



DEDICATED TO A STRONG GREATER MINNESOTA

November 19, 2024

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

Re: Lobbying Definitions Study – Supplemental Comments

Dear Members of the Campaign Finance Board,

On behalf of the Coalition of Greater Minnesota Cities (CGMC), I am writing to supplement our earlier comments and testimony as you study and make recommendations regarding the lobbying laws as they pertain to the lobbying of public officials and local officials in political subdivisions. The purpose of this letter is to amplify and clarify a few comments that we raised in our August 12 letter and in testimony to the CFB.

Widespread Cooperation Between Governmental Entities Requires Narrow Definition of Lobbying

We would like to reiterate our concern about keeping the definition of lobbying as it pertains to activities between local government subdivisions as narrow as possible. These concerns were also outlined in our August submission, but we write again to emphasize just how fundamental intergovernmental collaboration is to many local government roles. Specifically, as the CFB continues to study this issue, we want to emphasize that a narrow definition of lobbying is necessary to avoid the sudden inclusion of hundreds or thousands of local government officials, without any additional public benefit. Collaboration between local government subdivisions should be considered a hallmark of good government, not a trigger for lobbying requirements.

The expansion of the definition of lobbying newly brought more than 3,000 local government subdivisions under the purview of campaign finance laws. Undoubtedly, multiple appointed officials or employees at almost all these entities engage regularly in projects that involve “official action” by their respective bodies and other government entities, whether it be a construction project, a purchase or sale, contracting for services, or something else. Many employees may be engaged in multiple projects performing activities that meet the very broad definition of lobbying under Minn. Stat. 10A.01, Subd. 21(4), which could trigger lobbyist registration and reporting requirements based on activities that most people would not consider lobbying. This collaboration between governments is not isolated to larger, special projects. It happens every day.

For example, a city's engineering department and public works staff engage daily with their counterparts in county or state government regarding the maintenance of basic public infrastructure, including roads, water and wastewater. This collaboration is expected by the public, which demands that basic infrastructure be safe and well-maintained regardless of which level of government is responsible for it.

Cities and counties routinely collaborate, which arguably may include trying to influence one another—on projects in ways that have not traditionally been considered lobbying. For example, appointed officials or staff who engage with one another to iron out specific design elements, cost allocations between levels of government, or important decisions about the timing of project delivery have traditionally been understood to be simply doing their jobs. Under too broad a definition, these activities might be considered lobbying other local governments. Therefore, we urge that the definition of lobbying be narrowed as it pertains to cooperation between local government subdivisions.

Requiring Lobbying Registration Could Impose Costly and Unnecessary Burdens on Local Government Officials

Throughout the discussions on lobbying laws, the question has been raised regarding whether requiring a host of local government officials to register imposes a burden that should cause concern. We believe that answer is yes for a variety of reasons:

- **Unnecessary and confusing record keeping.** To determine whether any given employee or unelected official must register and to prepare the information needed for reporting, many local government employees will need to closely track their time on any project or projects involving another government entity if that work involves communicating or asking someone else to communicate with someone at another local subdivision or performing research, analysis, or compilation of information relating to that project. The employee may find it challenging to determine whether their conduct fits within the definition of lobbying. The employee may not know whether they will reach the 50-hour threshold on a project or combination of projects until the end of the month, so there may be multiple instances where they track their time but ultimately do not need to register. Requiring this level of record keeping on collaborative projects will be costly, in terms of time and money, but it will not likely provide information of value to justify that cost.
- **Restrictions on the unwary could lead to fines.** Lobbyists are subject to restrictions not imposed on the general public. For example, lobbyists are prohibited from making campaign donations during the legislative session. One could easily envision a city engineer who now falls within the definition of lobbyist getting asked to make a campaign donation by his friend down at the local Rotary Club who has no idea that this person is a lobbyist, and neither thinks twice about the fact that it's the legislative session. That engineer could now be facing a fine. Failure to register or missing a reporting deadline by even a day can result in a fine. Even if fines are rare and/or complaint driven, it does not serve a public purpose to put those employees, or taxpayer money, in the position to face a potential fine.

Applying Broad Lobbying and Reporting Burdens to Local Officials Does Not Significantly Benefit the Public

Finally, we want to continue to be very clear that a narrow definition of lobbying for these purposes can be a win-win. It would avoid placing unnecessary burden and liability on local officials and do so without diminishing the information already available to the public on local government activities.

Local governments are already subject to extensive public data, disclosure, open meeting, and information retention laws. In fact, in nearly all cases, the activity, records, communications, and deliberations of local governments are *already* public to a much greater degree than at other levels of government—particularly when contrasted against the state legislature.

Other Considerations Regarding Local Government Lobbying

Finally, we wanted to distinguish some recent comments from current and former elected local officials. Some recent comments in this process have advocated for applying lobbying restrictions to local governments in order to add transparency to situations where attorneys or others are seeking to influence individual council members or staff to a specific end, for a specific client. It is important to note that those are different from the situations that we discussed above.

Moreover, while those comments are worth considering, cities also have existing tools at their disposal to address some of these issues. Cities that seek to shine a light on non-public communications often adopt rules or codes of ethics that include specific disclosure procedures and penalties for “ex parte” communications. Adding layers of lobbying reporting may not be necessary to achieve those commenters’ goals.

Thank You

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.



Shelly Carlson, Mayor of Moorhead
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