



# MINNESOTA

## CAMPAIGN FINANCE BOARD

## Order Adopting Rules

### Minnesota Campaign Finance and Public Disclosure Board

**Adoption of Rules Relating to Campaign Finance; Lobbying; and Audits and Investigations, Minnesota Rules, Chapters 4501, 4503, 4511, 4512, and 4525; Revisor's ID Number 4809; OAH Docket Number 24-9030-39382**

### BACKGROUND INFORMATION

1. This order repeals Minnesota Rules, part 4511.0500, subpart 5, which as a result of the amendment of Minnesota Rules, part 4511.0500, subpart 3, will become duplicative and therefore must be repealed under Minnesota Statutes, section 14.05, subdivision 5.

2. The Campaign Finance and Public Disclosure Board has complied with all notice and procedural requirements in Minnesota Statutes, chapter 14, Minnesota Rules, chapter 1400, and other applicable law. A copy of the Board's authorization to propose the rules is attached.

3. The Board received four written comments and submissions on the rules. Zero persons requested a public hearing. Therefore, there are not 25 or more requests for a public hearing. The Board received zero requests for notice of submission to the Office of Administrative Hearings.

4. The Board modified the proposed rules, in four ways, following publication of its Dual Notice.

A. Modification to Part 4501.0100, subpart 4

Subp. 4. **Compensation.** "Compensation" means every kind of payment for labor or personal services, including any amount withheld by an employer for the payment of income tax. Compensation does not include payments of Social Security for Federal Insurance Contributions Act taxes, unemployment compensation taxes, insurance, or benefits, workers' compensation insurance or benefits, disability insurance or benefits, life insurance, health care insurance or benefits, retirement benefits, or pension benefits.

As modified, the rule would provide clarity by excluding many similar types of payments made by employers for various benefits from the definition of compensation, which for

some individuals may be difficult to calculate without those exclusions. The rule would continue to define core types of remuneration as compensation, including wages and salaries, payments made to contractors for services rendered, bonuses, commissions, deferred compensation, and payments of stock or other shares of ownership. The modification would also eliminate the need to refer to “gross compensation” within the proposed rule to be codified at Minnesota Rules, part 4511.0100, subpart 5a.

The modification would not make the rule substantially different from the rule text published with the Board’s Dual Notice:

Subp. 4. **Compensation.** "Compensation" means every kind of payment for labor or personal services. Compensation does not include payments of Social Security, unemployment compensation, workers' compensation, health care, retirement, or pension benefits.

The modification regarding amounts withheld for the payment of income tax, while adding clarity, would not change the substance of the rule because the word “payment” is already considered to include earnings prior to any withholding for payment of income tax. The differences between the rule text published with the Board’s Dual Notice and the modified text are within the scope of the Board’s Dual Notice because they concern the definition of a single word. The differences are a logical outgrowth of the Board’s Dual Notice and the comment of the Minnesota Council of Nonprofits, which seeks additional clarity so that individuals may better understand how to calculate their compensation for purposes of determining whether they need to register as a lobbyist. The Board’s Dual Notice provided fair warning that the outcome could be the proposed rule, as modified, because the modification is a logical outgrowth of the Board’s Dual Notice, the subject matter remains the same, and the effects of the proposed rule, as modified, are not substantially different from the effects of the proposed rule as published with the Board’s Dual Notice.

B. Modification to Part 4511.0100, subpart 5a

Subp. 5a. **Pay or consideration for lobbying.** "Pay or consideration for lobbying" means the compensation paid to an individual for lobbying. An individual whose job responsibilities do not include lobbying, and who has not been directed or requested to lobby on an issue by their employer, does not receive pay or consideration for lobbying they undertake on their own initiative.

