

Changes to Lobbying Disclosure in Minnesota

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Effective January 1, 2024, Minnesota's lobbying and public disclosure law will vastly increase the number of political jurisdictions that trigger disclosure requirements in a manner that will increase the number of persons and entities deemed a "lobbyist" and a "principal." Lawyers who interact with governmental units at *any* level in Minnesota—as well as their clients—should be aware of these new requirements.

New and Expanded Definitions

For decades, Minnesota's lobbying disclosure requirements have been limited to those attempting to influence: (1) state legislative or administrative action, or (2) an official action of approximately 30 metropolitan governmental units.

Beginning in 2024, registration as a lobbyist will be required for any person attempting to influence the "official action of a political subdivision" of *any* Minnesota "political subdivision" as defined here. Thus, thousands of new entities are covered by the law: all 87 counties, 855 cities, 331 school districts, and 1,780 townships in the State of Minnesota. The Campaign Finance Disclosure Board has a compiled list of 504 local officials under the current law. This list will grow exponentially under the new law.

As applied to non-volunteers, the definition of lobbyist will now include an individual paid more than \$3,000 from all sources in any year for the purpose of attempting to influence the official action of a political subdivision by communicating or urging others to communicate with public or local officials. Before these amendments, only attempts to influence legislative action, state administrative action, or the official action of a metropolitan governmental unit qualified as lobbying.

In addition to expanding the definition to include all political subdivisions, the legislature also added a definition of what constitutes an "official action of a political subdivision." It now comprises any action that requires a vote or approval by one or more elected local officials in their official capacity or an action by an appointed or employed local official to make, recommend, or vote on major decisions regarding the expenditure or investment

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of public money as a member of the governing body.

Given the breadth of the new law, many more routine interactions with local governments across Minnesota will trigger lobbying registration and disclosure requirements for many more lawyers and their clients.

Who and What is Covered?

The definition of official action of a political subdivision includes two parts—one relating to elected officials, the other relating to appointed or employed local officials. The portion of the definition relating to elected officials extends what constitutes lobbying to attempting to influence any action involving a vote or approval by an elected local official. Based on this definition, any agenda item requiring a vote by a local elected board, whether township, city, county, or school board, will require lobbyist and principal registration. Examples of types of activities that may be covered include:

- Appealing a planning commission’s denial of a conditional use permit or variance to the city council or town board of supervisors,
- Advocating for subdivision approval before the city council,
- Requesting that the city council approve a property transfer,
- Applying for a liquor license from a city council,
- Seeking a tax abatement,
- Applying to the city council for a change in the zoning code or comprehensive plan, and
- Seeking approval of a development agreement or tax-increment financing district from the city council.

The second portion of the definition relating to appointed or employed local official is narrower. This portion of the definition of official action would appear to apply to any advocacy to county, city, and other political subdivisions in connection with grants or contracts that involve major expenditures of public money. For instance, applying for an economic development brownfields redevelopment grant from a city or the sale of property to a political subdivision. It is unclear, however, what constitutes a “*major* decision regarding an expenditure or investment.” The Campaign Finance Disclosure Board is in the middle of a rulemaking process that may clarify the law.

Principal Reporting

If an attorney, agent, or employee acts on behalf of an entity to trigger individual lobbying disclosure requirements, it will usually also trigger reporting requirements by the client or “principal.” The lobbyist’s client or employer is a “principal” if they spend more than \$500 to engage a lobbyist.

For these clients, starting in March 2025 for calendar year 2024 and annually thereafter, clients must file a principal report, rounded to the nearest \$9,000, detailing their expenses for lobbying as they separately relate to: (1) legislative action, (2) administrative action, (3) rate setting, power plant, and powerline siting action, and (4) official action of a political subdivision. Developers and other clients who routinely

interact with local governments may need to report as principals without being aware of this obligation.

Conclusion

Lawyers' advocacy on behalf of clients to influence local government decisions may subject the lawyer and the lawyer's client to lobbying-reporting obligations. Stakeholders are actively engaged in efforts to clarify the law through administrative or other action.