



**GUIDELINES FOR
CORPORATE
POLITICAL ACTIVITY IN
MINNESOTA**

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DISCLAIMER

This Guide is designed to alert companies, employers and associations to issues which commonly arise in conjunction with participation in the political process in Minnesota. It should be used only as a guide and not as a definitive source to answer your legal questions. Consultation with legal counsel is advised in regard to specific situations. We hope that this Guide will raise questions and familiarize you with frequently arising political law issues so that you will know when to seek professional advice.

This Guide is designed to reflect the law as it existed through July, 2013. Political law is a rapidly changing area of the law. The materials in this Guide are intended to provide general information and should not be relied upon for specific legal advice. Winthrop & Weinstine does not assume responsibility for decisions based upon the information provided in this Guide.

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**GUIDELINES FOR CORPORATE
POLITICAL ACTIVITY IN MINNESOTA**

I. Lobbyist Registration

A. Lobbying Defined. The Minnesota Campaign Finance and Public Disclosure Board (“Board”) administers and enforces the registration and reporting requirements for lobbyists under the Minnesota Ethics in Government Act (Minnesota Statutes, Chapter 10A).

1. Three areas of governmental action identified as subjects of lobbying:

a) **“Legislative Action”** is action by either house of the state Legislature, or a legislative committee or subcommittee in support of or in opposition to a bill, resolution, amendment, nomination, appointment, report or gubernatorial approval or veto of a bill;

b) **“Administrative Action”** is defined as lobbying to influence the adoption, amendment or repeal of a rule under Chapter 14; attempts to influence the application of adopted rules in the cases of rate setting, power line and power plant siting and granting of certificates of need for utility facilities. Minn. Stat. § 10A.01, subd. 2; and

c) **“Metropolitan Governmental Unit Action”** is defined as lobbying to attempt to influence the official actions of a metropolitan governmental unit (“MGU”) by communicating with “local officials.” “Metropolitan Governmental Unit” includes the seven counties in the Twin Cities metropolitan area, a regional railroad authority established by one of those counties, a city with a population of over 50,000 located in one of these counties, the Metropolitan Council or a metropolitan governmental agency. Minn. Stat. § 10A.01, subd. 24.

2. **“Lobbying”** means attempting to influence legislative action, administrative action or action by an MGU by communicating or urging others to communicate with public officials or local officials in MGUs.

B. Definition of Lobbyist. Minn. Stat. § 10A.01, subd. 21.

1. A person

a) Engaged for pay or other consideration of more than \$3,000 from all sources in any year;

b) For the purpose of attempting to influence legislative or administrative action or the official action of an MGU;

- c) By communicating or urging others to communicate with public or local officials. Minn. Stat. § 10A.01, subd. 21(a)(1).

OR

- 2. A person
 - a) Who spends more than \$250 in any year, not including individual's own expenses;
 - b) For the purpose of attempting to influence legislative, administrative or MGU action;
 - c) By communicating or urging others to communicate with public officials. Minn. Stat. §10A.01, subd. 21(a)(2).
- 3. Persons excluded from definitions of lobbyists (Minn. Stat. § 10A.01, subd. 21(b)) include:
 - a) Public officials;
 - b) Employees of the state;
 - c) Elected local officials;
 - d) A non-elected local official or employee acting in an official capacity unless the official or employee spends more than 50 hours in a month lobbying, including monitoring, research and analysis;
 - e) A party or the party's representative appearing before a state board or agency unless the board or agency is taking administrative action;
 - f) A person selling goods to be paid for by public funds;
 - g) The news media while engaged in journalism;
 - h) A paid expert witness requested by the body before which the witness is appearing; and
 - i) A party or the party's representatives presenting a claim to the Legislature and appearing only at the public hearing on the claim.
- 4. An individual who provides administrative support to a lobbyist and whose salary and administrative expenses attributable to lobbying activities are reported as lobbying expenses by the lobbyist but who does not communicate with public officials need not register as a lobbyist. Minn. Stat. § 10A.01, subd. 21(d).

