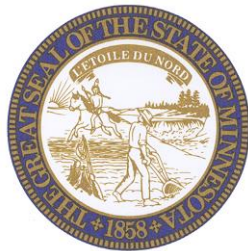


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July 28, 2020

To Becca Nash
From Janelle Taylor, Legislative Analyst
Ben Stanley, Senate Counsel
Subject Options for Recipient Reporting Issues

This memo is in response to a request for our analysis of alternative actions the Legislative-Citizen Commission on Minnesota Resources (LCCMR) can and cannot take to address a situation where multiple reporting requirements have not been met by a recipient of money from the environment and natural resources trust fund.

Can the LCCMR waive the reporting requirements?

We do not think the LCCMR can waive the reporting requirements. Minnesota Statutes, section 116P.05, subdivision 2, states that:

“It is a condition of acceptance of the appropriations made from the Minnesota environment and natural resources trust fund ... that the agency or entity receiving the appropriation **must submit a work plan and annual or semiannual progress reports** in the form determined by the Legislative-Citizen Commission on Minnesota Resources ...”

The LCCMR has not been authorized by the legislature to waive these requirements. If the LCCMR would like to waive the reporting requirements for the recipient, the LCCMR could recommend the requirements be waived legislatively or recommend the LCCMR be granted authority to do so either for the recipient or generally under certain circumstances and/or with a super majority.

Can the LCCMR allow an alternative reporting form/mechanism for the recipient?

We think this is unclear. The statute requires the reports to be “in the form determined by” the LCCMR. The LCCMR has an existing process for final and other progress reports to be submitted. One can argue that this is the “form determined by” the LCCMR. It can also be

argued that the LCCMR has broad authority to determine the form for reporting, including alternate forms for an individual recipient.

We do not think a clear prohibition on allowing an alternative reporting option for a recipient exists. Accordingly, the LCCMR could allow an alternative report format in this individual case. However, given the uncertainty described above and the possibility of setting an undesirable precedent of singling one recipient out, an alternative to this approach may be better. The LCCMR could establish a general process for allowing alternative reporting in certain circumstances. The LCCMR could also recommend statutory changes to clarify this issue or provide explicit authority to the LCCMR to modify reporting requirements generally under certain circumstances and/or with a super majority.

Can the LCCMR withhold funding from the recipient?

The LCCMR has broad authority in what it recommends to the legislature. The LCCMR can refuse to recommend additional funding for the recipient until the situation has been resolved.

Once an appropriation has been passed into law, the LCCMR has limited ability to withhold funding. In this case, all open appropriations have an approved work plan and the grants are being administered by the Department of Natural Resources who will release funds as the recipient meets requirements for reimbursement/funding.

We hope this information is helpful to you. Please let us know if you need further assistance.

JT/BS/jf