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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2173

03/11/2021 Authored by Nelson, M., The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act
1.2 relating to lobbyists; modifying lobbyist registration and reporting; creating
1.3 definitions; amending Minnesota Statutes 2020, sections 10A.01, subdivision 21,
1.4 by adding subdivisions; 10A.025, subdivision 4; 10A.03, subdivision 2, by adding
1.5 a subdivision; 10A.04, subdivisions 3, 4, 6, 9; repealing Minnesota Rules, part
1.6 4511.0600, subpart 5.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2020, section 10A.01, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 12a. Designated lobbyist. "Designated lobbyist" means the lobbyist responsible
1.11 for reporting the lobbying disbursements and activity of the entity the lobbyist represents.

1.12 Sec. 2. Minnesota Statutes 2020, section 10A.01, is amended by adding a subdivision to
1.13 read:

1.14 Subd. 17d. General lobbying category. "General lobbying category" means an area of
1.15 interest for lobbying for an entity that is on a list of categories specified by the board.

1.16 Sec. 3. Minnesota Statutes 2020, section 10A.01, is amended by adding a subdivision to
1.17 read:

1.18 Subd. 19a. Legislative action. "Legislative action" means any of the following:

1.19 (1) the development of prospective legislation, including the development of amendment
1.20 language to prospective legislation;

2.1 (2) the review, modification, adoption, or rejection by a member of the legislature or an
2.2 employee of the legislature, if applicable, of any (i) bill, (ii) amendment, (iii) resolution,
2.3 (iv) confirmation considered by the legislature, or (v) report;

2.4 (3) the development of, in conjunction with a constitutional officer, prospective legislation
2.5 or a request for support or opposition to introduced legislation; and

2.6 (4) the action of the governor in approving or vetoing any act of the legislature or portion
2.7 of an act of the legislature.

2.8 Sec. 4. Minnesota Statutes 2020, section 10A.01, subdivision 21, is amended to read:

2.9 Subd. 21. **Lobbyist.** (a) "Lobbyist" means an individual:

2.10 (1) engaged for pay or other consideration of more than \$3,000 from all sources in any
2.11 year for the purpose of attempting to influence legislative or administrative action, or the
2.12 official action of a metropolitan governmental unit, by communicating or urging others to
2.13 communicate with public or local officials; or

2.14 (2) who spends more than ~~\$250~~ \$3,000 of the individual's personal funds, not including
2.15 the individual's own traveling expenses and membership dues, in any year for the purpose
2.16 of attempting to influence legislative or administrative action, or the official action of a
2.17 metropolitan governmental unit, by communicating or urging others to communicate with
2.18 public or local officials.

2.19 (b) "Lobbyist" does not include:

2.20 (1) a public official;

2.21 (2) an employee of the state, including an employee of any of the public higher education
2.22 systems;

2.23 (3) an elected local official;

2.24 (4) a nonelected local official or an employee of a political subdivision acting in an
2.25 official capacity, unless the nonelected official or employee of a political subdivision spends
2.26 more than 50 hours in any month attempting to influence legislative or administrative action,
2.27 or the official action of a metropolitan governmental unit other than the political subdivision
2.28 employing the official or employee, by communicating or urging others to communicate
2.29 with public or local officials, including time spent monitoring legislative or administrative
2.30 action, or the official action of a metropolitan governmental unit, and related research,
2.31 analysis, and compilation and dissemination of information relating to legislative or
2.32 administrative policy in this state, or to the policies of metropolitan governmental units;

3.1 (5) a party or the party's representative appearing in a proceeding before a state board,
 3.2 commission, or agency of the executive branch unless the board, commission, or agency is
 3.3 taking administrative action;

3.4 (6) an individual while engaged in selling goods or services to be paid for by public
 3.5 funds;

3.6 (7) a news medium or its employees or agents while engaged in the publishing or
 3.7 broadcasting of news items, editorial comments, or paid advertisements which directly or
 3.8 indirectly urge official action;

3.9 (8) a paid expert witness whose testimony is requested by the body before which the
 3.10 witness is appearing, but only to the extent of preparing or delivering testimony; or

3.11 (9) a party or the party's representative appearing to present a claim to the legislature
 3.12 and communicating to legislators only by the filing of a claim form and supporting documents
 3.13 and by appearing at public hearings on the claim.

3.14 (c) An individual who volunteers personal time to work without pay or other consideration
 3.15 on a lobbying campaign, and who does not spend more than the limit in paragraph (a), clause
 3.16 (2), need not register as a lobbyist.

3.17 (d) An individual who provides administrative support to a lobbyist and whose salary
 3.18 and administrative expenses attributable to lobbying activities are reported as lobbying
 3.19 expenses by the lobbyist, but who does not communicate or urge others to communicate
 3.20 with public or local officials, need not register as a lobbyist.