- C. Lobbyist registration is required with the Board on a form prescribed by the Board. Minn. Stat. § 10A.03.
1. Must be filed within five (5) days of becoming a lobbyist.
 2. Must include:
 - a) Name and address of lobbyist;
 - b) Principal place of business of lobbyist and lobbyist principal (generally client or employer);
 - c) The name, address, and web site address of such association, political subdivision, or higher education system, if any, by whom the lobbyist is retained or employed or on whose benefit the lobbyist appears; and
 - d) Description of subjects on which lobbyist expects to lobby and the kind of lobbying; and
 - e) Lobbyist's signature and date.
 3. Lobbyist employer or "principal" is not required to register.
 4. Multiple lobbyists representing the same principal must separately register.

II. Lobbyist Report and Record Keeping

- A. Periodic lobbyists reports required to be filed with the Board on January 15 and June 15. Minn. Stat. § 10A.04 subd. 1 and 2.
1. The Board will mail lobbyists electronic user names and passwords to for use in online reporting, or lobbyists may elect to file electronically. Minn. Stat. § 10A.04, subd 1.
 2. Report must be filed even if no lobbying expenses.
 3. Registration can be terminated at any time.
 4. June 15 Report must contain general description of subjects lobbied in the previous 12 months. Minn. Stat. § 10A.04 subd. 4(e).
 5. Board may assess a late fee and civil penalty for failure to pay lobbyist or principal fee. Minn. Stat. § 10A.04 subd. 5. Board may bring an action to recover fee or penalty. Minn. Stat. § 10A.34, subd 1a.

B. Information required to be reported on lobbyist report includes disbursements made by lobbyist and lobbyist's employer in support of lobbying. Minn. Stat. § 10A.04, subd. 4.

1. Total disbursements spent on lobbying broken down by legislative, administrative, and MGU lobbying including:
 - a) Cost of publication and distribution of lobbying materials;
 - b) Other printing;
 - c) Media advertising, including cost of production;
 - d) Postage;
 - e) Travel;
 - f) Fees, allowances, public relations campaigns (but not including lobbyist compensation);
 - g) Entertainment and food and beverage;
 - h) Telephone and all other communications services; and
 - i) Other disbursements including general administration and overhead and any other lobbying expense not reported in other categories. Minn. Stat. § 10A.04, subd. 4(b)
2. Original source of funds in excess of \$500 received by lobbyist in any year. Minn. Stat. § 10A.04, subd. 4(d).
3. Gifts or benefits paid or given to local or public officials (not including political contributions), equal in value to \$5 or more are required to be reported even though they are generally prohibited by law with some exceptions. Minn. Stat. § 10A.04, subd. 4(c).
4. If actual cost of a disbursement is not known, it may be approximated. Minn. R. 4511.0600, subp. 2.
5. A lobbying disbursement for multiple entities may be reasonably allocated amongst the entities. Minn. R. 4511.0600, subp. 3.

C. Principal Reports

1. Principal is individual or association spending more than \$500 in a year to employ a lobbyist or who does not engage a lobbyist but does spend more than \$50,000 in a year in attempting to influence legislative, administrative, or MGU actions. Minn. Stat. § 10A.01, subd. 33.

2. Each principal is annually required to file a report by March 15 for the preceding calendar year stating the total amount spent, rounded to the nearest \$20,000, by the principal to influence legislative, administrative, or MGU actions. Minn. Stat. § 10A.04, subd. 6.
3. Estimate of amount spent on lobbying required to include both:
 - a) Actual fees paid to lobbyists;
 - b) Expenditures for advertising, mailing, research, analysis and public relations campaigns “related to” legislative, administrative or MGU action; and
 - c) All salaries and administrative expenses “attributable to” activities of the principal “relating to” efforts to influence legislative, administrative or MGU action. Minn. Stat. § 10A.04, subd. 6.
- D. Financial records of lobbyists and principals may be randomly audited by the Board. Minn. Stat. § 10A.04, subd. 7.

III. Corporate Political Activity

- A. General Prohibition on Corporate Political Activity in State Statute since 1912.
 1. “A corporation may not make a contribution or offer or agree to make a contribution, directly or indirectly, of any money, property, free service of its officers or employees, or thing of monetary value to a major political party, organization or individual to promote or defeat the candidacy of an individual for nomination, election or appointment to a political office.” Minn. Stat. § 211B.15, subd. 2 (emphasis added).
 - a) “ ‘[C]ontribution includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate but does not include an independent expenditure . . .’ ” Id. (emphasis added).
 2. Upheld by Minnesota Supreme Court in MACI v. Foley, 316 N.W.2d 524 (Minn. 1982).
 3. Amended in 1993 to apply to non-profit corporations and LLCs in addition to for-profit corporations, but partnerships and unincorporated associations still not covered. Minn. Stat. § 211B.15, subd. 1. Certain nonprofits may be exempt from prohibition if corporation is not organized or operated for the principal purpose of conducting a business; company has no shareholders or other person who may have a claim to its assets;

and company was not established by a business corporation or a labor union and has a policy not to accept significant contributions from those entities. Id.

