



DEDICATED TO A STRONG GREATER MINNESOTA

August 21, 2024

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

Re: Lobbying Definitions Study

Dear Members of the Campaign Finance Board,

On behalf of the Coalition of Greater Minnesota Cities (CGMC), I am writing to submit comments as you embark on studying and making recommendations regarding the lobbying laws as they pertain to the lobbying of public officials and local officials in political 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. Our member cities and their employees may be impacted by changes to laws and regulations relating to the lobbying rules.

First, we want to acknowledge the changes that the Campaign Finance Board (CFB) and the Legislature have made in response to earlier concerns that we raised about the 2023 legislative changes. For example, Advisory Opinion 456 clarified that when a member organization comprised of political subdivisions reaches out to its members regarding legislation, that activity does not constitute lobbying. The Legislature also amended the definition of an employee of a political subdivision to include consultants, independent contractors, and others hired by local governments. These changes recognize that certain activities of local governments are part of the ordinary course of business and should not be considered lobbying. We thank the CFB for working on these changes and urge that these concepts remain in place when the CFB makes its final recommendations on further changes.

Challenges remain, however, with the recent legislative changes to the lobbying statute that may cause confusion and consternation for local governments. Our remaining comments focus on the need for better clarity for local government employees in certain scenarios.

As the CFB considers its recommendations for local government lobbying, we also 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.

Communications Between Local Governments Regarding Joint Activity Should Not Be Considered Lobbying

Local governments in Minnesota frequently collaborate on projects that involve decision-making by their respective bodies. A city and a county may work together on the construction of a building, a road, or a park. A watershed district and a township may collaborate on a wetland project. A city and a township may negotiate an orderly annexation agreement. A school board may purchase or sell land from a county. There are countless permutations of potential intergovernmental projects in which the employee of a local government may be having discussions with another governmental entity that could be construed as attempts to influence a decision by that other government entity. Requiring such employees to register as lobbyists when they spend more than fifty hours in any month on such work would be cumbersome and would not further the public interest in transparency. We urge the CFB to make clear that such cooperative work between governmental entities does not fall within the definition of lobbying.

We understand that attempting to include the official action of a different political subdivision other than the political subdivision at which one is employed was originally targeted toward communications involving the Metropolitan council and local governments that may be reporting to or seeking something from it. Narrowing the definition to such circumstances may be the best approach and would allow collaboration between local governments to continue.

The Definition of Local Government Employees as Lobbyists Should Be Narrowly Construed

We appreciate that the definition of lobbyists excludes elected local officials and some unelected local officials, but we are still concerned that the definition is still too broad and confusing, especially when combined with the more expanded definition of legislative action. Specifically, Minn. Stat. 10A.01 Subd. 21 (b)(4) excludes nonelected local officials or employees of a political subdivision unless:

. . . [u]nless 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 political subdivision 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 political subdivision, and related research, analysis, and compilation and dissemination of information relating to legislative or administrative policy in this state, or to the policies of political subdivisions.

We are concerned that the highlighted language regarding research, analysis, and compilation of information relating to legislative or administrative policy could sweep up local government employees working on projects that result in legislation, such as a bonding request. Countless hours are spent on activities such as research or analysis that become part of the materials related

to a legislative bonding request, such as engineering studies or financial analysis. Public employees would need to track all their hours when working on projects related to legislative action to determine whether they are exceeding the 50-hour threshold in any month. Identifying all public employees who exceed that threshold as lobbyists does not serve the public interest. We urge the CFB to narrow and simplify the category of local government employees who are considered lobbyists to those who actively participate in advocacy communication with legislators.

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.

A handwritten signature in black ink that reads "Shelly Carlson". The signature is written in a cursive, flowing style.

Shelly Carlson, Mayor of Moorhead
President, Coalition of Greater Minnesota Cities