

Review of Regulations in Other States

Expert Testimony – Under current law the definition of lobbyist excludes “a paid expert witness whose testimony is requested by the body before which the witness is appearing, but only to the extent of preparing or delivering testimony;” Minn. Stat. §10A.01, subd. 21(8). Some states exclude testimony provided by an expert, or in some cases by any individual, from the definition of lobbying if the testimony is provided at a public hearing.

Alabama – Lobbying does not include testimony before regulatory body, requested or not.

Alaska – Lobbyist does not include an individual “who limits lobbying activities to appearances before public sessions of the legislature, public hearings, or other public proceedings of state agencies;”

District of Columbia – Lobbying does not include “Testimony given before the Council or a committee of the Council, during which a public record is made of such proceedings or testimony submitted for inclusion in such a public record.”

Michigan - Lobbying does not include “providing of technical information when appearing before an officially convened legislative committee or executive department hearing panel. As used in this subsection, “technical information” means empirically verifiable data provided by a person recognized as an expert in the subject area to which the information provided is related.”

Missouri – Lobbying does not include: “Participating in public hearings or public proceedings on rules, grants, or other matters;”

Rhode Island - Lobbying does not include: “A qualified expert witness testifying in an administrative proceeding or legislative hearing, either on behalf of an interested party or at the request of the agency or legislative body or committee.”

Exclude attempting to influence a quasi-judicial decision by a political subdivision. Some states do provide an exception from lobbyist registration for certain types of activity that do not relate to making policy. Minnesota excludes from the definition of lobbyist “a party or the party's representative appearing in a proceeding before a state board, commission, or agency of the executive branch unless the board, commission, or agency is taking administrative action;” Minn. Stat. §10A.01, subd. 21(5).

Arizona – Lobbyist does not include “An attorney who represents clients before any court or before any quasi-judicial body.”

Connecticut - Lobbying does not include “(A) communications by or on behalf of a party to, or an intervenor in, a contested case, before an executive agency or a quasi-public agency...”

District of Columbia – Lobbying does not include “The appearance or presentation of written testimony by a person on his or her own behalf, or representation by an attorney on behalf of any such person in a rulemaking, rate-making, or adjudicatory hearing before an executive agency or the Tax Assessor;”

Florida – Lobbyist does not include “an attorney who represents a client in a judicial proceeding or in a formal administrative proceeding or any other formal hearing before an agency, board, commission, or authority of this state;”

Kansas – Lobbying does not include “communications by an attorney representing a client involving ongoing legal work with respect to an executive administrative matter or judicial administrative matter, or an administrative proceeding or hearing and negotiations conducted by and with attorneys for executive agencies or judicial agencies, or interactions between parties in litigation or other contested matters.”

Massachusetts – Lobbying does not include “an act made in compliance with written agency procedures regarding an adjudicatory proceeding, as defined in section one of chapter thirty A, conducted by the agency, or similar adjudicatory or evidentiary proceedings conducted by any department, board, commission or official”

Lobbying applies to “policy” - "Policy", a plan or course of action which is applicable to a class of persons, proceedings or other matters and which is designed to influence or determine the subsequent decisions and actions of any covered executive official, including, but not limited to, a plan or course of action which would constitute a "regulation", as defined in chapter thirty A. The term shall not include the adjudication or determination of any rights, duties, or obligations of a person made on a case by case basis, including but not limited to the issuance or denial of a license, permit, or certification or a disciplinary action or investigation involving a person.”

Missouri - Lobbying does not include “Preparing, filing or inquiring, or responding to any audit, regarding any tax return, any public document, permit or contract, any application for any permit or license or certificate, or any document required or requested to be filed with the state or a political subdivision;”

New Hampshire – “Registration not required when: employed to represent another only in an adjudicative proceeding or nonadjudicative process other than a rulemaking proceeding or process related to the purchasing of goods or services by the state, and who files an appearance with the authority conducting the matter.”

Rhode Island – Lobbyist does not include “Licensed attorneys who: (i) Represent a client in a contested administrative proceeding, a licensing or permitting proceeding, or a disciplinary proceeding;”

South Carolina – Lobbyist does not include “a person who appears only before public sessions of committees or subcommittees of the General Assembly, public hearings of state agencies, public hearings before any public body of a quasi-judicial nature, or proceedings of any court of this State.”

Registration and reporting delegated to political subdivisions. Many states allow political subdivisions to set up their own lobbyist registration and reporting requirements. That is a fairly common practice in major metropolitan areas. Nine states require registration with the state for lobbying local government. The state of Maryland requires all cities and counties to adopt local lobbying ordinances.

Consider whether Townships should be included in local lobbying regulations. Alabama and Georgia limit registration to lobbying cities and counties. Missouri requires registration if the local jurisdiction has an operating budget of over \$10 million dollars. At this point staff is unsure if the other six states that require registration for local lobbying exclude some types of jurisdictions from that requirement. For reference, in Minnesota the definition of political subdivision under section 10A.01, subdivision 31 is somewhat circular because it includes “a municipality as defined in section 471.345, subdivision 1” which in turn includes a “municipal corporation or political subdivision of the state authorized by law to

enter into contracts.” That definition appears to include 87 counties, 856 home rule charter and statutory cities, 1,764 townships, 330 school districts, metropolitan or regional agencies, public corporations, and special taxing districts.