4. The Board may investigate any alleged violation of Chapter 10A, or Sections 211B.04, 211B.12, and 211B.15. In fact, the Board must investigate any written complaint. Minn. Stat. § 10A.02 subd. 11(a). The Board may bring legal action and negotiate settlements to recover money pursuant to certain restrictions. Minn. Stat. § 10A.02 subd. 11(b). A matter under the Board’s jurisdiction must be fully disposed of by the Board before any criminal prosecution by the city or county attorney occurs. Minn. Stat. §§ 10A.02 subd. 11(e); 211B.15 subd. 1(b). A county attorney may prosecute a violation of Minn. Stat. § 211B.15. Minn. Stat. § 211B.16.
5. Penalties:
 - a) Individual.
 - (1) Civil. A civil penalty up to ten times the amount of the violation, but not exceeding \$10,000. Minn. Stat. § 211B.15, subd. 6(a).
 - (2) Criminal. An individual who knowingly violates this section may be fined up to \$20,000 and imprisoned for up to 5 years. Minn. Stat. § 211B.15 subd. 6(b).
 - b) Corporate.
 - (1) Civil. A civil penalty up to ten times the amount of the violation, but not exceeding \$10,000 and loss of corporate charter. Minn. Stat. § 211B.15, subd. 7(a).
 - (2) Criminal. A corporation which knowingly violates this section may be fined up to \$40,000 and lose its corporate charter. Minn. Stat. § 211B.15 subd. 7(b).
6. Exceptions. Minn. Stat. § 211B.15, subs. 4, 9, 11 and 17.
 - a) Issue advocacy still protected for corporations under First Amendment. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978).
 - b) Corporation can “express its view on issues of public concern.” Minn. Stat. § 211B.15, subd. 4.
 - c) Ballot issues, e.g. constitutional or charter amendment. Minn. Stat. § 211B.15, subd. 4.

- (1) The reporting requirements for expenditures related to a ballot box initiative are often less stringent than those for the election/defeat of a candidate. See Minn. Stat. §§ 10A.12 subd. 1a, 10A.14 subd. 1a., 10A.20 subd. 3.
- d) Get out the vote efforts. Minn. Stat. § 211B.15, subs. 9 and 11.
- e) A corporation may provide meeting facilities to candidates and political committees on a non-preferential and non-discriminatory basis. Minn. Stat. § 211B.15, subd. 10.
- f) Certain Political Action Committee (“PAC”) expenses for non-profit corporation sponsored PAC are allowed to be paid by the non-profit, up to \$5,000 or 7.5% of PAC expenditures, whichever is less. Minn. Stat. § 211B.15, subd. 17.

B. Independent Expenditures.

- 1. Independent Expenditure (IE): an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. Minn. Stat. § 10A.01 subd. 18 (emphasis added).
- 2. In 2010, the U.S. Supreme Court declared a federal law prohibiting corporations from making independent expenditures which expressly advocated the election or defeat of a candidate unconstitutional. Citizens United v. FEC, 558 U.S. 310, 130 S.Ct. 876 (2010).
 - a) Shortly thereafter, a similar Minnesota prohibition on independent expenditures was declared unconstitutional. Minnesota Chamber of Commerce v. Gaertner, 710 F. Supp. 2d 868 (D. Minn. 2010).
 - b) Independent expenditures by corporations are permissible in Minnesota, so long as they meet the definition of independence. See Minn. Stat. § 211B.15 subd. 3.
- 3. Means by which an association may engage in political expenditures:¹
 - a) Make up to \$750 in approved expenditures in a calendar year. Minn. Stat. § 10A.12 subd. 1.

¹ Note that the Minnesota statutes on this subject apply to any “association” which is defined as “a group of two or more persons, who are not all members of an immediate family, acting in concert.” Minn. Stat. § 10A.01 subd. 6.

