmental unit~~ political subdivision until the gift has been formally accepted by an official action of the governing body of the ~~metropolitan governmental unit~~ political subdivision.

Subp. 3. Exception. A gift is not prohibited if it consists of informational material given by a lobbyist or principal to assist an official in the performance of official duties and the lobbyist or principal had a significant role in the creation, development, or production of that material.

CHAPTER 4525, HEARINGS, AUDITS, AND INVESTIGATIONS

4525.0200 COMPLAINTS OF VIOLATIONS.

Subpart 1. **Who may complain.** A person who believes a violation of Minnesota Statutes, chapter 10A, or another provision of law placed under the board's jurisdiction by Minnesota Statutes, section 10A.022, subdivision 3, or rules of the board has occurred may submit a written complaint to the board.

Subp. 2. **Form.** Complaints must be submitted in writing. The name and address of the person making the complaint, or of the individual who has signed the complaint while acting on the complainant's behalf, must be included on the complaint, and it The complaint must be signed by the complainant or an individual authorized to act on behalf of the complainant. A complainant ~~must~~ shall list the alleged violator and the alleged violator's address if known by the complainant and describe the complainant's knowledge of the alleged violation. Any evidentiary material should be submitted with the complaint. Complaints are not available for public inspection or copying until after the complaint is dismissed or withdrawn or the board makes a finding.

~~Subp. 3. [Repealed, 30 SR 903]~~ **Withdrawal.** Prior to a prima facie determination being made, a complaint may be withdrawn at the request of the person making the complaint or any individual authorized to act on that person's behalf. After a prima facie determination is made, a complaint may not be withdrawn.

Subp. 4. **Oath.** Evidentiary testimony given in a meeting conducted by the board under this chapter must be under oath. Arguments made to the board that do not themselves constitute evidence are not required to be under oath.

Subp. 5. **Confidentiality.** Any portion of a meeting during which the board is hearing testimony or taking action concerning any complaint, investigation, preparation of a conciliation agreement, or a conciliation meeting must be closed to the public. The minutes and ~~tape~~ recordings of a meeting closed to the public must be kept confidential.

Subp. 6. **Hearings.** At any time during an investigation of a complaint, the board may hold a contested case hearing before making a finding on the complaint.

4525.0220 SUMMARY PROCEEDINGS.

Subpart 1. **Summary proceeding.** A summary proceeding is an action other than a complete formal investigation that is undertaken to resolve a matter, or a part of a matter, that is the subject of a complaint, an investigation, or an audit. A staff review under part 4525.0320 is one form of summary proceeding.

Subp. 2. **Request by respondent.** At any time, a respondent may request that a matter or a part of a matter be resolved using a summary proceeding. The request must be in writing and must:

- A. specify the issues the respondent is seeking to resolve through the summary proceeding;
- B. explain why those issues are suitable for the summary proceeding; and
- C. explain how the proposed summary proceeding would be undertaken.

Subp. 3. **Consideration of request by board.** Upon receipt of a request for a summary proceeding, the executive director must submit the request to the board. If the matter was initiated by a complaint, the complaint has not been dismissed, and a probable cause determination has not been made, the executive director must send a copy of the request to the complainant no later than the time that the request is submitted to the board. Under any other circumstances a complainant must not be notified, or provided a copy, of the request. The request must be considered by the board at its next meeting that occurs at least ten days after the request was received. If the executive director sends a copy of the request to the complainant pursuant to this subpart, the complainant must be given an opportunity to be heard by the board.

The board is not required to agree to a request for a summary proceeding. If the board modifies the respondent's request for a summary proceeding, the board must obtain the respondent's agreement to the modifications before undertaking the summary proceeding.

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD
October 2023**

ACTIVE FILES

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Thompson, John	John Thompson for 67A	Civil Penalty and late filing fee for the committee's 2022 year-end report	\$1,000 LFF \$1,000 CP	3/10/23	7/5/23			Motion for default judgment served 9/11/23
	Trace, LLC Contacts: Ashley Moore, Patrick Hynes	2021 Annual Report of Lobbyist Principal, due 3/15/22	\$1,000 LFF \$1,000 CP	12/6/22	4/21/23			Motion for default judgment served 8/29/23