

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX (651) 296-7747
THOMAS S. BOTTERN
DIRECTOR

Senate

State of Minnesota

TO: Senator Kari Dziedzic

FROM: Tom Bottern, Director (651/296-3810) *TBB*

DATE: June 29, 2012

RE: LCCMR Procedures -- Analysis of Conflict of Interest
Regarding a Family Member

You have asked me whether the Procedures of the Legislative-Citizen Commission on Minnesota Resources (LCCMR Procedures) (as adopted September 23, 2008, and attached to this memo as you provided them to me) raise any concerns regarding a potential conflict of interest arising from your brother-in-law's employment with the Minnesota Department of Natural Resources (DNR). After reviewing the procedures and the information you have provided to me, I do not believe a conflict of interest exists.

Item C, section 7 of the LCCMR Procedures deals with conflicts of interest. Under the heading titled "Conflict of Interest to be Managed through Procedures" the LCCMR Procedures state "nevertheless, certain affiliations may constitute a conflict of interest that must be managed by the LCCMR. They include...having a family relationship with a proposer or a staff or board member of a proposing organization." The LCCMR Procedures then state that a conflict of interest must be identified before or during the initial proposal review process, and that a member who has declared a conflict of interest "may not advocate for or against the proposal or vote on the proposal."

The first step in evaluating this issue is to determine whether your brother-in-law can be considered a "family member" within the meaning of the LCCMR Procedures, which do not contain a definition of the term "family member". In the absence of a specific definition, the term should be given a reasonable construction and interpretation based on the common understanding of the term. With that in mind, I have reviewed selected Minnesota Statutes in search of a definition of the term "family member." There are several sections in statute that



define the term "immediate family member." One example is Minnesota Statutes, section 58A.02, subdivision 4, found in the chapter of law regulating Individual Mortgage Licensing. This subdivision defines "immediate family member" as follows:

58A.02 DEFINITIONS.

Subd. 4. Immediate family member.

"Immediate family member" means a spouse, child, sibling, a parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Another example is Minnesota Statutes, section 181.947, which provides unpaid leave for immediate family members of military personnel injured or killed in active service. Minnesota Statutes, section 181.947, subdivision 1, paragraph (e), defines "immediate family member" to mean "a person's parent, child, grandparents, siblings, or spouse."

I did not find a statute that defines in-laws (whether siblings or parents related by marriage) as family members. As you can see, the two statutes I have cited in this memo do not contain a reference to in-laws, even though they provide a broad and inclusive definition of the term "immediate family member." These definitions in statute provide a strong basis to interpret the term "family member" as it used in the LCCMR Procedures not to include siblings related by marriage.

I do not believe the term "family member" as it is used in LCCMR Procedures includes a relationship to a sibling by marriage. For this reason alone, I believe the LCCMR Procedures do not require you to declare a conflict of interest with respect to any LCCMR project proposal involving your brother-in-law.

/TSB
Attachment

cc: Greg Knopff