3.21 Sec. 5. Minnesota Statutes 2020, section 10A.01, is amended by adding a subdivision to
 3.22 read:

3.23 Subd. 26b. **Official action of metropolitan governmental units.** "Official action of
 3.24 metropolitan governmental units" means any action that requires a vote or approval by one
 3.25 or more elected local officials while acting in their official capacity; or an action by an
 3.26 appointed or employed local official to make, to recommend, or to vote on as a member of
 3.27 the governing body, major decisions regarding the expenditure or investment of public
 3.28 money.

3.29 Sec. 6. Minnesota Statutes 2020, section 10A.01, is amended by adding a subdivision to
 3.30 read:

3.31 Subd. 35c. **Specific subject of interest.** "Specific subject of interest" means a particular
 3.32 topic or area of lobbying interest within a general lobbying category.

4.1 Sec. 7. Minnesota Statutes 2020, section 10A.025, subdivision 4, is amended to read:

4.2 Subd. 4. **Changes and corrections.** Material changes in information previously submitted
4.3 and corrections to a report or statement must be reported in writing to the board within ten
4.4 days following the date of the event prompting the change or the date upon which the person
4.5 filing became aware of the inaccuracy. The change or correction must identify the form and
4.6 the paragraph containing the information to be changed or corrected. A request from the
4.7 board to a lobbyist to provide more detailed information about a specific subject of interest
4.8 disclosed on a lobbyist disbursement report is a change or correction governed by this
4.9 subdivision.

4.10 A person who willfully fails to report a material change or correction is subject to a civil
4.11 penalty imposed by the board of up to \$3,000. A willful violation of this subdivision is a
4.12 gross misdemeanor.

4.13 The board must send a written notice to any individual who fails to file a report required
4.14 by this subdivision. If the individual fails to file the required report within ten business days
4.15 after the notice was sent, the board may impose a late filing fee of \$25 per day up to \$1,000
4.16 starting on the 11th day after the notice was sent. The board may send an additional notice
4.17 by certified mail to an individual who fails to file a report within ten business days after the
4.18 first notice was sent by the board. The certified notice must state that if the individual does
4.19 not file the requested report within ten business days after the certified notice was sent, the
4.20 individual may be subject to a civil penalty for failure to file a report. An individual who
4.21 fails to file a report required by this subdivision within ten business days after the certified
4.22 notice was sent by the board is subject to a civil penalty imposed by the board of up to
4.23 \$1,000.

4.24 Sec. 8. Minnesota Statutes 2020, section 10A.03, subdivision 2, is amended to read:

4.25 Subd. 2. **Form.** The board must prescribe a registration form, which must include:

4.26 (1) the name, address, and e-mail address of the lobbyist;

4.27 (2) the principal place of business of the lobbyist;

4.28 (3) the name and address of each individual, association, political subdivision, or public
4.29 higher education system, if any, by whom the lobbyist is retained or employed or on whose
4.30 behalf the lobbyist appears;

4.31 (4) the website address of each association, political subdivision, or public higher
4.32 education system identified under clause (3), if the entity maintains a website; ~~and~~

5.1 (5) ~~a the general description of the subject or subjects~~ lobbying categories on which the
 5.2 lobbyist expects to lobby; on behalf of a represented entity; and

5.3 (6) if the lobbyist lobbies on behalf of an association, the registration form must include
 5.4 the name and address of the officers and directors of the association.

5.5 Sec. 9. Minnesota Statutes 2020, section 10A.03, is amended by adding a subdivision to
 5.6 read:

5.7 Subd. 6. General lobbying categories. A list of general lobbying categories must be
 5.8 specified by the board and updated periodically based on public comment. The board must
 5.9 publish on its website the current list of general lobbying categories. Chapter 14 does not
 5.10 apply to the specification, publication, or periodic updates of the list of general lobbying
 5.11 categories.

5.12 Sec. 10. Minnesota Statutes 2020, section 10A.04, subdivision 3, is amended to read:

5.13 Subd. 3. Information to lobbyist. An employer or employee about entity or lobbyist
 5.14 whose activities a are reported to the board by another lobbyist is required to report must
 5.15 provide the information required by subdivision 4 to the lobbyist no later than five days
 5.16 before the prescribed filing date.

5.17 Sec. 11. Minnesota Statutes 2020, section 10A.04, subdivision 4, is amended to read:

5.18 Subd. 4. Content. (a) A report under this section must include information the board
 5.19 requires from the registration form and the information required by this subdivision for the
 5.20 reporting period.

5.21 (b) A lobbyist must report the specific subjects of interest for an entity represented by
 5.22 the lobbyist on each report submitted under this section. A lobbyist must describe a specific
 5.23 subject of interest in the report with enough information to show the particular issue of
 5.24 importance to the entity represented.

