

ETHICAL PRACTICES BOARD

First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY
THE REQUESTER OF THE ADVISORY OPINION, WHICH IS NONPUBLIC DATA**

under Minn. Stat. § 10A.02, subd. 12(b) (1994 Minn. Laws, ch. 377, sec. 1)

RE: Lobbyist Registration

ADVISORY OPINION #192

SUMMARY

192. An individual appointed by elected local officials to a public position, who meets the definition of lobbyist provided in Minn. Stat. § 10A.01, subd. 11 (b)(4), must register with and report to the Minnesota Ethical Practices Board. Minn. Stat. §§ 10A.03 and 10A.04.

FACTS

You are employed by a public body to perform duties that include presenting information to appointed and elected officials at the federal, state, and local levels that can be used in their decision-making and review. You recommend actions that those officials should take and also recommend the direction of their development of policy, regulations or rules, and laws.

During six to nine months of the year, you spend less than half of your reportable hours of employment providing information to federal, state, and local officials. In those years when the full legislative session is held you will spend about three-fourths of your reportable employment hours, during the in-session months, in the aforementioned activities.

You state that you are either an employee or local official of a political subdivision or public body acting in an official capacity, and believe that you are exempt from lobbyist registration and reporting. You further state that the law is unclear to you in this area and that you would appreciate an advisory opinion of the Board on whether you are considered a lobbyist and would, therefore, be required to file as such under Minn. Stat. § 10A.04 or other provisions.

QUESTION

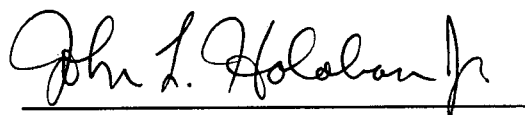
Do your activities on behalf of your employer, a public body, require you to register as a lobbyist under Minn. Stat. § 10A.03 and report under Minn. Stat. § 10A.04?

OPINION

Yes, if your activities meet the definition of lobbyist in Minn. Stat. § 10A.01, subd. 11 (b)(4). See copies attached for your reference.

It is the opinion of the Board that because you are appointed to your position by elected local officials, you are a nonelected local official, and if you spend more than 50 hours in any month attempting to influence state legislative or administrative action or the official action of a metropolitan governmental unit by communicating or urging others to communicate with public or local officials, the requirements imposed by Minn. Stat. § 10A.01, subd. 11 (b)(4), you must register as a lobbyist and report under Minn. Stat. §§ 10A.03, and 10A.04, respectively.

Issued: 2-3-1995



John L. Holahan, Jr., Chair
Ethical Practices Board

PERTINENT STATUTES

Minn. Stat. § 10A.01 DEFINITIONS provides:

...

Subd. 11. (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration, or authorized to spend money by another individual, association, political subdivision, or public higher education system, who spends more than five hours in any month or more than \$250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative action or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

...

(b) "Lobbyist" does not include:

...

(4) a nonelected local official or an employee of a political subdivision acting in an official capacity, unless the nonelected official or employee of a political subdivision spends more than 50 hours in any month attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit other than the political subdivision employing the official or employee, by communicating or urging others to communicate with public or local officials, including time spent monitoring legislative or administrative action, or the official action of a metropolitan governmental unit, and related research, analysis, and compilation and

dissemination of information relating to legislative or administrative policy in this state, or to the policies of metropolitan governmental units;

...

Subd. 18. "Public official" means any:

- (a) member of the legislature;
- (b) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;
- (d) commissioner, deputy commissioner, or assistant commissioner of any state department as designated pursuant to section 15.01;
- (e) individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;
- (f) executive director of the state board of investment;
- (g) executive director of the Indian affairs intertribal board;
- (h) commissioner of the iron range resources and rehabilitation board;
- (i) commissioner of mediation services;
- (j) deputy of any official listed in clauses (e) to (i);
- (k) judge of the workers' compensation court of appeals;
- (l) administrative law judge or compensation judge in the state office of administrative hearings or referee in the department of jobs and training;
- (m) solicitor general or deputy, assistant or special assistant attorney general;
- (n) individual employed by the legislature as secretary of the senate, chief clerk of the house, revisor of statutes, or researcher, legislative analyst, or attorney in the office of senate counsel and research or house research;
- (o) member or chief administrative officer of the metropolitan council, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission;
- (p) the director of the racing commission, the director of the gambling control board, the director of the state lottery, and the deputy director of the state lottery;
- (q) director or the division of gambling enforcement in the department of public safety;
- (r) member or executive director of the higher education facilities authority; or
- (s) member of the board of directors or president of the Minnesota world trade center corporation.

Subd. 25. **Local official.** "Local official" means a person who holds elective office in a political subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority 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.

Subd. 26. **Metropolitan governmental unit.** "Metropolitan governmental unit" means any

of the seven counties in the metropolitan area as defined in section 473.121, subdivision 2, a regional railroad authority established by one or more of these counties under section 398A.03, a city with a population of over 50,1000 located in the seven-county metropolitan area, the metropolitan council, a metropolitan agency as defined in section 473.121, subdivision 5a, a municipality as defined in section 471.345, subdivision 1, the Minnesota state high school league, and Minnesota Technology, Inc.