

STATE OF MINNESOTA
COUNTY OF RAMSEY

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DISTRICT COURT
SECOND JUDICIAL DISTRICT
CASE TYPE: CIVIL

In re Temporary Funding of Core Functions
of the Executive Branch of the State of
Minnesota

Court File No. 62-CV-11-5203
Judge Kathleen R. Gearin

**RESPONSE AND MEMORANDUM
OF INTERVENOR MINNESOTA
WORKFORCE COUNCIL
ASSOCIATION**

INTRODUCTION

The Minnesota Workforce Council Association (“MWCA”) is the organization representing the Workforce Councils for each of the sixteen Workforce Service Areas across the state which operate pursuant to the federal Workforce Investment Act (20 U.S.C. § 9201, *et seq.*). The Workforce Councils coordinate with city-based, county-based, and non-profit organizations to provide services to youth, adults, and dislocated workers who need assistance to fully participate in the labor force. These services are provided through the 49 Workforce Centers located across Minnesota. The federal government funds approximately 75% of the costs of the programs implemented by the Workforce Councils with funding delivered through either the Minnesota Department of Employment and Economic Development (“DEED”) or the Minnesota Department of Human Services (“DHS”). In submitting this memorandum, MWCA seeks to ensure, consistent with State law, that the Workforce Councils may continue providing their services utilizing the pass-through federal funding in the event of a State government shut down.

BACKGROUND

As noted above, the MWCA is the organization representing the Workforce Councils for each of the State's sixteen Workforce Service Areas. The Workforce Councils consist of individuals appointed by local elected officials and oversee operation of 49 Workforce Centers across the State. These Workforce Centers host several employment and training programs in one location to reduce fragmentation and duplication of services. The creation of Minnesota's Workforce Centers began in 1993, when federal, state, and local service providers were asked to create and define a "one-stop" concept focused on (1) providing information and resources that enable individuals to achieve economic security and (2) providing employers with the prepared workers they need to successfully compete in today's economy. The concept became mandatory under the 1998 Workforce Investment Act.

The Workforce Centers provide services to youth, adults and dislocated workers who need assistance to fully participate in the labor force. For youth, programs provide year-round employment and training and increase long-term employability by enhancing educational, occupational, and citizenship skills. These programs are designed to encourage high school completion, reduce welfare dependency, and assist in making successful transitions from school to work, apprenticeships, the military, or post-secondary training. For adults and dislocated workers, the programs provide job training and other services resulting in increased employment through classroom training, on-the-job training, vocational and personal counseling, labor market information dissemination, and assessment. The Workforce Councils also administer the Temporary Assistance to Needy Families program in cooperation with the United States Department of Health and Human Services, DHS, and the counties.

MWCA was incorporated in 1994 and represents the interests of the Workforce Councils and local elected officials in Minnesota. The Association provides a central forum for the

members to discuss common interests, develop policy consensus, share successful job training strategies and maintain lines of communication with state and federal governments. It is the mission of the MWCA to provide Minnesota with a skilled and competitive workforce through engaged and proactive local elected officials, workforce boards, and staff.

The Workforce Councils receive approximately 75% of their funding from the federal government. These funds are delivered to the Workforce Councils through either DEED or DHS. The agencies already are authorized to spend these federal funds for fiscal year 2012 and, through this intervention, MWCA seeks to ensure that the Workforce Councils may continue to operate using these federal funds notwithstanding a potential State government shutdown.

ARGUMENT

Article XI, Section 1 of the Minnesota Constitution provides that “[n]o money shall be paid out of the treasury of this state except in pursuance of an appropriation by law.” See State ex rel. Nelson v. Iverson, 145 N.W. 607, 608 (Minn. 1914) (purpose is to “prevent the expenditure of the people’s money without their consent first had and given.”); see also, Minn. Stat. § 16A.57 (“Unless otherwise expressly provided by law, state money may not be spent or applied without an appropriation”). Appropriations for the spending of federal funds received by state agencies are governed by Minnesota Statutes, Section 3.3005,¹ which provides that the Legislature must review requests to spend such funds.

The Governor must submit to the Legislature an agency’s request to spend federal funds as part of a budget request. Minn. Stat. § 3.3005, subd. 2. Such requests must be submitted at least 20 days before the legislative deadlines for committee action on fiscal bills. Id. Once the

¹ Minnesota Statutes, Section 4.07 addressed in Respondent Governor Dayton’s memorandum, applies where the federal funds are made available to the State and no department, agency, governmental subdivision, or instrumentality thereof is designated to receive such funds. The provisions of Minnesota Statutes, Section 3.3005 are not addressed in the Petition of Attorney General Lori Swanson or in the Response of Governor Mark Dayton.

request has been submitted, the Legislature has 20 days to complete its review of the request. Minn. Stat. § 3.3005, subd. 3. After the 20-day review period is complete, the state agency may spend the federal funds unless a member of the Legislative Advisory Commission requested further review of the federal funds spending request. *Id.* If a request for further review is submitted, the agency may not spend the federal funds “until the request has been satisfied or withdrawn, the expenditure is approved in law, or the regular session of the legislature is adjourned for the year.” *Id.*

Governor Dayton submitted his 2012-13 Biennial Budget to the Legislature on February 15, 2011 – more than 20 days before the March 25, 2011 deadline for committee action on fiscal bills. As is explained more fully below, this budget included the federal funds, disbursed through DEED and DHS, for the programs administered by the Workforce Councils. MWCA is unaware of any member of the Legislative Advisory Commission requesting further review of federal spending requests included in Governor’s budget request within the 20-day review period. Moreover, even if such a request for further review had been made, the state agencies are free to spend all federal funds included in the Governor’s budget requests following the close of the regular legislative session on May 23, 2011 (*see* Minn. Stat. 3.3005, subd. 3) unless the legislature had taken specific action to prohibit such spending.

