

Minnesota

Campaign Finance and Public Disclosure Board

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SUBJECT: Brief History - Minnesota Statutes Chapter 10A, Ethics in Government Act:
Lobbyist Registration and Reporting Statutes

Prior to 1973, lobbyists registered with and reported to each house of the legislature separately.

1973 –

Senate and House Bills introduced, different versions.

1974 –

Bills passed each house; Conference Committee Report adopted, effective April, 1974, creating Ethics Commission to administer, interpret, and enforce laws governing permanent lobbyist registration and provisions for periodic reporting of attempts to influence legislative and administrative action (rulemaking, rate setting, power plant and powerline siting, granting of certificates of need under Ch. 216B); campaign finance disclosure laws for state candidates (executive, legislative, judicial offices); economic interest, potential conflict of interest and representation disclosure (candidates for state partisan offices, elected officials in executive and legislative offices and certain appointed state and metropolitan area public officials); and public financing of candidates for state executive and legislative offices who voluntarily agreed to abide by campaign spending limits and other conditions in order to be eligible to receive public financing from tax filer checkoffs to the State Elections Campaign Fund.

1975 –

Name of agency changed to Ethical Practices Board, under a standard nomenclature law ("board" indicates rulemaking power).

1976 –

Definition of "lobbyist" changed to specify five hours in any month or \$250 in calendar year, and "urging others to communicate with public officials".

1978 –

Quarterly reporting established (previously: five reports per year).

1978 –

Late filing fee enacted for late registration or late filing of periodic report - this was recommendation of Board, experiencing problems with compliance by lobbyists).

1984 –

Threshold for disclosure of gifts or benefits to public officials increased to \$50 and over, from \$20 and over (in a supplementary appropriations bill).

NRA case decided in favor of Board in Federal Court involved communications with members urging them to communicate with legislators about specific action on a bill (arose from incidents in 1981 session); sustained on appeals to 8th circuit court and requests to Supreme Court to review the lower courts were denied, most recently in 1988.

1989 –

Penalty enacted for use of information from filed documents for commercial purpose; commercial purpose does not include purposes related to elections, political activities, or law enforcement; up to \$1,000 civil penalty; knowingly: misdemeanor - Board recommendation after five Board investigations, August, 1988 - May, 1989.

1990 –

Major changes in lobbyist registration and reporting provisions of the Act, effective January 1, 1991, include:

. Definitions - "Lobbyist" expanded to include individual engaged or authorized by an individual or association, political subdivision, or public higher education system to attempt to influence legislative, administrative action, or the official action of a Metropolitan Governmental Unit (MGU); and nonelected local official or employee of a political subdivision who spends more than 50 hours in any month attempting to influence administrative, legislative, or MGU actions. Included in the hourly calculation is time spent monitoring the three kinds of action and related research, analysis, and compilation and dissemination of information relating to the three kinds of policy. In each of the three kinds of lobbying, attempts to influence "local officials" as well as public officials (state level) are included.

- "Metropolitan Governmental Unit" (MGU) includes any of the seven counties in the metropolitan area, cities in that area with population over 50,000, the Metropolitan Council, a metropolitan agency defined in Sec. 473.121, the State High School League, and the Minnesota Technology, Inc. (MTI).

- "Political subdivision" includes all of the entities listed just above, plus a municipality defined in Sec. 471.345 (county, city, town, school district, or other public corporation authorized to enter into contracts).

- "Local official" includes an individual elected or appointed to a public position in political subdivision with authority to recommend or vote on final decisions regarding the expenditure or investment of public money.

- "Principal" includes an individual or association that spends more than \$500 in a year to engage a lobbyist or if not engaging a lobbyist, spends at least \$50,000 in a year on influencing legislative, administrative, or MGU action.

. Reports - Discontinued the October 15 lobbyist disbursement report, effective: 1990, leaving three reports per calendar year. Beginning in 1991, lobbyists must report separately the disbursements on legislative or administrative action and on attempts to influence the official action of a "Metropolitan Governmental Unit" (MGU); must report separately, by the kinds of lobbying listed above, the sources of funds for lobbying purposes that exceed more than \$500 per year; must report an honorarium, gift, loan, item or benefit to a "local official" as well as to a "public official" (state level). Principal must report by March 15 for the preceding calendar year the total expenditures on the three kinds of action in Minnesota (see above), by dollar category; totals must include direct payments by the principal to lobbyists; all expenditures for advertising, mailing, research and public relations campaigns related to lobbying; and all salaries and administrative expenses attributable to lobbying in Minnesota.