As modified, the rule would provide clarity by defining a phrase that impacts whether an individual is defined as a lobbyist under Minnesota Statutes, section 10A.01, subdivision 21, paragraph (a), clause (1). The need for this rule is explained in more detail on page 24 of the Board’s SONAR. The modification would eliminate a single word, “gross,” in order to avoid a potential conflict between this rule and the definition of “compensation” under Minnesota Rules, part 4501.0100, subpart 4. The modification

would not make the rule substantially different from the rule text published with the Board's Dual Notice:

Subp. 5a. **Pay or consideration for lobbying.** "Pay or consideration for lobbying" means the gross compensation paid to an individual for lobbying. An individual whose job responsibilities do not include lobbying, and who has not been directed or requested to lobby on an issue by their employer, does not receive pay or consideration for lobbying they undertake on their own initiative.

The difference between the rule text published with the Board's Dual Notice and the modified text is within the scope of the Board's Dual Notice because it involves the deletion of a single word within the definition of a single phrase. The difference is a logical outgrowth of the Board's Dual Notice and the comment of the Minnesota Council of Nonprofits, which seeks to avoid a conflict between this rule and the definition of "compensation" under Minnesota Rules, part 4501.0100, subpart 4. The Board's Dual Notice provided fair warning that the outcome could be the proposed rule, as modified, because the modification is a logical outgrowth of the Board's Dual Notice, the subject matter remains the same, and the effects of the proposed rule, as modified, are not substantially different from the effects of the proposed rule as published with the Board's Dual Notice.

In each case, the proposed rule would define a term that needs to be defined in order to provide clarity as to who is defined as a lobbyist under Minnesota Statutes, section 10A.01, subdivision 21, paragraph (a), clause (1). The modification will only impact the totals reported to the Board by principals pursuant to Minnesota Statutes, section 10A.04, subdivision 6, to the extent that a relatively small number of individuals are not defined as lobbyists as a result of deleting the word "gross." The modification will have only a slight impact on whether individuals are required to register with the Board as lobbyists under Minnesota Statutes, section 10A.03, because the distinction between "gross compensation" and "compensation," as defined by Minnesota Rules, part 4501.0100, subpart 4, is unlikely to be determinative as to whether an individual has exceeded the \$3,000 threshold and is thereby defined as a lobbyist under Minnesota Statutes, section 10A.01, subdivision 21, paragraph (a), clause (1).

C. Modification to Part 4511.0200, subpart 2a

Subp. 2a. **Registration threshold.** An individual must register as a lobbyist with the board upon the earlier of when:

A. the individual receives total pay or consideration from all sources that exceeds \$3,000 in a calendar year for the purpose of lobbying or from a business whose primary source of revenue is derived from facilitating government relations or government affairs services if the individual's job duties include offering direct or indirect consulting or advice that helps the

business provide those services to clients. The pay or consideration for lobbying for an individual whose job duties include both lobbying and functions unrelated to lobbying is determined by multiplying the compensation of the individual by the percentage of the individual's work time spent lobbying in the calendar year; or

B. the individual spends more than \$3,000 of their own funds in a calendar year for the purpose of lobbying. Membership dues paid by the individual, and expenses for transportation, lodging, and meals used to support lobbying by the individual, are not costs that count toward the \$3,000 expenditure threshold that requires registration.

As modified, the rule would provide clarity by addressing how the registration threshold applies when an individual is compensated both for lobbying and for functions unrelated to lobbying. The modification would eliminate a single word, “gross,” in order to be consistent with the modification to the proposed rule to be codified at part 4511.0100, subpart 5a, and avoid a potential conflict between this rule and the definition of “compensation” under Minnesota Rules, part 4501.0100, subpart 4. The modification would not make the rule substantially different from the rule text published with the Board’s Dual Notice:

Subp. 2a. **Registration threshold.** An individual must register as a lobbyist with the board upon the earlier of when:

A. the individual receives total pay or consideration from all sources that exceeds \$3,000 in a calendar year for the purpose of lobbying or from a business whose primary source of revenue is derived from facilitating government relations or government affairs services if the individual's job duties include offering direct or indirect consulting or advice that helps the business provide those services to clients. The pay or consideration for lobbying for an individual whose job duties include both lobbying and functions unrelated to lobbying is determined by multiplying the gross compensation of the individual by the percentage of the individual's work time spent lobbying in the calendar year; or

B. the individual spends more than \$3,000 of their own funds in a calendar year for the purpose of lobbying. Membership dues paid by the individual, and expenses for transportation, lodging, and meals used to support lobbying by the individual, are not costs that count toward the \$3,000 expenditure threshold that requires registration.

