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January 29, 2024

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

On behalf of the Board of Directors and membership of the Minnesota Governmental Relations Council (MGRC), we appreciate the opportunity to submit comments to the Minnesota Campaign Finance and Public Disclosure Board Rulemaking Committee regarding new lobbyist registration and reporting guidelines.

The Minnesota Government Relations Council (MGRC) is a Minnesota nonprofit organization serving government relations professionals by providing advocacy, professional development, networking, and an enhanced working experience inside and outside the Capitol. We are a network of more than 500 lobbyists and public relations professionals in Minnesota, whose common goal is to influence the public policy process through ethical representation.

For several years, MGRC board members have been meeting with legislators and representatives of the Minnesota Campaign Finance and Public Disclosure Board (CFB) to discuss legislation relating to lobbyist regulation and public disclosure. To date, MGRC has engaged our full membership at several points to compile feedback, which we have shared with Campaign Finance Board staff and members. We appreciate the collaboration with the CFB staff and commend their willingness to engage MGRC on matters that directly affect our membership.

MGRC members take compliance with lobbying regulations very seriously. Ethical representation and adherence to the laws governing our community are among our core principles.

However, the message we continue to hear from our members is: the new statutes and rules aimed at lobbyist regulation and disclosure are confusing and cumbersome. The professional lobbying community desires a set of regulations that are clear and do not pose an undue compliance burden.

Several members have suggested Minnesota adopt the federal definitions at 2 U.S. Code § 1602 related to lobbying, including lobbying activities, lobbying contact, and exceptions. Conformity with the federal definitions would provide the desired clarity requested by the professional lobbying community.

MGRC greatly values citizen engagement in the legislative process. Several of the changes made in statute and proposed in the rules have the potential to silence voices and restrict free speech. As a community, we are concerned about burdensome regulations impacting citizens from participating in local and state issues due to fear of inadvertently triggering the need to register as a lobbyist. It would be unfortunate if requirements aimed at the professional lobbying community had the unintended consequence of chilling speech for regular citizens.

Although the new statute and rules are confusing and cumbersome, MGRC's membership is actively tracking the work by the CFB and preparing our organizations to comply with the new measures. However, many of whom will be affected by the new rules are citizens or organizations that are not tuned into the work of the CFB or already members of the lobbying community. How will they be notified that their advocacy may now trigger a need to register as a lobbyist?

Additionally, we have been assured that the public will not be affected by the changes because CFB will not, or does not have the capacity to, investigate or enforce the new rules. This assurance does not lessen our members' duty to be compliant.

We are enclosing an Appendix which contains questions and comments recently received from our members. A similar previous submission was made to the Campaign Finance Board in September 2023.

The Minnesota Governmental Relations Council stands ready to continue our collaboration with the Campaign Finance Board staff and members.

Thank you again and we look forward to continuing this dialogue during the rule making process in the coming weeks.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Karbo". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Karbo".

Michael Karbo
MGRC President

APPENDIX: FEEDBACK RECEIVED (December 2023 – January 2024)

Are Advisory Opinions informing the rules or the rules informing the Advisory Opinions?

What happens if they are in conflict with each other?

How many new lobbyist registrations do they anticipate?

The definition in our state's campaign finance law is far broader than the FEC's definition of lobbying in federal law. Minn. Stat. 10A.01 includes "development of legislation, review, and modification" This seems to include subject matter experts simply providing the legislature with expertise on a bill that could inform a decision without what the federal government would consider as lobbying. Has the board looked at honing that definition more to ensure that the legislature continues to receive expert opinion? The fear is that this will have a chilling effect of expert participation in the process.

I am confused about the \$500 reporting. The way I read it: an association, who has members companies with dues over \$500, that lobbies at the Capitol or other government as part of their mission must have lobbyists report the individual names of the companies that have contributed to the association for lobbying purposes if it is over \$500.

What happens if an expert is appearing at the invitation of the committee or city council? How about if they show up on their own - it is lobbying?

Would this exclude a variance from zoning code from actions/approval of elected local officials?

As an advocacy organization, because the definition of Lobbying is more expansive than the federal definition (as another question referenced) and because there is some ambiguity, we have tried to err on the side of over-reporting, and registering most of our staff as lobbyists, even if they not doing direct lobbying but are doing community organizing, for example. Am curious if this is a recommended approach that others are taking.

What is "routine"? Many permits, licenses and variances can become very controversial and require advocacy.

Some state agencies are overseen by a governor-appointed board and are tasked with advocating for issues in their areas of focus. Some examples are the Board on Aging, Council on Disability,

Commission of the Deaf, DeafBlind & Hard of Hearing. As part of their mission they provide testimony to legislators and meet with them on the issues. Sometimes this is at the invitation of legislators, but not always. Do their government relations people need to register as lobbyists?

We have some local elected officials who are also engaged in lobbying. If a local elected official who is a registered lobbyist that appears before a county board or another city council, will they have to report that interaction if they exceed the \$3k threshold despite them being elected officials?

Is the \$3000 per individual, or \$3000 to a lobbyist employer who may employ multiple lobbyists?

Employers of contract lobbyists may, for internal and other reasons, not always disclose to that lobbyist contractor all relationships/expenses including some that fall into the MN definition of lobbying. Therefore it can, I believe it has, that a designated lobbyist has no way of knowing of certain items that should be reported - and yet is the party that could be held responsible for that lack of reporting. For this reason and for the benefit of direct reporting from the actual source of the funding wouldn't it make more sense to have all expense reported by the Principal vs the lobbyist?

Thank you for noting the complexities in reporting for in-house advocates at nonprofits!

I think the concern from larger state associations that represent governments is that our members/government professionals are constantly asked to provide input and advice on legislative proposals. There is concern that many local government professionals (assessors, zoning administrators, child protection workers) now have to register as lobbyists because they provide some input legislatively.

Most (if not all) of the attendees here are already registered lobbyists for at least one client. Does that mean that purely personal interactions with local elected officials (city council, county board) are now reportable? E.g., XXX needs to report to the state that she is working with the city council to amend her lot lines, even though she is not being paid for that action?

In your AO example, what about time the CEO spent prepping etc.

Nonprofits cannot go over a lobbying threshold in order to maintain their tax status. Is there any clarifying guidance for nonprofits?

E.g., if Nathan spends \$3k and is registered once, each subsequent interaction is a lobbying activity. Now he's jeopardized his nonprofit status.

I'm attempting to follow the changes to lobbying reporting rules, but not succeeding. One thing I think would be massively helpful would be for MN to match our definition of lobbying to the IRS. I worked with an attorney last year who advised that my org report only what the IRS would consider to be lobbying, but that doesn't sit well, since MN's definition is much more expansive.

Minnesota Campaign Finance Board – Local Lobbying Definition Clarifying Questions

- Presume the company owns property that impacts a public infrastructure project. Does providing engineering and real estate review of municipal plans, including feedback and required changes for activity on private property, constitute lobbying under the new regulations? Are these reviews or redrawn plans or designs expenses that need to be reported on the Lobbyist Principal Expenditure Report?
- Presume the company runs a private railroad and the political subdivision is looking for guidance on building an industrial park with access to the private rail infrastructure. Does informing the political subdivision of our design standards and operational requirements, or reviewing their plans for such a project, constitute lobbying under the new regulations? Are these reviews or plans expenses that need to be reported on the Lobbyist Principal Expenditure Report?
- If a company regularly pays a permit fee to a political subdivision and the political subdivision changes the policy by which the fee is determined, does providing feedback and/or legal arguments opposing those fee changes constitute lobbying under the new regulations?