. Other - Prohibits receiving as well as paying fees which depend upon the result or outcome of any legislative, administrative, or Metropolitan Governmental Unit action. Allows the Ethical Practices Board to randomly audit the financial records of lobbyists and principals. Provides that no member of the Board may currently serve as a lobbyist; this provision does not apply to members of the Board appointed before July 1, 1990. Requires the Board's periodic reports to the governor and the legislative leaders to show whether each lobbyist does legislative lobbying, administrative lobbying, MGU lobbying, or all three. Board must send information about lobbyists registered to influence official actions of Metropolitan Governmental Units (MGU) to the governing body of each MGU.

1993 –

Lobbyist must furnish the lobbyist's registration number when making a contribution to a candidate. Lobbyist who directly solicits and causes others to make aggregate contributions to candidates or a legislative caucus in excess of \$5,000 in a calendar year must file with the Board certain pre-election reports and an annual report for the preceding calendar year. Contributions to a candidate from registered lobbyists are included in the aggregate limit of 20% of the applicable spending limit that a candidate may accept each year from certain sources.

1994 –

Major changes affecting the activities of lobbyists and lobbyist principals, effective August 1, 1994, include:

. Gifts prohibited: A lobbyist or principal may not give a gift or request someone to give a gift to an official. An official may not accept a gift from a lobbyist or principal.

"Official" includes a public official, an employee of the legislature, or a local official of a metropolitan governmental unit.

. Exceptions: The prohibition does not apply if the gift is:

- a campaign contribution
- services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents
- services of insignificant monetary value
- a plaque or similar memento of insignificant value
- informational material of unexceptional value; or
- food and beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program
- gift given because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group
- gift given by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family'
- Itemization threshold: The recipient of gifts or benefits given by a lobbyist or principal to a local or public official must be itemized on the lobbyist's report if the gift or benefit is equal in value to \$5 (formerly: \$50.)

Beginning August 1, 1994, a request to the Board for an advisory opinion and the advisory opinion are nonpublic data. A written opinion is binding on the Board in any subsequent Board proceeding concerning the person making or covered by the request. The Board voted to exercise an option in this new law and publish an opinion after removing the name of the requester and any other information that might identify the agency or association covered by the opinion except in extraordinary circumstances and unless the requester consents to the inclusion. Under another 1994 law nonpublic data must be discussed in a meeting open to the public. Effective July 1, 1995, the Board must adopt as a rule any principles of law or policy announced in an advisory opinion if the Board intends to apply the principles of law or policy more broadly than to the individual or association to whom the opinion was issued.

1996 –

The Board enacted Minnesota Rules, Chapter 4512 to clarify definitions and implement the 1994 ban on gifts from lobbyists to officials.

1997 –

The Board's name is changed to the Campaign Finance and Public Disclosure Board.

The Board enacted Minnesota Rules, Chapter 4511, to clarify and implement the lobbyist registration and reporting statutes. At the same time, the Board repealed Minnesota Rules, Chapter 4510, which dealt with the same subject.

1999 -

Chapter 10A was recodified. Some sections were repealed and some sections were renumbered.

2002 –

The Board amended the administrative rules to allow a lobbyist to designate, at the time of registration, another lobbyist to report disbursements. The lobbyist that makes such a designation is no longer required to file periodic lobbyist disbursement reports.

Legislation requires a lobbyist to list, on the April 15th report, a general description of subjects lobbied in the previous twelve (12) months.

Prohibits a lobbyist from making a contribution to a candidate during the legislative session.

Lobbyist principals must report lobbying disbursements rounded to the nearest \$20,000.

2003 –

Allows the Board to accept reports with an electronic signature that consists of a password assigned by the Board.

Allows lobbyist periodic reports to be filed electronically.

The definition of lobbyist is amended to provide that an individual who is engaged for pay or other consideration more than \$3,000 for all sources in any year is a lobbyist. The five-hour lobbying threshold is eliminated.