The difference between the rule text published with the Board’s Dual Notice and the modified text is within the scope of the Board’s Dual Notice because it involves the deletion of a single word. The difference is a logical outgrowth of the Board’s Dual

Notice and the comment of the Minnesota Council of Nonprofits, which seeks to avoid a conflict with the definition of “compensation” under Minnesota Rules, part 4501.0100, subpart 4. The Board’s Dual Notice provided fair warning that the outcome could be the proposed rule, as modified, because the modification is a logical outgrowth of the Board’s Dual Notice, the subject matter remains the same, and the effects of the proposed rule, as modified, are not substantially different from the effects of the proposed rule as published with the Board’s Dual Notice.

In each case, the proposed rule would provide clarity as to how to apply Minnesota Statutes, sections 10A.01, subdivision 21, and 10A.03, when an individual is compensated both for lobbying and functions unrelated to lobbying. The modification will only impact the totals reported to the Board by principals pursuant to Minnesota Statutes, section 10A.04, subdivision 6, to the extent that a relatively small number of individuals are not defined as lobbyists as a result of deleting the word “gross.” The modification will have only a slight impact on whether individuals are required to register with the Board as lobbyists under Minnesota Statutes, section 10A.03, because the distinction between “gross compensation” and “compensation,” as defined by Minnesota Rules, part 4501.0100, subpart 4, is unlikely to be determinative as to whether an individual has exceeded the \$3,000 threshold and is thereby defined as a lobbyist under Minnesota Statutes, section 10A.01, subdivision 21, paragraph (a), clause (1).

D. Modification to Part 4511.1100, subpart 2

Subp. 2. Actions that are a major decision regarding public funds. A major decision regarding the expenditure or investment of public money includes but is not limited to a decision on:

A. the development and ratification of operating and capital budgets of a political subdivision, including development of the budget request for an office or department within the political subdivision;

B. whether to apply for or accept state or federal funding or private grant funding;

C. selecting recipients for government grants from the political subdivision; or

D. tax abatement, tax increment financing, or expenditures on public infrastructure, used to support private housing or business developments.

As modified, subpart 2, item D, would clarify that tax abatement and tax increment financing are treated the same as expenditures on public infrastructure, if used to support private housing or business developments. The modification would add the text “tax abatement, tax increment financing, or” to item D and add a comma after the word “infrastructure” to accommodate that change. The need for the rule is explained in more

detail on pages 30-32 of the Board's SONAR. The modification would not make the rule substantially different from the rule text published with the Board's Dual Notice:

Subp. 2. Actions that are a major decision regarding public funds. A major decision regarding the expenditure or investment of public money includes but is not limited to a decision on:

A. the development and ratification of operating and capital budgets of a political subdivision, including development of the budget request for an office or department within the political subdivision;

B. whether to apply for or accept state or federal funding or private grant funding;

C. selecting recipients for government grants from the political subdivision; or

D. expenditures on public infrastructure used to support private housing or business developments.

The difference between the rule text published with the Board's Dual Notice and the modified text is within the scope of the Board's Dual Notice because it concerns the scope of a single phrase. The difference is a logical outgrowth of the Board's Dual Notice and the comment of Representative Nathan Coulter, which seeks additional clarity so that the proposed rule will not be construed to exclude indirect forms of financing from what is considered a major decision. The Board's Dual Notice provided fair warning that the outcome could be the proposed rule, as modified, because the modification is a logical outgrowth of the Board's Dual Notice, the subject matter remains the same, and the effects of the proposed rule, as modified, are not substantially different from the effects of the proposed rule as published with the Board's Dual Notice.

