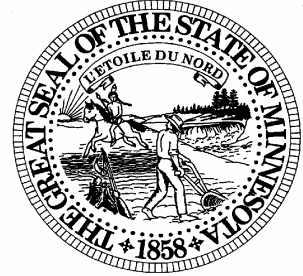


Minnesota

# *Campaign Finance and Public Disclosure Board*



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**THIS ADVISORY OPINION IS PUBLIC DATA PURSUANT TO A  
CONSENT FOR RELEASE OF INFORMATION SIGNED BY THE REQUESTER**

Issued to: John H. Herman  
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Minneapolis, MN 55402-3901

**RE: Potential Conflict of Interest for a Public Official**

## **ADVISORY OPINION 389**

### **SUMMARY**

A conflict of interest does not exist when a public official takes an official action related to a grant program that may eventually benefit the public official or an associated business if the actions do not directly cause the grants to be awarded.

### **FACTS**

As a Commissioner on the Legislative-Citizen Commission on Minnesota Resources you ask for an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts.

1. A Commissioner of the Legislative-Citizen Commission on Minnesota Resources (LCCMR) is a public official as defined in Minnesota Statutes, section 10A.01, subdivision 35 (19).
2. As one of its functions the LCCMR recommends to the Legislature the funding level for a grant program administered by the Minnesota Department of Natural Resources (DNR). The Legislature approves the funding for the grant program as part of the budget process. After the grant program is funded by the Legislature the DNR awards grants to organizations for specific projects on a competitive basis.

3. Potentially, an LCCMR Commissioner may also serve on the governing board, or be a member, of an organization that will apply for and may receive a grant from the DNR.
4. In addition to serving as an LCCMR Commissioner you are employed as an attorney by a Minnesota law firm. The law firm provides services to an organization that may receive a grant from the DNR.

### ISSUE ONE

Will serving as a Commissioner on the LCCMR and on the governing board of an organization that will apply for a grant from the DNR create a conflict of interest under the provisions of Chapter 10A?

### OPINION ONE

No. While the LCCMR plays an important role in the development of a policy and budget for the grant program in question, it is not making the type of decisions that will affect the financial interests of the Commissioners or of organizations that may compensate its members who are also Commissioners. As presented in the facts of this request, the authority to provide a specific grant to an organization rests with the DNR, not with the LCCMR. Additional separation between the actions of the LCCMR and the awarding of a grant is provided by the Legislature which is responsible for approving the funding provided to the grant program.

The separation between the actions of the LCCMR and the awarding of a specific grant removes the potential for conflict of interest as defined in Minnesota Statutes, section 10A.07, subdivision 1. This statute provides that a public official faces a potential conflict of interest if an action or decision of the official would substantially affect the financial interests of the official or of an associated business that compensates the public official more than \$50 in any month. Here the actions of a LCCMR Commissioner are sufficiently isolated from the actions or decisions that provide financial benefit to an organization (the awarding of a grant) so as to be outside of the provisions of the statute.

### ISSUE TWO

Will serving as a Commissioner of the LCCMR and being employed by a law firm that represents an organization that will apply for a grant from the DNR create a conflict of interest under the provisions of Chapter 10A?

### OPINION TWO

No. As discussed in opinion one, the actions or decisions of the LCCMR are sufficiently separated from the awarding of a grant to prevent a potential conflict of interest.

Issued November 28, 2006



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Bob Milbert, Chair  
Campaign Finance and Public Disclosure Board

## **Cited Statutes and Administrative Rules**

### **Minnesota Statutes, section 10A.01 Definitions**

Subdivision 35. **Public official.** "Public official" means any:

....

- (6) member, chief administrative officer, or deputy chief administrative officer of a state board or commission that has either the power to adopt, amend, or repeal rules under chapter 14, or the power to adjudicate contested cases or appeals under chapter 14;

....

### **Minnesota Statutes, section 10A.07 Conflicts of interest.**

Subdivision 1. **Disclosure of potential conflicts.** A public official or a local official elected to or appointed by a metropolitan governmental unit who in the discharge of official duties would be required to take an action or make a decision that would substantially affect the official's financial interests or those of an associated business, unless the effect on the official is no greater than on other members of the official's business classification, profession, or occupation, must take the following actions:

- (1) prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest;
- (2) deliver copies of the statement to the official's immediate superior, if any; and
- (3) if a member of the legislature or of the governing body of a metropolitan governmental unit, deliver a copy of the statement to the presiding officer of the body of service.

If a potential conflict of interest presents itself and there is insufficient time to comply with clauses (1) to (3), the public or local official must orally inform the superior or the official body of service or committee of the body of the potential conflict.