Provides that a volunteer who is not paid and does not spend more than \$250 is not a lobbyist; nor is an administrative support person if their salary and administrative expenses attributable to lobbyist are reported as lobbying expenses by a lobbyist.

Requires a lobbyist to register with the Board within five days after becoming a lobbyist or being engaged by a new individual, association, political subdivision, or public higher education system.

Requires a lobbyist to file reports on January 15th and June 15th. Previously reports were due on January 15th, April 15, and July 15th.

Requires each lobbyist who was registered on January 15, 2003, and each principal who was required to file a report on March 15, 2003, to pay a fee of \$50 on August 1, 2003.

Requires lobbyists to pay a \$50 fee on January 15 for each entity for which the lobbyist is registered to represent. Requires a lobbyist principal to pay a \$50 fee on March 15th.

Late fees accrue for the late payment of the fee and a civil penalty may be imposed for failure to pay the fees. These two provisions expire on June 30, 2004.

The Board is directed to work in consultation with lobbyists to develop an equitable schedule of fees to be imposed on them to recover the costs incurred by the Board to regulate them. The fees must be no more than necessary to cover the costs of administering the lobbying program. The fees are subject to change each biennium in accordance with the budget request made by the Board. The schedule is due to the legislature by January 15, 2004.

2004 –

The Board's schedule of fees was timely provided to the legislature. The legislature imposed no new fees.

2005 –

Allows all reports to be filed electronically.

Prohibits a lobbyist from making an excess contribution.

Provides for a civil penalty of up to four times the amount of an excess contribution for a lobbyist that makes a contribution in excess of the yearly contribution limit.

A trinket or memento costing \$5 or less is an exception to the ban on gifts from lobbyists to public officials.

2006

The Board enacted Rules (effective March 1, 2006) clarifying that:

- 'Media costs' includes website design and maintenance that is used for lobbying activities;
- 'Fees and allowances' includes fees for surveys, pools, legal counsel, or other services related to lobbying; and
- An official may not use a gift given by a lobbyist or lobbyist principal to a metropolitan governmental unit until the gift has been formally accepted by an official action of the governing body of the metropolitan governmental unit.

See next page for statistics.

LOBBYIST REGISTRATIONS AND DISBURSEMENTS: 1975 - 2006

Year	# of Indiv.	# of Regis.	# of Assns.	Total Disbursements	Principal's** Disbursement
1975	750	1,067	300	285,575	
1976 – 1979 data not available					
1980	689	1,390	700	512,343	
1981	981	1,490	766	930,132	
1982	1,011	1,440	785	732,577	
1983	1,052	1,600	821	1,188,059	
1984	1,060	1,610	810	1,145,549	
1985	1,074	1,715	868	2,500,134	
1986	1,059	1,750	845	1,513,888	
1987*	1,162	2,145	933	1,909,865	
1988	1,390	2,060	1,029	2,373,228	
1989	1,470	2,175	1,115	2,367,023	
1990	1,237	2,278	1,102	2,149,877	
1991	1,364	2,153	1,163	4,402,997	
1992	1,265	2,620	1,162	5,998,097	
1993	1,398	2,728	1,175	5,850,443	
1994	1,365	2,743	1,161	5,689,859	
1995	1,324	2,384	1,262	5,475,787	
1996	1,300	2,953	1,219	4,119,349	
1997	1,380	2,976	1,361	6,342,426	
1998	1,335	3,003	1,221	6,004,883	
1999	1,320	3,013	1,250	6,649,923	
2000	1,490	3,183	1,432	6,016,279	
2001	1,330	3,107	1,403	8,305,409	
2002	1,350	3,075	1,220	8,327,394	42,025,697
2003	1,300	2,800	1,175	10,626,253	47,734,878
2004	1,210	3,448	1,220	11,936,711	50,237,111
2005*	1,227	3,338	1,242	14,728,737	54,718,363
2006	1,385	3,224	1,261	12,909,622	53,122,971

* - From 1987 to 2004, lobbyist data is presented by fiscal year (July 1 - June 30); All other years the data is presented by calendar year.

** - Beginning in 2003, lobbyist principals report their lobby disbursements to the nearest \$20,000; principal data presented by calendar year.