In each case, subpart 2 would provide a non-exhaustive list of types of decisions by political subdivisions that are major decisions regarding the expenditure or investment of public money. The modification would alter item D slightly to provide clarity and ensure the inclusion of two specific types of major decisions. The modification would have little or no substantive impact for three reasons. First, subpart 2 consists of a non-exhaustive list. The Board believes that tax abatement and tax increment financing, used to support private housing or business developments, likely fall within the scope of "major decisions regarding the expenditure or investment of public money" as that phrase is used within Minnesota Statutes, section 10A.01, subdivisions 22 and 26b, regardless of the proposed rule.

Second, any impact on the definition of the term "local official" under Minnesota Statutes, section 10A.01, subdivision 22, will likely be minimal because there is likely little, if any,

difference between the universe of individuals who have the “authority 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” and the universe of individuals who lack that authority but do have the authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding tax abatement or tax increment financing.

Third, any impact on the definition of the phrase “official action of a political subdivision” under Minnesota Statutes, section 10A.01, subdivision 26b, will likely be minimal as well. That phrase already encompasses “any action that requires a vote or approval by one or more elected local officials while acting in their official capacity,” and the Board is not aware of a political subdivision with nonelected local officials who have the authority to approve tax abatement for economic development purposes or tax increment financing without that approval being subject to a vote or approval by one or more elected officials.

Therefore, the modification is not expected to expand the scope of what is considered lobbying. The benefit of the modification is added clarity and avoiding the appearance of a loophole regarding tax abatement for economic development purposes and tax increment financing.

5. The rules are needed and reasonable.

### ORDER

The above-named rules, in the form published in the State Register on October 7, 2024, with the modifications as indicated in the Revisor’s draft, file number 4809, dated December 17, 2024, are adopted under the Board’s authority in Minnesota Statutes, sections 10A.02, subdivisions 13 and 12a, 10A.01, subdivision 26, paragraph (a), clause (22), 14.125, and 14.05, subdivision 5.

January 15, 2025  
January 15, 2025

Jeffrey Sigurdson  
Jeffrey Sigurdson  
Executive Director



# MINNESOTA CAMPAIGN FINANCE BOARD

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## Resolution Adopting Rules

Minnesota Campaign Finance and Public Disclosure Board

**Adoption of Rules Relating to Campaign Finance; Lobbying; and Audits and Investigations, Minnesota Rules, Chapters 4501, 4503, 4511, 4512, and 4525; Revisor's ID Number 4809; OAH Docket Number 24-9030-39382**

I, David Asp, certify that I am a member and the Chair of the Campaign Finance and Public Disclosure Board, a board authorized under the laws of the state of Minnesota; that the following is a true, complete, and correct copy of a resolution that the Campaign Finance and Public Disclosure Board adopted at a properly convened meeting on December 4, 2024; that a quorum was present; and that a majority of those present voted for the resolution, which has not been rescinded or modified:

“RESOLVED, that the Campaign Finance and Public Disclosure Board approved and adopted rules about campaign finance, lobbying, and audits and investigations in the Revisor of Statutes draft, file number AR4809, dated August 15, 2024, identified as Minnesota Rules, parts 4501.0100 to 4525.0550, as modified by the Board with respect to parts 4501.0100, subpart 4, 4511.0100, subpart 5a, 4511.0200, subpart 2a, and 4511.1100, subpart 2, pursuant to the Board's authority under Minnesota Statutes, sections 10A.02, subdivisions 13 and 12a, 10A.01, subdivision 26, paragraph (a), clause (22), 14.125, and 14.05, subdivision 5. Jeffrey Sigurdson, the Executive Director of the Campaign Finance and Public Disclosure Board, is authorized to sign the Order Adopting Rules, to modify the rules as needed to obtain the Revisor of Statutes or the Administrative Law Judge's approval of the rules, and to perform other necessary acts to give the rules the force and effect of law.”

December 4, 2024

Date

David Asp, Chair

Campaign Finance and Public Disclosure Board