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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2392

03/02/2023 Authored by Freiberg and Torkelson
The bill was read for the first time and referred to the Committee on Elections Finance and Policy

1.1 A bill for an act
1.2 relating to campaign finance; modifying certain campaign finance provisions;
1.3 providing civil penalties; amending Minnesota Statutes 2022, sections 10A.01,
1.4 subdivision 26; 10A.022, subdivision 3; 10A.121, subdivision 2; 10A.15,
1.5 subdivision 5, by adding a subdivision; 10A.20, subdivision 2a; 10A.271,
1.6 subdivision 1; 10A.275, subdivision 1; 10A.38.

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

1.8 Section 1. Minnesota Statutes 2022, section 10A.01, subdivision 26, is amended to read:

1.9 Subd. 26. Noncampaign disbursement. (a) "Noncampaign disbursement" means a
1.10 purchase or payment of money or anything of value made, or an advance of credit incurred,
1.11 or a donation in kind received, by a principal campaign committee for any of the following
1.12 purposes:

- 1.13 (1) payment for accounting and legal services;
1.14 (2) return of a contribution to the source;
1.15 (3) repayment of a loan made to the principal campaign committee by that committee;
1.16 (4) return of a public subsidy;
1.17 (5) payment for food, beverages, and necessary utensils and supplies, entertainment,
1.18 and facility rental for a fundraising event;
1.19 (6) services for a constituent by a member of the legislature or a constitutional officer
1.20 in the executive branch as provided in section 10A.173, subdivision 1;
1.21 (7) payment for food and beverages consumed by a candidate or volunteers while they
1.22 are engaged in campaign activities;

- 2.1 (8) payment for food or a beverage consumed while attending a reception or meeting
2.2 directly related to legislative duties;
- 2.3 (9) payment of expenses incurred by elected or appointed leaders of a legislative caucus
2.4 in carrying out their leadership responsibilities;
- 2.5 (10) payment by a principal campaign committee of the candidate's expenses for serving
2.6 in public office, other than for personal uses;
- 2.7 (11) costs of child care for the candidate's children when campaigning;
- 2.8 (12) fees paid to attend a campaign school;
- 2.9 (13) costs of a postelection party during the election year when a candidate's name will
2.10 no longer appear on a ballot or the general election is concluded, whichever occurs first;
- 2.11 (14) interest on loans paid by a principal campaign committee on outstanding loans;
- 2.12 (15) filing fees;
- 2.13 (16) post-general election holiday or seasonal cards, thank-you notes, or advertisements
2.14 in the news media mailed or published prior to the end of the election cycle;
- 2.15 (17) the cost of campaign material purchased to replace defective campaign material, if
2.16 the defective material is destroyed without being used;
- 2.17 (18) contributions to a party unit;
- 2.18 (19) payments for funeral gifts or memorials;
- 2.19 (20) the cost of a magnet less than six inches in diameter containing legislator contact
2.20 information and distributed to constituents;
- 2.21 (21) costs associated with a candidate attending a political party state or national
2.22 convention in this state;
- 2.23 (22) other purchases or payments specified in board rules or advisory opinions as being
2.24 for any purpose other than to influence the nomination or election of a candidate or to
2.25 promote or defeat a ballot question;
- 2.26 (23) costs paid to a third party for processing contributions made by a credit card, debit
2.27 card, or electronic check;
- 2.28 (24) a contribution to a fund established to support a candidate's participation in a recount
2.29 of ballots affecting that candidate's election;

3.1 (25) costs paid by a candidate's principal campaign committee for a single reception
 3.2 given in honor of the candidate's retirement from public office after the filing period for
 3.3 affidavits of candidacy for that office has closed;

3.4 (26) a donation from a terminating principal campaign committee to the state general
 3.5 fund;

3.6 (27) a donation from a terminating principal campaign committee to a county obligated
 3.7 to incur special election expenses due to that candidate's resignation from state office; ~~and~~

3.8 (28) during a period starting January 1 in the year following a general election and ending
 3.9 on December 31 of the year of general election, total payments of up to \$3,000 for security
 3.10 expenses for a candidate, including home security hardware, maintenance of home security
 3.11 hardware, identity theft monitoring services, and credit monitoring services;

3.12 (29) costs to support a candidate's principal campaign committee's participation in a
 3.13 recount of ballots affecting that candidate's election; and

3.14 (30) costs of running a transition office for a winning state constitutional office candidate
 3.15 during the first three months after election.