Minnesota Statutes section 275.066 provides that the term special taxing districts includes:

- (1) watershed districts under chapter 103D;
- (2) sanitary districts under sections 442A.01 to 442A.29;
- (3) regional sanitary sewer districts under sections 115.61 to 115.67;
- (4) regional public library districts under section 134.201;
- (5) park districts under chapter 398;
- (6) regional railroad authorities under chapter 398A;
- (7) hospital districts under sections 447.31 to 447.38;
- (8) St. Cloud Metropolitan Transit Commission under sections 458A.01 to 458A.15;
- (9) Duluth Transit Authority under sections 458A.21 to 458A.37;
- (10) regional development commissions under sections 462.381 to 462.398;
- (11) housing and redevelopment authorities under sections 469.001 to 469.047;
- (12) port authorities under sections 469.048 to 469.068;
- (13) economic development authorities under sections 469.090 to 469.1081;
- (14) Metropolitan Council under sections 473.123 to 473.549;
- (15) Metropolitan Airports Commission under sections 473.601 to 473.679;
- (16) Metropolitan Mosquito Control Commission under sections 473.701 to 473.716;
- (17) Morrison County Rural Development Financing Authority under Laws 1982, chapter 437, section 1;
- (18) Croft Historical Park District under Laws 1984, chapter 502, article 13, section 6;
- (19) East Lake County Medical Clinic District under Laws 1989, chapter 211, sections 1 to 6;
- (20) Floodwood Area Ambulance District under Laws 1993, chapter 375, article 5, section 39;
- (21) Middle Mississippi River Watershed Management Organization under sections 103B.211 and 103B.241;
- (22) fire protection and emergency medical services special taxing districts under section 144F.01;
- (23) a county levying under the authority of section 103B.241, 103B.245, or 103B.251;
- (24) Southern St. Louis County Special Taxing District; Chris Jensen Nursing Home under Laws 2003, First Special Session chapter 21, article 4, section 12;

(25) an airport authority created under section 360.0426; and

(26) any other political subdivision of the state of Minnesota

Sanitary districts and regional sanitary sewer districts are special taxing districts under Minnesota Statutes section 275.066 and thereby appear to be political subdivisions. That includes:

(27) Alexandria Lakes Area Sanitary District

(28) Crane Lake Sewer & Water District

(29) Duluth/North Shore Sanitary District

(30) East Itasca Joint Sewer Board

(31) Western Lake Superior Sanitary District (2772)

Minnesota Statutes sections 471.59 - 471.631 address joint powers entities. Joint powers entities are authorized to enter into contracts under Minnesota Statutes section 471.59. Minnesota Statutes section 465.717 strongly implies that a joint powers entity should be treated the same as a political subdivision.

(32) Cloquet Area Fire District

(33) Great River Rail Commission

(34) Lakes Area Police Commission

(35) Mahnomon Health Care Center

(36) Metropolitan Emergency Services Board

(37) MN Environmental Science & Economic Review Bd

(38) Northeast Regional ATV Trail Joint Powers Board

(39) Northland Learning Center

(40) Pope/Douglas Solid Waste Management

(41) St. Cloud Regional Airport Authority

(42) South Central MN EMS Joint Powers Bd

(43) Southeastern MN EMS Joint Powers

(44) Voyageurs Natl Park Clean Water Project Joint Powers Board

Regional Development Commissions, Housing and Redevelopment Authorities, and Economic Development Authorities are special taxing districts under Minnesota Statutes section 275.066 and thereby are political subdivisions under Minnesota Statutes section 6.465, subdivision 2. This includes:

(45) Dakota County Community Development Agency

(46) Fridley Housing & Redevelopment Authority

Municipal Corporations and Utilities, under Minnesota Statutes section 216B.02, subdivision 2, which pertains to public utilities, a corporation is defined to include “a private corporation, a public corporation, a municipality, an association, a cooperative whether incorporated or not, a joint stock association, a business trust, or any political subdivision or agency.” Therefore, it appears the following are political subdivisions.

- (47)Grand Rapids Public Utilities Commission
- (48)Hennepin County Medical Center (HCMC)
- (49)Southern MN Municipal Power Agency (SMMPA)
- (50)Rochester Public Utilities

Other entities, for various reasons it appears that the following may be political subdivisions.

- (51)Duluth Entertainment and Convention Center
- (52)Metropolitan Mosquito Control District
- (53)MN State Agricultural Society

Remove political subdivision employees working with other political subdivision employees on joint power agreements or regional issues from the definition of lobbyist. Current statute generally excludes an employee of a political subdivision from the definition of lobbyist unless “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 political subdivision other than the political subdivision employing the official or employee,” Minn. Stat. §10A.01, subd. 21 (4). For the nine states that require registration with the state for lobbying at the local level I did not find an exception for individual representing another political subdivision, but I will survey those states on the issue.