

Duluth News Tribune

Published September 12, 2011, 12:00 AM

DNT investigation: Excelsior lobbying cash questioned

While state and federal agencies fed more than \$40 million of public money into Excelsior Energy over the past decade, the company and its CEOs spent nearly \$1.8 million on lobbying and campaign contributions, according to public records examined by the News Tribune.

By: [Peter Passi](#), Duluth News Tribune

While state and federal agencies fed more than \$40 million of public money into Excelsior Energy over the past decade, the company and its CEOs spent nearly \$1.8 million on lobbying and campaign contributions, according to public records examined by the News Tribune.

How much, if any, of the government money ended up being used for political purposes can't be determined easily, because of a 2008 state law shielding Excelsior's spending records from public view. But records that are available show private investors contributed only \$60,000 to Excelsior, indicating the company may have improperly used government money to influence government entities and officeholders.

That's the view expressed by state Rep. Tom Anzelc, DFL-Balsam Township, one of the project's leading critics.

"These developers have been really successful in capturing public money and getting language and statutory changes giving their company preferential and special treatment," Anzelc said. "I believe that their highly effective lobbying efforts are directly attributable to the public resources they've had at their disposal. I think they used public dollars to lobby public law-making bodies."

Tom Micheletti, Excelsior's co-CEO with his wife, Julie Jorgensen, disputes Anzelc's claim.

"Contrary to repeated false claims of project opponents, absolutely no state funds have been used to lobby the Legislature," Micheletti told the News Tribune. "In addition, every expenditure has been approved by administrators of the programs and is in compliance with the rules of the programs and all applicable laws and regulations."

Because of the 2008 law, it's difficult for anyone beyond the company's principals or its governmental benefactors to verify Micheletti's contention. Excelsior has repeatedly denied requests by the News Tribune to provide access to its records.

Anzelc says he will propose legislation making Excelsior's expenses public once again, and is also seeking to increase the yearly amount the company must repay on some of its loans.

Follow the money

Despite nearly a decade of work, Excelsior's plans for a \$2.1 billion clean-energy power plant using gasified coal have languished on the drawing board. The start-up company has yet to generate a single watt of energy and, without any identified customers for its would-be plant, no outside investors have embraced the project.

Lobbying and political campaign records examined by the News Tribune detail the following political and governmental spending by Excelsior, Micheletti and Jorgensen:

- From 2005 to 2010, Excelsior spent \$1.46 million on lobbying the state Legislature and regulatory agencies, according to reports it filed with the Minnesota Campaign Finance and Public Disclosure Board. The company has hired 24 state lobbyists, and currently has eight lobbyists registered with the state, including Micheletti and Jorgensen. Micheletti alone has reported incurring about \$162,000 in lobbying expenses since 2005.
- In 2006 and 2007, the company spent another \$200,000 to lobby Congress, according to the Senate Office of Public Records.
- Between 1998 and 2010, Excelsior and its principal partners made \$98,775 in state and federal political campaign contributions, according to the Minnesota Campaign Finance and Public Disclosure Board and the Federal Election Commission.
- State Sen. Tom Bakk, DFL-Cook, received \$4,500 in campaign contributions from Excelsior, more than any other state legislator, with much of those contributions given in 2009-10 for his unsuccessful run as governor. Bakk was a member of the legislative committee that in 2008 inserted language into an omnibus tax bill that restricted public access to Excelsior's financial records. Other DFL Iron Range legislators who have supported Excelsior and received contributions from the company include Rep. Tom Rukavina, Sen. David Tomassoni and Sen. Tom Saxhaug.
- Former U.S. Sen. Norm Coleman received \$22,000, more than any other politician. In 2003, the News Tribune reported that Coleman was the key senator in inserting language into an energy bill that provided Excelsior with \$800 million in loan guarantees. Other federal lawmakers who have received money from Excelsior include former Rep. James Oberstar, Sen. Amy Klobuchar, President Obama and former President George W. Bush.
- The actual total of Excelsior's contributions and lobbying costs is probably higher, as the company has yet to report what it spent to successfully lobby the Minnesota Legislature this year for changes that would allow it to build a natural gas-fired plant, instead of one running on gasified coal.

Micheletti said Excelsior's lobbying and political donations should be kept in perspective.

"We have been up against very large monopoly utilities who have a goal of keeping out competition and innovation. We are a tiny company by comparison," he said.

