

State of Minnesota
Campaign Finance and Public Disclosure Board
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

THIS ADVISORY OPINION IS PUBLIC DATA
pursuant to a consent for release of information
provided by the requester

Issued to: Senator David Tomassoni
75 Rev. Dr. Martin Luther King Jr. Blvd.
Capitol, Room G-9
St. Paul, MN 55155-1606

RE: Potential Conflict of Interest for a Member of the Legislature

ADVISORY OPINION 439

SUMMARY

Employment by a member of the legislature as the executive director of an association that is represented by a lobbyist does not in itself create a conflict of interest. An official action or decision by the legislator may create a conflict of interest under specific circumstances.

FACTS

As a State Senator, and therefore a public official as defined in Minnesota Statutes Chapter 10A, you authorized your legal counsel to request on your behalf an advisory opinion from the Campaign Finance and Public Disclosure Board (the Board) based on the following facts that were provided in the letter requesting the advisory opinion and in documentation provided with the request.

1. You have been hired as the Executive Director of the Range Association of Municipalities and Schools (RAMS).
2. As a result, RAMS is now for you an "associated business" as defined in Minnesota Statutes section 10A.01, subdivision 5, because the association will be compensating you more than \$50 a month.
3. RAMS is a voluntary association of political subdivisions that has been represented by a lobbyist registered with the Board since 1991. Therefore RAMS is a "principal" as defined in Minnesota Statutes section 10A.01, subdivision 33.
4. You have provided with your request a copy of an agreement between you and RAMS that details your duties as Executive Director. The agreement specifically states that you will not be a lobbyist for RAMS, that you will not be involved with the hiring of a lobbyist for the association, and that the lobbyist will not report to the position of Executive Director.
5. You are aware of prior advisory opinions issued by the Board that considered potential conflicts of interest for a member of the Minnesota legislature and the

Cited Statutes and Administrative Rules

10A.01 Definitions.

Subd. 5. Associated business. "Associated business" means an association, corporation, partnership, limited liability company, limited liability partnership, or other organized legal entity from which the individual receives compensation in excess of \$50, except for actual and reasonable expenses, in any month as a director, officer, owner, member, partner, employer or employee, or whose securities the individual holds worth more than \$2,500 at fair market value.

10A.07 Conflicts of Interest.

Subdivision 1. **Disclosure of potential conflicts.** A public official or a local official elected to or appointed by a metropolitan governmental unit 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, unless the effect on the official is

no greater than on other members of the official's business classification, profession, or occupation, must take the following actions:

(1) prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest;

(2) deliver copies of the statement to the official's immediate superior, if any; and

(3) if a member of the legislature or of the governing body of a metropolitan governmental unit, deliver a copy of the statement to the presiding officer of the body of service.

If a potential conflict of interest presents itself and there is insufficient time to comply with clauses (1) to (3), the public or local official must orally inform the superior or the official body of service or committee of the body of the potential conflict.

Subd. 2. Required actions. If the official is not a member of the legislature or of the governing body of a metropolitan governmental unit, the superior must assign the matter, if possible, to another employee who does not have a potential conflict of interest. If there is no immediate superior, the official must abstain, if possible, in a manner prescribed by the board from influence over the action or decision in question. If the official is a member of the legislature, the house of service may, at the member's request, excuse the member from taking part in the action or decision in question. If the official is not permitted or is otherwise unable to abstain from action in connection with the matter, the official must file a statement describing the potential conflict and the action taken. A public official must file the statement with the board and a local official must file the statement with the governing body of the official's political subdivision. The statement must be filed within a week of the action taken.

Subd. 3. Interest in contract; local officials. This section does not apply to a local official with respect to a matter governed by sections 471.87 and 471.88.

Subd. 4. Exception; judges. Notwithstanding subdivisions 1 and 2, a public official who is a district court judge, an appeals court judge, or a Supreme Court justice is not required to comply with the provisions of this section.