- (1) Approved expenditure: an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of the candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate's principal campaign committee, or the candidate's agent. An approved expenditure is a contribution to that candidate. Minn. Stat. § 10A.01 subd. 4 (emphasis added).
 - (2) However, corporations are prohibited from making "approved expenditures" because they qualify as contributions. Minn. Stat. § 211B.15 subd 2.
- b) Contribute to an existing political committee (PAC) or fund (PF). Minn. Stat. § 10A.12 subd. 1a.
- (1) Reporting/disclosure requirements may apply, depending on type and amount of contribution. See Minn. Stat. § 10A.27.
 - (2) Again, corporations must be aware of what sort of activity the PAC or PF intends to engage. IEs are allowed but if the PAC or PF contributes directly to the election or defeat of a candidate, the corporation may not donate to that PAC or PF. Minn. Stat. § 211B.15 subd. 2.
- c) If IEs will exceed \$1,500 in a calendar year, associate must establish a PAC or PF and engage in expenditures as permitted through those entities. Minn. Stat. § 10A.12 subd. 1a.
- (1) Political Committee (PAC): an association whose major purpose is to influence the nomination or election of one or more candidates or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit. Minn. Stat. § 10A.01 subd. 27.
 - (2) Political fund (PF): an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee, or party unit, if the accumulation is collected or expended to influence the nomination or election of one or more candidates or to promote or defeat a ballot question. Minn. Stat. § 10A.01 subd. 28.
 - (3) Penalty for IEs not made in compliance with statutes: civil penalty up to four times the amount of the expenditure, but not more than \$25,000. Minn. Stat. § 10A.12 subd. 1b.

4. Technical requirements of a PF:
 - a) Elect and appoint a treasurer. Minn. Stat. § 10A.12 subd. 3.
 - b) Do not commingle funds of PF with other funds. Minn. Stat. § 10A.12 subd. 2.
 - (1) It is not commingling to pay for expenditures out of the association's general treasury.
 - (2) If the PF accepts more than \$1,500 in contributions to influence election of a candidate, those funds must be separately deposited.
5. Registration requirements for a PF:
 - a) Treasurer must:
 - (1) Register PF with the Campaign Finance and Public Disclosure Board (Board) no later than fourteen (14) days after the PF has: 1) received aggregate contribution of more than \$1,500 in a calendar year, OR 2) made aggregate expenditures of more than \$1,500 in a calendar year. Minn. Stat. § 10A.14 subd. 1a.
 - (2) More stringent registration requirements apply if PF receives loans or contributions reportable under 10A.20 subd. 5.
6. Reporting requirements for a PF:²
 - a) PF must file reports with the Board, beginning when the PF first qualifies for registration and ending when the PF is terminated. Minn. Stat. 10A.20 subd. 1.
 - b) Reports are thereafter due yearly, by January 31 of each year. Minn. Stat. 10A.20 subd. 2.
 - c) In general election years, additional reporting is required. See Minn. Stat. § 10A.20 subd. 2(c).

² The case Minnesota Citizens Concerned for Life, LLC. V. Swanson, 692 F.3d 864 (8th Cir. 2012) called into question the constitutionality of Minnesota's disclosure and reporting requirements associated with PFs. Subsequent to that decision, the legislature amended the statutes in 2013. Whether these amendments, which are reflected in these guidelines, are constitutionally sufficient has yet to be determined in the courts.

- d) Content of the reports must include: sum of donations and receipts, names of those who donate over a certain amounts towards influencing particular types of races, sum of contributions made by the entity (including itemization of contributions over a certain amount), etc. See Minn. Stat. § 10A.20 subd. 3.
 - e) Reporting is not required when the PF has accepted no contributions and made no expenditures since the last date in the most recently filed report. Minn. Stat. § 10A.20 subd. 7a. See also Minn. Stat. § 10A.244.
7. A PF may voluntarily elect to go on inactive status so long as it is no longer taking in contributions or making expenditures and files a one-time report with the Board. There are not reporting requirements for an inactive PF. Minn. Stat. § 10A.244.
 8. Before being terminated, a PF must dispose of basically all its assets and file a termination report with the Board. See Minn. Stat. § 10A.243.
- C. State Political Action Committees (“PACs”)
1. MACI v. Foley case recognized 3 types of Minnesota PACs:
 - a) Conduit Fund – not a true PAC;
 - (1) Account maintained by corporation but recipient designated by contributor;
 - (2) Solicitations for conduit fund required to be in writing, informational, non-partisan and state that participation will not affect employment. Minn. Stat. § 211B.15, subd. 16.
 - b) Independent – supported by corporation in name only but no administrative support or funding; and
 - c) “Partisan” PACs – such as federal PACs with corporate support are not permitted.
 2. Corporations may only contribute to a PAC if it is engaged in independent expenditures rather than directly opposing/supporting a candidate. Minn. Stat. § 211B.15 subd 2, 3. See Ethical Practices Board Advisory Opinion 115 (1991).
 3. Local laws may require registration for contributions to local candidates (Hennepin County/Ramsey County/Duluth/Minneapolis/St. Paul).
 4. Employees may elect for wages to be deducted for and contributed to a PAC. Minn. Stat. § 181.06, subd. 2.

