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# State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **136**

01/22/2013 Authored by Hansen, Falk, Simon, Winkler, Erhardt and others

The bill was read for the first time and referred to the Committee on Elections

02/04/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Judiciary Finance and Policy

03/18/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on State Government Finance and Veterans Affairs

1.1 A bill for an act  
1.2 relating to public disclosure; expanding the definition of public official in  
1.3 campaign finance and public disclosure law; providing clarifying changes;  
1.4 amending Minnesota Statutes 2012, sections 10A.01, subdivision 35; 10A.07;  
1.5 10A.071, subdivision 1; 10A.08; 10A.09, subdivision 6a.

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

1.7 Section 1. Minnesota Statutes 2012, section 10A.01, subdivision 35, is amended to read:

1.8 Subd. 35. **Public official.** "Public official" means any:

1.9 (1) member of the legislature;

1.10 (2) individual employed by the legislature as secretary of the senate, legislative  
1.11 auditor, chief clerk of the house of representatives, revisor of statutes, or researcher,  
1.12 legislative analyst, or attorney in the Office of Senate Counsel and Research or House  
1.13 Research;

1.14 (3) constitutional officer in the executive branch and the officer's chief administrative  
1.15 deputy;

1.16 (4) solicitor general or deputy, assistant, or special assistant attorney general;

1.17 (5) commissioner, deputy commissioner, or assistant commissioner of any state  
1.18 department or agency as listed in section 15.01 or 15.06, or the state chief information  
1.19 officer;

1.20 (6) member, chief administrative officer, or deputy chief administrative officer of a  
1.21 state board or commission that has either the power to adopt, amend, or repeal rules under  
1.22 chapter 14, or the power to adjudicate contested cases or appeals under chapter 14;

1.23 (7) individual employed in the executive branch who is authorized to adopt, amend,  
1.24 or repeal rules under chapter 14 or adjudicate contested cases under chapter 14;

1.25 (8) executive director of the State Board of Investment;

- (9) deputy of any official listed in clauses (7) and (8);
- (10) judge of the Workers' Compensation Court of Appeals;
- (11) administrative law judge or compensation judge in the State Office of Administrative Hearings or unemployment law judge in the Department of Employment and Economic Development;
- (12) member, regional administrator, division director, general counsel, or operations manager of the Metropolitan Council;
- (13) member or chief administrator of a metropolitan agency;
- (14) director of the Division of Alcohol and Gambling Enforcement in the Department of Public Safety;
- (15) member or executive director of the Higher Education Facilities Authority;
- (16) member of the board of directors or president of Enterprise Minnesota, Inc.;
- (17) member of the board of directors or executive director of the Minnesota State High School League;
- (18) member of the Minnesota Ballpark Authority established in section 473.755;
- (19) citizen member of the Legislative-Citizen Commission on Minnesota Resources;
- (20) manager of a watershed district, or member of a watershed management organization as defined under section 103B.205, subdivision 13;
- (21) supervisor of a soil and water conservation district;
- (22) director of Explore Minnesota Tourism;
- (23) citizen member of the Lessard-Sams Outdoor Heritage Council established in section 97A.056;
- (24) citizen member of the Clean Water Council established in section 114D.30; ~~or~~
- (25) member or chief executive of the Minnesota Sports Facilities Authority established in section 473J.07~~;~~<sub>2</sub>;
- (26) district court judge, appeals court judge, or supreme court justice; or
- (27) county commissioner.

Sec. 2. Minnesota Statutes 2012, section 10A.07, is amended to read:

**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.

Sec. 3. Minnesota Statutes 2012, section 10A.071, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return.

(c) "Official" means a public official, an employee of the legislature, ~~a judge~~, or a local official of a metropolitan governmental unit.

Sec. 4. Minnesota Statutes 2012, section 10A.08, is amended to read:

**10A.08 REPRESENTATION DISCLOSURE.**

Subdivision 1. **Disclosure required.** A public official who represents a client for a fee before an individual, board, commission, or agency that has rulemaking authority in a hearing conducted under chapter 14, must disclose the official's participation in the action to the board within 14 days after the appearance. If the public official fails to disclose the participation within ten business days after the disclosure required by this section was due, the board may impose a late filing fee of \$5 per day, not to exceed \$100, starting on the 11th day after the disclosure was due. The board must send notice by certified mail to a public official who fails to disclose the participation within ten business days after the disclosure was due that the public official may be subject to a civil penalty for failure to disclose the participation. A public official who fails to disclose the participation within seven days after the certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Subd. 2. **Exception; judges.** Notwithstanding subdivision 1, 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.

Sec. 5. Minnesota Statutes 2012, section 10A.09, subdivision 6a, is amended to read:

Subd. 6a. ~~Local officials~~ **Place of filing.** A public official required to file a statement under this section must file it with the board. A local official required to file a statement under this section must file it with the governing body of the official's political subdivision. The governing body must maintain statements filed with it under this subdivision as public data. If an official position is defined as both a public official and as a local official of a metropolitan governmental unit under this chapter, the official must file the statement with the board.

Sec. 6. **EFFECTIVE DATE.**

Sections 1 to 5 are effective January 1, 2014, and apply to public officials elected or appointed to terms of office commencing on or after that date.