5.25 ~~(b) (c) A lobbyist must report the lobbyist's total disbursements on lobbying, separately~~
 5.26 ~~listing lobbying to influence legislative action, lobbying to influence administrative action,~~
 5.27 ~~and lobbying to influence the official actions of a metropolitan governmental unit, and a~~
 5.28 ~~breakdown of disbursements for each of those kinds of lobbying into categories specified~~
 5.29 ~~by the board, including but not limited to the cost of publication and distribution of each~~
 5.30 ~~publication used in lobbying; other printing; media, including the cost of production; postage;~~
 5.31 ~~travel; fees, including allowances; entertainment; telephone and telegraph; and other~~
 5.32 ~~expenses. every state agency that had administrative action that the represented entity sought~~

6.1 to influence during the reporting period. The lobbyist must report the specific subjects of
6.2 interest for each administrative action and the revisor rule draft number assigned to the
6.3 administrative rulemaking.

6.4 (d) A lobbyist must report every metropolitan governmental unit that considered official
6.5 action that the represented entity sought to influence during the reporting period. The lobbyist
6.6 must report the specific subjects of interest for each action.

6.7 (e) A lobbyist must report general lobbying categories and up to four specific subjects
6.8 of interest related to each general lobbying category on which the lobbyist attempted to
6.9 influence legislative action during the reporting period. If the lobbyist attempted to influence
6.10 legislative action on more than four specific subjects of interest for a general lobbying
6.11 category, the lobbyist, in consultation with the represented entity, must determine which
6.12 four specific subjects of interest were the entity's highest priorities during the reporting
6.13 period and report only those four subjects. If a reported specific subject of interest was
6.14 contained in legislation that the lobbyist attempted to influence that passed at least one body
6.15 of the legislature, the lobbyist must identify that legislation by bill number.

6.16 (f) A lobbyist must report the Public Utilities Commission project name for each rate
6.17 setting, power plant and powerline siting, or granting of certification of need before the
6.18 Public Utilities Commission that the represented entity sought to influence during the
6.19 reporting period.

6.20 ~~(e)~~ (g) A lobbyist must report the amount and nature of each gift, item, or benefit,
6.21 excluding contributions to a candidate, equal in value to \$5 or more, given or paid to any
6.22 official, as defined in section 10A.071, subdivision 1, by the lobbyist or an employer or
6.23 employee of the lobbyist. The list must include the name and address of each official to
6.24 whom the gift, item, or benefit was given or paid and the date it was given or paid.

6.25 ~~(d)~~ (h) A lobbyist must report each original source of money in excess of \$500 in any
6.26 year used for the purpose of lobbying to influence legislative action, administrative action,
6.27 or the official action of a metropolitan governmental unit. The list must include the name,
6.28 address, and employer, or, if self-employed, the occupation and principal place of business,
6.29 of each payer of money in excess of \$500.

6.30 (i) The designated lobbyist must report disbursements made, and obligations incurred,
6.31 that exceed \$2,000 for paid advertising used for the purpose of urging members of the public
6.32 to contact public or local officials to influence official actions during the reporting period.
6.33 Paid advertising includes the cost to increase the distribution of an advertisement on social
6.34 media. The designated lobbyist must provide in the report the date that the advertising was

7.1 purchased, the name and address of the vendor, a description of the advertising purchased,
 7.2 and any specific subject or subjects of interest addressed by the advertisement.

7.3 ~~(e)~~ (j) On the report due June 15, ~~the~~ a lobbyist must ~~provide a~~ disclose the general
 7.4 ~~description of the subjects~~ lobbying categories that were lobbied on in the ~~previous 12~~
 7.5 ~~months~~ reporting period.

7.6 Sec. 12. Minnesota Statutes 2020, section 10A.04, subdivision 6, is amended to read:

7.7 Subd. 6. **Principal reports.** (a) A principal must report to the board as required in this
 7.8 subdivision by March 15 for the preceding calendar year.

7.9 ~~(b) Except as provided in paragraph (d),~~ The principal must report the total amount,
 7.10 rounded to the nearest ~~\$20,000~~ \$10,000, spent by the principal during the preceding calendar
 7.11 year ~~to influence legislative action, administrative action, and the official action of~~
 7.12 ~~metropolitan governmental units.~~ on each type of lobbying listed below:

7.13 (1) lobbying to influence legislative action;

7.14 (2) lobbying to influence administrative action, other than lobbying described in clause

7.15 (3);

7.16 (3) lobbying to influence administrative action in cases of rate setting, power plant and
 7.17 powerline siting, and granting of certificates of need under section 216B.243; and

7.18 (4) lobbying to influence official action of metropolitan governmental units.

