

**State of Minnesota**  
**Campaign Finance and Public Disclosure Board**  
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

**THIS ADVISORY OPINION IS PUBLIC DATA**  
**pursuant to a consent for release of information**  
**provided by the requester**

Issued to: Patricia Beety  
General Counsel  
League of Minnesota Cities  
145 University Avenue West  
St. Paul, MN 55103

**RE: Lobbyist Registration and Reporting**

**ADVISORY OPINION 456**

**SUMMARY**

A membership organization for political subdivisions that communicates with its members about lobbying efforts made on behalf of those members, and suggests that members take action to support those lobbying efforts, is not lobbying its own members.

**FACTS**

On behalf of the League of Minnesota Cities, the Association of Metropolitan Municipalities, the Minnesota Association of Small Cities, the Coalition of Greater Minnesota Cities, and the Municipal Legislative Commission, (Membership Organizations) you request an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts which were provided to the Board in a written request, and through Board records.

1. Each of the five Membership Organizations that request this opinion have lobbyists registered with the Board, and are lobbyist principals. As of the date of this opinion the Coalition of Greater Minnesota Cities is represented by fourteen lobbyists, the League of Minnesota Cities is represented by twelve lobbyists, the Association of Metropolitan Municipalities is represented by five lobbyists, the Municipal Legislative Commission is represented by one lobbyist, and the Minnesota Association of Small Cities is represented by one lobbyist.
2. Cities in Minnesota pay dues to belong to one or more of the Membership Organizations. In return, the Membership Organizations provide services and take actions on behalf of the cities. This includes lobbying the legislature and, in some cases, lobbying the Metropolitan Council and state agencies.

3. Each Member Organization adopts legislative policies that are then brought to the legislature to encourage actions that will support local government. The legislative policies that the Membership Organizations' lobbyists support are exclusively determined and prioritized by formal committees made up of local officials from member cities. The Membership Organizations do not have legislative goals independent of their members; only policy recommendations formally developed by their members are supported by lobbyists registered for the Membership Organizations. The policies range from general to more specific, but are never policies to benefit a single city.
4. A city that wishes to pursue legislative policy specific to that city must hire its own lobbyist.
5. The Membership Organizations report back to the cities on the legislative session, and in particular the lobbying efforts as directed by the members. This includes identifying and explaining legislation that would support or conflict with the legislative goals established by the Membership Organizations.
6. As part of lobbying efforts the Membership Organizations may suggest that cities sign a letter in support of or opposition to a given legislative action, or suggest that cities contact their legislative delegation to ask for support of legislation, or to voice opposition to legislation, that aligns or conflicts with the legislative goals established by the member cities of the Membership Organizations.
7. A city council must vote to authorize a city official to either sign a letter on behalf of the city, or reach out to a legislator on behalf of a city. Therefore, the city council is taking an "official action of a political subdivision"<sup>1</sup> when it authorizes communication in the city's name to support or oppose legislative action.

### **Issue One**

Is a Membership Organization lobbying its member cities when it reports on the status of legislation and lobbying made on behalf of the membership, and recommends actions by the member cities that will support that lobbying effort?

### **Opinion One**

No. The member cities pay dues and fees to the Membership Organizations, in part, as payment for lobbying the legislature on issues selected by the cities. The Membership Organizations are, in effect, lobbying the legislature as paid agents of the member cities

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<sup>1</sup> Effective January 1, 2024, Minnesota Statutes section 10A.01, subdivision 26b, will provide that "[o]fficial action of a political subdivision' means 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."

of each organization. As described, the legislative status reports are an update on the progress and obstacles faced by the Membership Organizations' lobbyists while working on the issues that were selected by the member cities. Chapter 10A does not restrict communication between a lobbyist and the lobbyist's client, or require that the communication between a lobbyist and the client be reported as lobbying, even if the client is a political subdivision of the state.