A. The Department of Employment and Economic Development is Authorized to Spend Federal Workforce Investment Act Funds Identified in the Governor’s Budget Request.

Minnesota’s Workforce Councils implement a number of programs for youth, adults, and displaced workers under Title I of the Workforce Investment Act (“WIA”).² These programs are funded, in large part, with WIA funds disbursed by the federal Department of Labor. Federal

² Title I establishes state and local workforce councils, the One-Stop delivery system, youth activities, adult and dislocated worker training programs, and contains most of the details of the workforce investment system.

law requires that eighty-five percent of the funds for the adult and youth programs are allocated to the local areas with the remaining fifteen percent allocated for statewide activities. With respect to the dislocated worker programs, twenty percent of the funds are allocated to the Secretary of Labor to carry out National Emergency Grants,³ dislocated worker demonstrations and technical assistance. Of the remaining eighty percent, sixty percent is allocated to local areas, fifteen percent is allocated for statewide activities, and twenty-five percent is allocated for state rapid response activities. Local areas may spend no more than ten percent of their allocations for administrative purposes and the State may spend no more than five percent of total federal funds for administration costs.

All WIA funds from the federal Department of Labor are received by DEED and held in an account separate from any state funds. The federal funds are allocated among the sixteen Workforce Councils using a federally-established formula. DEED disburses the funds to the local Workforce Councils upon request and on an as-needed basis. The costs associated with disbursing the funds may be covered by the five percent of federal funds that may be allocated to administrative costs at the State level.

Governor Dayton's Biennial Budget submitted to the Legislature includes federal WIA funds of \$69,497,000 for fiscal year 2012 and \$66,178,000 for fiscal year 2013.⁴ These amounts

³ National Emergency Grants temporarily expand the service capacity of Dislocated Worker training and employment programs at the state and local levels by providing assistance in response to large, unexpected economic events which cause significant job losses. The grants generally provide resources to states and local workforce investment boards to quickly reemploy laid-off workers by offering training to increase occupational skills. See <http://www.doleta.gov/neg/>. Since June 1, 2009, Minnesota was awarded \$15.9 million of National Emergency Grants.

⁴ See Appendix (Federal Funds Summary) to Governor Dayton's proposed 2012-13 Biennial budget for the Department of Employment and Economic Development available at <http://www.mmb.state.mn.us/doc/budget/narratives/gov11/deed.pdf>.

were properly submitted to the Legislature for review pursuant to Minnesota Statutes, Section 3.3005, subd. 2. Because no member of the Legislative Advisory Council requested further review of these amounts – or, alternatively, because the regular legislative session has closed without any legislative action prohibiting such spending – DEED is authorized to disburse these funds to the local Workforce Councils so that they can continue to implement the WIA program notwithstanding the present budget impasse and potential State government shutdown.

B. The Department of Human Services is Authorized to Spend Federal Temporary Assistant to Needy Families Funds Included in Governor Dayton's Budget.

Minnesota's Workforce Councils also implement the Temporary Assistance to Needy Families ("TANF") program in cooperation with the United States Department of Health and Human Services, DHS, and the counties. The TANF program provides monthly cash benefits to very low-income families based on eligibility standards established by the State with a goal of transitioning recipients to employment so that cash benefits are no longer necessary. Federal TANF funds are allocated to DHS which in turn distributes the funds to the counties, the vast majority of which ultimately partner with and provide funding to the Workforce Councils to carry out the employment and training services under the TANF program. As is the case with distribution of the WIA funds, DHS can retain a portion of the TANF funds to cover the costs of administering the program.

Governor Dayton's Biennial Budget submitted to the Legislature includes federal TANF funds of \$110,665,000 for fiscal year 2012 and \$104,751,000 for fiscal year 2013.⁵ These amounts were properly submitted to the Legislature for review pursuant to Minnesota Statutes, Section 3.3005, subd. 2. Because no member of the Legislative Advisory Council requested

⁵ See Appendix (Federal and Other Funds Summary) to Governor Dayton's proposed 2012-13 Biennial Budget for the Department of Human Services available at <http://www.mmb.state.mn.us/doc/budget/narratives/gov11/deed.pdf>.

further review of these amounts – or, alternatively, because the regular legislative session has closed without any legislative action prohibiting such spending – DHS is authorized to disburse these funds to the counties so that they can continue to work with the Workforce Councils to implement the TANF program notwithstanding the present budget impasse and potential State government shutdown.

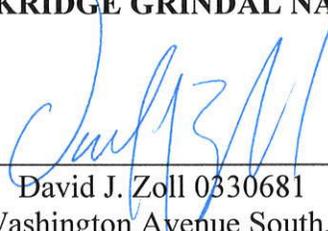
CONCLUSION

The Legislature has “appropriated” the spending of federal funds included in Governor Dayton’s 2012-13 Biennial Budget submitted to the Legislature on February 15, 2011 pursuant to the procedures established in Minnesota Statutes, Section 3.3005. Accordingly, state agencies are authorized to spend, and must disburse, all such funds including the Workforce Investment Act funds and Temporary Aid to Needy Families Funds identified above notwithstanding the present budget impasse and potential State government shutdown.

Date: June 21, 2011

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

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