7.19 ~~(c) Except as provided in paragraph (d),~~ For each type of lobbying listed in paragraph
 7.20 (b), the principal must report ~~under this subdivision~~ a total amount that includes:

7.21 (1) the portion of all direct payments for compensation and benefits paid by the principal
 7.22 to lobbyists in this state for that type of lobbying;

7.23 (2) the portion of all expenditures for advertising, mailing, research, consulting, surveys,
 7.24 expert testimony, studies, reports, analysis, compilation and dissemination of information,
 7.25 social media and public relations campaigns related to legislative action, administrative
 7.26 action, or the official action of metropolitan governmental units, and legal counsel used to
 7.27 support that type of lobbying in this state; and

7.28 (3) a reasonable good faith estimate of the portion of all salaries and administrative
 7.29 overhead expenses attributable to activities of the principal relating to efforts to influence
 7.30 legislative action, administrative action, or the official action of metropolitan governmental
 7.31 units for that type of lobbying in this state; and

8.1 (4) the portion of all lobbying disbursements not listed in clause (2) that were made or
8.2 incurred on behalf of the principal by all lobbyists for the principal in this state for that type
8.3 of lobbying.

8.4 ~~(d) A principal that must report spending to influence administrative action in cases of~~
8.5 ~~rate setting, power plant and powerline siting, and granting of certificates of need under~~
8.6 ~~section 216B.243 must report those amounts as provided in this subdivision, except that~~
8.7 ~~they must be reported separately and not included in the totals required under paragraphs~~
8.8 ~~(b) and (c).~~

8.9 Sec. 13. Minnesota Statutes 2020, section 10A.04, subdivision 9, is amended to read:

8.10 **Subd. 9. Reporting by multiple lobbyists representing the same entity.** Clauses (1)
8.11 to (6) apply when a single individual, association, political subdivision, or public higher
8.12 education system is represented by more than one lobbyist.

8.13 (1) The entity must appoint one designated lobbyist to report lobbyist disbursements
8.14 made by the entity. An entity represented by more than one lobbyist may only have one
8.15 designated lobbyist at any given time. The designated lobbyist must indicate that status on
8.16 the periodic reports of lobbyist disbursements.

8.17 (2) A reporting lobbyist may consent to report on behalf of one or more other lobbyists
8.18 for the same entity, in which case, the other lobbyists are persons whose activities the
8.19 reporting lobbyist must disclose and are subject to the disclosure requirements of subdivision
8.20 3. Lobbyist disbursement reports filed by a reporting lobbyist must include the names and
8.21 registration numbers of the other lobbyists whose activities are included in the report.

8.22 (3) Lobbyists whose activities are accounted for by a reporting lobbyist are not required
8.23 to file lobbyist disbursement reports.

8.24 (4) A lobbyist whose lobbying disbursements are provided to the board through a
8.25 reporting lobbyist must supply all relevant information on disbursements to the reporting
8.26 lobbyist no later than five days before the prescribed filing date.

8.27 (5) The reporting periods and due dates for a reporting lobbyist are those provided in
8.28 subdivision 2. The late filing provisions in subdivision 5 apply to reports required by this
8.29 subdivision.

8.30 (6) The reporting lobbyist must indicate the names and registration numbers of any
8.31 lobbyists who did not provide their lobbying disbursements for inclusion in a report. The
8.32 late filing provisions in subdivision 5 apply to lobbyists who fail to report information to
8.33 the reporting lobbyist.

9.1 Sec. 14. **REPEALER.**

9.2 Minnesota Rules, part 4511.0600, subpart 5, is repealed.

4511.0600 REPORTING DISBURSEMENTS.

Subp. 5. **Specific disbursement categories.** Lobbying disbursements must be reported based on the categories in items A to I.

A. "Lobbying materials" includes the cost of production, purchase, or other acquisition of materials that directly support lobbying.

B. "Media costs" includes the cost of media space or time, including website design and maintenance, used for lobbying activities. The cost of preparation of materials for use in the media is reported in the lobbying materials category.

C. "Telephone and communications" includes costs for local and long-distance telephone services, electronic mail, pagers, cellular telephones, facsimile distribution services, telegraph, and other communications services.

D. "Postage and distribution" includes costs of postage from the United States Postal Service as well as other distribution costs associated with lobbying activities.

E. "Fees and allowances" includes fees for consulting, surveys, polls, legal counsel, or other services as well as expenses associated with those services.

F. "Entertainment" includes costs of all entertainment associated with any situation where lobbying activities take place.

G. "Food and beverages" includes costs of all food and beverages associated with any situation where lobbying activities take place.

H. "Travel and lodging" includes costs of all travel and lodging associated with any lobbying activity, excluding the costs of the lobbyist's own travel to accomplish the lobbying activity.

I. "Other disbursements" includes general administration and overhead and any other lobbyist disbursements not reported in other categories.