Minnesota Rules 4511.0100, subpart 3, defines the term lobbying to mean "attempting to influence legislative action, administrative action, or the official action of a metropolitan governmental unit<sup>2</sup> 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." The vote required by a city council in order for a city official to sign a letter of support for a legislative action, or contact a legislator, on behalf of the city is an official action by the city. If the Membership Organizations were asking the cities to take an official action in support of an issue or agenda brought to the cities by the Membership Organizations independent of their member cities, that would be lobbying of political subdivisions as provided in Chapter 10A. However, under the facts of this advisory opinion, the cities are not being asked to support the legislative agenda of the Membership Organizations, because the Membership Organizations do not have their own legislative agenda. The legislative agenda of each Membership Organization was created by its member cities, and lobbying effort to support the issues included in that agenda is being paid for by the member cities.

The question for the Board is whether lobbying of political subdivisions includes this situation in which an entity is reporting to a political subdivision the result of lobbying made on the political subdivision's behalf, or recommends actions by the political subdivision that will support that lobbying effort. When attempting to ascertain legislative intent courts are guided by Minnesota Statutes section 645.17, which states, in relevant part, that "the legislature does not intend a result that is absurd, impossible of execution, or unreasonable." Here, the Board concludes that the legislature intends for there to be meaningful disclosure to the public of lobbying by individuals and associations to influence the official actions of political subdivisions, but did not intend to include providing information on work requested and paid for by the political subdivision as lobbying of that political subdivision.

Further, if the Board was to conclude that the actions described in this opinion request is lobbying of political subdivisions then, as a consequence, the Membership Organization's lobbyists would need to file reports that list each member city as a subject of lobbying, and each issue that the Membership Organization lobbied on at the legislature as a lobbying subject for each city.

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<sup>2</sup> The Board intends to replace the term "metropolitan governmental unit" with the term "political subdivision" within its administrative rules in order to reflect changes to Minnesota Statutes section 10A.01, subdivision 21, and other lobbying provisions, which will take effect on January 1, 2024.

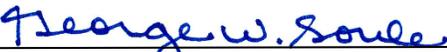
Each of the Member Organizations that requested this opinion already have lobbyists registered with the Board. Under the lobbyist reporting requirements that will be in effect as of January 1, 2024, lobbyists will disclose separately each issue on which they attempted to influence legislative action, and then separately each political subdivision where the lobbyist attempted to influence an official action. The League of Minnesota Cities currently has eight hundred and thirty-eight cities as members. Lobbyists for the League of Minnesota Cities will report the subjects they are lobbying on at the legislature on behalf of the member cities. If communicating with member cities about the legislative session as described would be considered lobbying of political subdivisions, then the lobbyists would be required to also list each of the eight hundred and thirty-eight cities separately, and for each city list the same lobbying subjects that were already disclosed as legislative lobbying. This would distort the disclosure provided in lobbyist reports by making it appear that the League of Minnesota Cities is lobbying the cities on those subjects, when actually the League of Minnesota Cities is lobbying on those subjects at the legislature at the direction of the member cities. The Board concludes that classifying requests by the Membership Organizations to member cities to express support for lobbying would have the consequence of distorting the reported lobbying by the Membership Organizations, and is not the intent of the legislature.

Although the activities contemplated in the request do not constitute lobbying of political subdivisions, encouraging member cities to communicate with members of the legislature, who are public officials, is legislative lobbying. For that reason, the conclusion that the contemplated activities do not constitute lobbying of political subdivisions does not impact which individuals are required to register as lobbyists under Minnesota Statutes section 10A.03. The Membership Organizations will need to track the cost of communicating with member cities to encourage support for a legislative effort as a cost to be reported on the Annual Report of the Lobbyist Principal.

### **Board Note**

If the Board intends to apply principles of law or policy announced in an advisory opinion more broadly than to the individual or association that requested the opinion, then the Board must adopt the principal or policy in an administrative rule.<sup>3</sup> The Board notes that it is in the process of adopting and modifying administrative rules regarding lobbying, and that the issue of communications between an association and members of the association may also be addressed in the forthcoming administrative rules.

Issued: December 13, 2023

  
George W. Soule, Chair  
Campaign Finance and Public Disclosure Board

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<sup>3</sup> Minn. Stat. § 10A.02, subd. 12a.