3.16 (b) The board must determine whether an activity involves a noncampaign disbursement
 3.17 within the meaning of this subdivision.

3.18 (c) A noncampaign disbursement is considered to be made in the year in which the
 3.19 candidate made the purchase of goods or services or incurred an obligation to pay for goods
 3.20 or services.

3.21 Sec. 2. Minnesota Statutes 2022, section 10A.022, subdivision 3, is amended to read:

3.22 Subd. 3. **Investigation authority; complaint process.** (a) The board may investigate
 3.23 any alleged or potential violation of this chapter. The board may also investigate an alleged
 3.24 or potential violation of section 211B.04, 211B.12, or 211B.15 by or related to a candidate,
 3.25 treasurer, principal campaign committee, political committee, political fund, or party unit,
 3.26 as those terms are defined in this chapter. The board may only investigate an alleged violation
 3.27 if the board:

3.28 (1) receives a written complaint alleging a violation;

3.29 (2) discovers a potential violation as a result of an audit conducted by the board; or

3.30 (3) discovers a potential violation as a result of a staff review.

4.1 (b) When the board investigates the allegations made in a written complaint and the
4.2 investigation reveals other potential violations that were not included in the complaint, the
4.3 board may investigate the potential violations not alleged in the complaint only after making
4.4 a determination under paragraph (d) that probable cause exists to believe a violation that
4.5 warrants a formal investigation has occurred.

4.6 (c) Upon receipt of a written complaint filed with the board, the board chair or another
4.7 board member designated by the chair shall promptly make a determination as to whether
4.8 the complaint alleges a prima facie violation. If a determination is made that the complaint
4.9 does not allege a prima facie violation, the complaint shall be dismissed without prejudice
4.10 and the complainant and the subject of the complaint must be promptly notified of the
4.11 reasons the complaint did not allege a prima facie violation. The notice to the subject of the
4.12 complaint must include a copy of the complaint. If the complainant files a revised complaint
4.13 regarding the same facts and the same subject, the prima facie determination must be
4.14 completed by a board member other than the member who made the initial determination
4.15 and who does not support the same political party as the member who made the initial
4.16 determination. The chair may order that the prima facie determination for any complaint
4.17 be made by the full board and must order that the prima facie determination for a complaint
4.18 being submitted for the third time be made by the full board.

4.19 (d) If a determination is made that the complaint alleges a prima facie violation, the
4.20 board shall, within ~~45~~ 60 days of the prima facie determination, make findings and
4.21 conclusions as to whether probable cause exists to believe the alleged violation that warrants
4.22 a formal investigation has occurred. Any party filing a complaint and any party against
4.23 whom a complaint is filed must be given an opportunity to be heard by the board prior to
4.24 the board's determination as to whether probable cause exists to believe a violation that
4.25 warrants a formal investigation has occurred.

4.26 (e) Upon a determination by the board that probable cause exists to believe a violation
4.27 that warrants a formal investigation has occurred, the board must undertake an investigation
4.28 under subdivision 2 and must issue an order at the conclusion of the investigation, except
4.29 that if the complaint alleges a violation of section 10A.25 or 10A.27, the board must either
4.30 enter a conciliation agreement or make public findings and conclusions as to whether a
4.31 violation has occurred and must issue an order within 60 days after the probable cause
4.32 determination has been made. Prior to making findings and conclusions in an investigation,
4.33 the board must offer the subject of the complaint an opportunity to answer the allegations
4.34 of the complaint in writing and to appear before the board to address the matter. The deadline
4.35 for action on a written complaint, including but not limited to issuance of a probable cause

5.1 determination in accordance with paragraph (d), entering into a conciliation agreement, or
 5.2 issuance of public findings may be extended by majority vote of the board.