5. PAC must have a treasurer in order to make expenditures or accept contributions. It must not commingle its funds with those of another individual, association, or organization. Minn. Stat. § 10A.11.
 - a) The treasurer is responsible for keeping various records related to the contributions received and expenditures made by the PAC. See Minn. Stat. § 10A.13.
 - b) PAC must be registered with the Board no later than fourteen (14) days after it has: 1) received aggregate contribution of more than \$750 in a calendar year, OR 2) made aggregate expenditures of more than \$750 in a calendar year. Minn. Stat. § 10A.14 subd. 1.
 - c) PAC must file annual reports with the Board beginning when it must first register. The frequency of reporting increases significantly in a general election year, or any time there is a candidate for legislative or judicial office on the ballot. Minn. Stat. § 10A.20 subd. 2.
 - d) The reports filed with the Board must contain a variety of information about the contributions received and expenditures made (including the recipient(s) of some expenditures and identification of some donors). Minn. Stat. § 10A.20 subd. 3.

IV. Gifts to Public Officials Prohibited

A. State Officials

1. The Minnesota Gift Law generally prohibits a lobbyist or principal, or another at the request of a lobbyist or principal, to give a gift to a public official. Minn. Stat. § 10A.071 subd. 2.
2. “Gift” defined to include money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness or a promise of future employment without the giver receiving equal or greater value in return. Minn. Stat. § 10A.071, subd. 1(b).
3. “Public official” is defined to include members of the Legislature, constitutional officers, members and top staff of state boards and commissions, commissioners, deputy commissioners and assistant commissioners of state departments, administrative law judges, district or appellate judges, county commissioners, deputy assistant, special assistant or assistant attorney’s general, legislative employees, members and senior staff of the Metropolitan Council and members or the chief administrator of a metropolitan agency. Minn. Stat. § 10A.01 subd. 35.

B. Local Officials

1. An “interested person” is prohibited from giving a gift to a local official. Minn. Stat. § 471.895 subd. 2.
2. An “interested person” is defined to be any person or a representative of a business or association that has a “direct financial interest” in a decision that a local official is authorized to make. Minn. Stat. § 471.895, subd. 1(c).
3. “Local official” is broadly defined to be any elected or appointed official of a county or city or of an agency of the county or city. Minn. Stat. § 471.895, subd. 1(d).

C. Exceptions

1. There are no de minimis exceptions to either gift prohibition.
2. There are some limited exceptions including political contributions, services to assist an official in the performance of official duties, services of insignificant monetary value, a plaque, trinket, or similar memento of insignificant monetary value; or food or 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. Minn. Stat. §§ 10A.071, subd. 3; 471.895, subd. 3. If the recipient is a member or employee of the Legislature, food and beverages at a reception may also be exempted if an invitation to attend was provided to all members of the Legislature. Minn. Stat. § 10A.071 subd. 3(7)(ii).

V. Issues In Communicating With Public Officials

A. Ex Parte Communications

1. There is no single rule governing ex parte communications with state departments and agencies.
2. The Minnesota Public Utilities Commission (Minn. R. 7845.7100 and 7845.7200), the Environmental Quality Board (Minn. R. 4405.0400), and the Minnesota Pollution Control Agency (Minn. R. 7000.9100) all have their own rules. Contested matters on which ex parte communications are prohibited are noted by the MPUC on its weekly calendar.