Micheletti called Excelsior's lobbying expenditures "small, compared to funds expended by the large utilities at the state and federal level for representation." He did not note, however, that large utilities such as Allete are profitable companies not dependent on public money.

Past citation

Excelsior has been cited in the past for using public money for lobbying.

A 2008 review by the Minnesota Office of the Legislative Auditor flagged the company for using some of \$9.5 million in loans it was to receive from the Iron Range Resources and Rehabilitation Board for lobbying activities, even though the agency expressly prohibited using the money for lobbying.

As a result of those findings and evidence of other unsupported or poorly documented costs, Excelsior was asked to repay \$40,161 in prior IRRRB disbursements. The company complied.

The auditor's report also faulted the IRRRB for failing to clearly define what types of lobbying or associated expenditures it considered inappropriate.

In a response to the audit, Sandy Layman, then commissioner of the IRRRB, said her agency did not intend to forbid the use of loan money for all activities the state considered lobbying. She said the agency did not define inappropriate activities as narrowly as the state, which considers even attempts to sway regulatory agencies as lobbying.

For the purpose of its loan agreement with Excelsior, Layman said agency money was not to be used to "attempt to influence state legislation or pursue other state funding."

"The loan agreements clearly state that work on site and route proceedings with the Minnesota Public Utilities Commission and permitting activities (which are required to build a power plant) as well as all federal activities, were eligible expenses," she wrote.

Political contributions

Micheletti said he makes no apologies for campaign contributions he and Jorgensen have made to politicians on both sides of the aisle in St. Paul and Washington. Records show the contributions were doled out almost equally to Republican and Democratic candidates and party committees.

"The contributions by our principals and employees, as private citizens over the past decades, are completely dwarfed by the figures you would compile for officers and employees and PACs of the utilities in the state," he said. "The insinuation that somehow this level of campaign donation could somehow influence policy makers is simply not defensible."

As for the source of campaign contributions, Micheletti said: "Absolutely no public funds or any funds of Excelsior Energy Inc. have been used to make campaign contributions. Officers of Excelsior Energy have made contributions from their own funds."

Iron Range Rep. Rukavina, who serves as chairman of the IRRRB's board of directors, received \$1,000 in campaign donations from Excelsior's leadership. But he said the contributions did not influence his political actions in support of the company's project.

Rather, Rukavina said he was motivated by the desire to generate jobs in the face of LTV Steel Mining Co.'s shutdown of operations in northern Minnesota, putting about 1,400 people out of work.

No legislative district was hit harder by the closure than Rukavina's. And when Excelsior stepped forward with a promise to create jobs, Rukavina signed on.

"I was desperate," he said, noting that about 55 percent of the people who lost jobs because of LTV's closure resided in his district.

"Did I know it was a gamble? You bet," Rukavina said.

But he noted that the IRRRB was formed to promote economic development, and risk is inherent in that mission.

"This is not the first time we screwed up, or probably the last," he said.

Anzelc, also an IRRRB board member, said he received contributions from Excelsior officials on at least a couple of occasions but returned them, as he did not support the company's project. He expressed discomfort with all the money Excelsior and its officers have spent on lobbying and political campaigns in pursuit of increased influence.

"Money corrupts the political process, and this may be an example of that," he said.

Bid for transparency

As of Sept. 30, 2010, Excelsior had only \$1.9 million left of the \$40 million in public funding it has received, records show. Some of that money has gone to pay hefty salaries to Micheletti and Jorgensen, whose combined annual pay was \$600,000 in 2006, the last time that information was publicly disclosed.

Anzelc said he wants to know where the \$40 million has gone, and he recently asked Rukavina to convene a special meeting of the IRRRB to make Excelsior's finances more transparent.

"At a minimum, I think the board needs to go on record supporting legislation to repeal the private data provisions put into the 2008 omnibus tax bill," Anzelc said.

Rukavina denied Anzelc's request for a special meeting, saying the matter could wait until the board's next regularly scheduled meeting Oct. 20. He pointed out that what Anzelc proposed would require legislative action, and the next session isn't slated to begin until Jan. 24.

But Rukavina said his decision not to call a special meeting shouldn't be interpreted as a lack of support for Anzelc's proposal. "I'm not against the idea," he said. "I think things should be done in the open. And I never knew what happened in that tax bill until after the fact."

Investigations Editor Brandon Stahl contributed to this report.

Tags: [minnesota legislature](#), [iron range](#), [news](#), [money](#), [politics](#), [minnesota](#), [legislature](#), [business](#), [energy](#)