5.3 Sec. 3. Minnesota Statutes 2022, section 10A.121, subdivision 2, is amended to read:

5.4 Subd. 2. **Penalty.** (a) An independent expenditure political committee ~~or~~, independent
 5.5 expenditure political fund, ballot question political committee, or ballot question political
 5.6 fund is subject to a civil penalty of up to four times the amount of the contribution or
 5.7 approved expenditure if it does the following:

5.8 (1) makes a contribution to a candidate, local candidate, party unit, political committee,
 5.9 or political fund other than an independent expenditure political committee ~~or~~, an independent
 5.10 expenditure political fund, ballot question political committee, or ballot question political
 5.11 fund; or

5.12 (2) makes an approved expenditure.

5.13 (b) No other penalty provided in law may be imposed for conduct that is subject to a
 5.14 civil penalty under this section.

5.15 Sec. 4. Minnesota Statutes 2022, section 10A.15, subdivision 5, is amended to read:

5.16 Subd. 5. **Registration number on checks.** A contribution made to a candidate or local
 5.17 candidate by a lobbyist, political committee, political fund, or party unit must show the
 5.18 name of the lobbyist, political committee, political fund, or party unit and the number under
 5.19 which it is registered with the board.

5.20 Sec. 5. Minnesota Statutes 2022, section 10A.15, is amended by adding a subdivision to
 5.21 read:

5.22 Subd. 8. **Virtual currency contributions.** (a) A principal campaign committee, political
 5.23 committee, political fund, or party unit may accept a donation in kind in the form of virtual
 5.24 currency. The value of donated virtual currency is its fair market value at the time it is
 5.25 donated. The recipient of a virtual currency contribution must sell the virtual currency in
 5.26 exchange for United States currency within five business days after receipt.

5.27 (b) Any increase in the value of donated virtual currency after its donation, but before
 5.28 its conversion to United States currency, must be reported as a receipt that is not a
 5.29 contribution pursuant to section 10A.20, subdivision 3. Any decrease in the value of donated
 5.30 virtual currency after its donation, but before its conversion to United States currency, must
 5.31 be reported as an expenditure pursuant to section 10A.20, subdivision 3.

6.1 (c) A principal campaign committee, political committee, political fund, or party unit
 6.2 may not purchase goods or services with virtual currency.

6.3 Sec. 6. Minnesota Statutes 2022, section 10A.20, subdivision 2a, is amended to read:

6.4 Subd. 2a. **Local election reports.** (a) This subdivision applies to a political committee,
 6.5 political fund, or political party unit that during a non-general election year:

6.6 (1) spends in aggregate more than \$200 to influence the nomination or election of local
 6.7 candidates;

6.8 (2) spends in aggregate more than \$200 to make independent expenditures on behalf of
 6.9 local candidates; or

6.10 (3) spends in aggregate more than \$200 to promote or defeat ballot questions defined
 6.11 in section 10A.01, subdivision 7, clause (2), (3), or (4).

6.12 (b) In addition to the reports required by subdivision 2, the entities listed in paragraph
 6.13 (a) must file the following reports in each non-general election year:

6.14 (1) a first-quarter report covering the calendar year through March 31, which is due
 6.15 April 14;

6.16 (2) a report covering the calendar year through May 31, which is due June 14;

6.17 (3) a pre-primary-election report due 15 days before the local primary election date
 6.18 specified in section 205.065;

6.19 (4) a pre-general-election report due 42 days before the local general election; and

6.20 (5) a pre-general-election report due ten days before a local general election.

6.21 The reporting obligations in this paragraph begin with the first report due after the
 6.22 reporting period in which the entity reaches the spending threshold specified in paragraph
 6.23 (a). The pre-primary report required under clause (3) is required for all entities required to
 6.24 report under paragraph (a), regardless of whether the candidate or issue is on the primary
 6.25 ballot.