B. Revolving Door Restrictions

1. There are no general restrictions in Minnesota law on employment of former public officials.

2. Certain restrictions applicable to Commissioners of MPUC, their staff and attorneys. Minn. Stat. § 216A.035.

C. Conflict of Interest

1. Minnesota law dictates procedures “public officials,” including members of the Legislature, are required to follow to avoid, or at least disclose, any conflicts of interest. Minn. Stat. § 10A.07, subd. 1.
2. Any public official who, in the discharge of official duties, would be required to take an action or make a decision that would substantially affect the official’s financial interests, or those of an associated business, must take the following action:
 - a) Prepare a written statement describing the nature of the potential conflict of interest; and
 - b) Deliver a copy of the statement to the presiding officer of the body in which the member is serving. Minn. Stat. § 10A.07.
3. Public officials are required to file a Statement of Economic Interest with the Campaign Finance and Public Disclosure Board within 60 days of accepting employment as a public official or within 14 days after filing an affidavit of candidacy or petition to appear on the ballot for an elective public office. Minn. Stat. § 10A.09, subd. 1.

VI. Employment Law Issues

- A. Employer retaliation (i.e. economic reprisals or threat of loss of employment) for “political contributions or political activity” is prohibited. Minn. Stat. § 10A.36.
 1. Exception where employee’s political viewpoint is “bona fide occupational qualification for employment.” Minn. Stat. § 10A.36.
- B. Employee Candidates
 1. No candidate can be rewarded or induced to run or not run for public office. Minn. Stat. § 211B.10, subd. 1.
 2. Employer required to give employee time off from work to attend to duties required by public office. Minn. Stat. § 211B.10, subd. 2.
 3. Employee entitled to be excused from work to attend meetings of state party central committee or executive committee of which the employee is a member or to attend party political convention as a delegate. Minn. Stat. § 202A.135.

- C. Get out the vote messages allowed on premises. Minn. Stat. § 211B.15, subs. 9 and 11
- D. Employee entitled to time off to vote. Minn. Stat. § 204C.04.

VII. Miscellaneous Provisions

A. Lobbyist Fees

- 1. Contingent fees for lobbyists prohibited. Minn. Stat. § 10A.06.
- 2. Penalty is criminal.
- 3. Payment of a “bonus” to a lobbyist by employer is not a contingent fee provided the payment was not contemplated or discussed with the lobbyist prior to the lobbying efforts to influence legislative action. Ethical Practices Board Advisory Opinion No. 106.

B. Fundraising Restrictions

- 1. Lobbyist and PAC contributions subject to 20% of expenditure limit provision. Minn. Stat. § 10A.27, subd. 11.
- 2. Lobbyist or PAC contributions must include lobbyist registration number. Minn. Stat. § 10A.15, subd. 5.
- 3. Contributions by lobbyists and solicitations by legislators prohibited during legislative session. Minn. Stat. § 10A.273 subd. 1. See also, Ethical Practices Board Opinion Nos. 130, 138.

C. Tax Deductibility of Lobbying Fees

- 1. The Omnibus Budget Reconciliation Act of 1993 removed the deduction for federal income tax purposes of expenses incurred in lobbying. In 1994, Minnesota adopted this exclusion as well.
- 2. Member organizations (*e.g.* trade and professional associations) which provide lobbying services in addition to other activities must provide their members with a breakdown of what percentage of membership fees/dues go towards lobbying activities.

D. Potential for Tax Implications related to Political Activities

- 1. Tax-exempt status is often dependent on restrictions related to the political activities of an entity. See e.g. 26 CFR § 1.501(c)(3)-1; 26 CFR § 1.501(c)(4)-1.
 - a) Tax-exempt status might be lost for certain entities if the entities engage in impermissible or excessive political activities, even if

such acts are legal. See e.g. 26 CFR § 1.501(c)(3)-1(b), (c); 26 CFR § 1.501(c)(4)-1(a); Rev. Rul. 2007-41, 2007-1 C.B. 1421; Rev. Rul. 81-95, 1981-1 C.B. 332; IRS Private Letter Ruling, 200903080, January 16, 2009.

- b) The consequences of losing tax-exempt status can be significant, including likely being taxed at the highest federal rate, currently 35%.
 - c) Retroactively qualify for tax-exemption under Section 527 of the I.R.S. code upon losing tax-exempt status under another section because of impermissible political activity will be ineffective because the necessary filing requirements and deadlines for the taxable period will not have been fulfilled.
2. Lobbying expenditures by business generally not deductible for corporate income tax purposes.

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