6.26 Sec. 7. Minnesota Statutes 2022, section 10A.271, subdivision 1, is amended to read:

6.27 Subdivision 1. **Notice to contributors.** A political committee, political fund, political
 6.28 party unit, or principal campaign committee that raises funds through the sale of goods or
 6.29 services must disclose to potential customers that the proceeds from the purchase are a
 6.30 political contribution and to whom the contribution is made. If goods or services are sold

7.1 in person, the notice ~~may~~ must be provided verbally at the time of purchase, or through the
 7.2 prominent display of a sign providing the notice in ~~immediate proximity to~~ within three feet
 7.3 of, and facing, the point of sale at the location where the goods or services are sold. If goods
 7.4 or services are sold using a website or other electronic means, the notice must be prominently
 7.5 displayed on the page used by potential customers to make a purchase or enter payment
 7.6 information.

7.7 Sec. 8. Minnesota Statutes 2022, section 10A.275, subdivision 1, is amended to read:

7.8 Subdivision 1. **Exceptions.** Notwithstanding other provisions of this chapter, the
 7.9 following expenditures by a party unit, or two or more party units acting together, with at
 7.10 least one party unit being either: the state committee or the party organization within a
 7.11 congressional district, county, or legislative district, are not considered contributions to or
 7.12 expenditures on behalf of a candidate for the purposes of section 10A.25 or 10A.27 and
 7.13 must not be allocated to candidates under section 10A.20, subdivision 3, paragraph (h):

7.14 (1) expenditures on behalf of candidates of that party generally without referring to any
 7.15 of them specifically in a published, posted, or broadcast advertisement;

7.16 (2) expenditures for the preparation, display, mailing, or other distribution of an official
 7.17 party sample ballot listing the names of three or more individuals whose names are to appear
 7.18 on the ballot;

7.19 (3) expenditures for a telephone call, voice mail, text message, multimedia message,
 7.20 internet chat message, or email when the communication includes the names of three or
 7.21 more individuals whose names are to appear on the ballot;

7.22 (4) expenditures for a booth at a community event, county fair, or state fair that benefits
 7.23 three or more individuals whose names are to appear on the ballot;

7.24 ~~(4)~~ (5) expenditures for a political party fundraising effort on behalf of three or more
 7.25 candidates; or

7.26 ~~(5)~~ (6) expenditures for party committee staff services that benefit three or more
 7.27 candidates.

7.28 Sec. 9. Minnesota Statutes 2022, section 10A.38, is amended to read:

7.29 **10A.38 CAPTIONING OF CAMPAIGN ADVERTISEMENTS.**

7.30 (a) This section applies to a campaign advertisement by a candidate who is governed
 7.31 by an agreement under section 10A.322.

8.1 (b) "Campaign advertisement" means a professionally produced visual or audio recording
8.2 of two minutes or less produced by the candidate for the purpose of influencing the
8.3 nomination or election of a candidate.

8.4 (c) A campaign advertisement that is disseminated as an advertisement by broadcast or
8.5 cable television must include closed captioning for deaf and hard-of-hearing viewers, unless
8.6 the candidate has filed with the board before the advertisement is disseminated a statement
8.7 setting forth the reasons for not doing so. A campaign advertisement that is disseminated
8.8 as an advertisement to the public on the candidate's website must include closed captioning
8.9 for deaf and hard-of-hearing viewers, unless the candidate has posted on the website a
8.10 transcript of the spoken content of the advertisement or the candidate has filed with the
8.11 board before the advertisement is disseminated a statement setting forth the reasons for not
8.12 doing so. A campaign advertisement must not be disseminated as an advertisement by radio
8.13 unless the candidate has posted on the candidate's website a transcript of the spoken content
8.14 of the advertisement or the candidate has filed with the board before the advertisement is
8.15 disseminated a statement setting forth the reasons for not doing so.

8.16 (d) A candidate who fails to comply with the requirements of paragraph (c) is subject
8.17 to a civil penalty imposed by the board of up to \$1,000.