

A bill for an act

relating to elections; campaign finance; changing certain campaign finance and reporting requirements; providing contribution limits for judicial candidates; amending Minnesota Statutes 2008, sections 10A.01, subdivisions 18, 26; 10A.04, subdivision 5; 10A.071, subdivision 3; 10A.08; 10A.09, subdivision 7; 10A.14, subdivisions 2, 4, by adding a subdivision; 10A.20, subdivisions 1, 12, by adding subdivisions; 10A.27, subdivision 1; 10A.31, subdivision 6, by adding a subdivision; 10A.322, subdivision 1; 10A.323; 10A.35; 13.607, by adding a subdivision; repealing Minnesota Statutes 2008, section 10A.20, subdivision 6b.

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

Section 1. Minnesota Statutes 2008, section 10A.01, subdivision 18, is amended to read:

Subd. 18. **Independent expenditure.** "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. ~~An expenditure by a political party or political party unit in a race where the political party has a candidate on the ballot is not an independent expenditure.~~

Sec. 2. Minnesota Statutes 2008, section 10A.01, subdivision 26, is amended to read:

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

- 2.1 (1) payment for accounting and legal services;
- 2.2 (2) return of a contribution to the source;
- 2.3 (3) repayment of a loan made to the principal campaign committee by that
- 2.4 committee;
- 2.5 (4) return of a public subsidy;
- 2.6 (5) payment for food, beverages, and necessary utensils and supplies, entertainment,
- 2.7 and facility rental for a fund-raising event;
- 2.8 (6) services for a constituent by a member of the legislature or a constitutional officer
- 2.9 in the executive branch, including the costs of preparing and distributing a suggestion or
- 2.10 idea solicitation to constituents, performed from the beginning of the term of office to
- 2.11 adjournment sine die of the legislature in the election year for the office held, and half
- 2.12 the cost of services for a constituent by a member of the legislature or a constitutional
- 2.13 officer in the executive branch performed from adjournment sine die to 60 days after
- 2.14 adjournment sine die;
- 2.15 (7) payment for food and beverages consumed by a candidate or volunteers while
- 2.16 they are engaged in campaign activities;
- 2.17 (8) payment for food or a beverage consumed while attending a reception or meeting
- 2.18 directly related to legislative duties;
- 2.19 (9) payment of expenses incurred by elected or appointed leaders of a legislative
- 2.20 caucus in carrying out their leadership responsibilities;
- 2.21 (10) payment by a principal campaign committee of the candidate's expenses for
- 2.22 serving in public office, other than for personal uses;
- 2.23 (11) costs of child care for the candidate's children when campaigning;
- 2.24 (12) fees paid to attend a campaign school;
- 2.25 (13) costs of a postelection party during the election year when a candidate's name
- 2.26 will no longer appear on a ballot or the general election is concluded, whichever occurs
- 2.27 first;
- 2.28 (14) interest on loans paid by a principal campaign committee on outstanding loans;
- 2.29 (15) filing fees;
- 2.30 (16) post-general election thank-you notes or advertisements in the news media;
- 2.31 (17) the cost of campaign material purchased to replace defective campaign material,
- 2.32 if the defective material is destroyed without being used;
- 2.33 (18) contributions to a party unit;
- 2.34 (19) payments for funeral gifts or memorials;
- 2.35 (20) the cost of a magnet less than six inches in diameter containing legislator
- 2.36 contact information and distributed to constituents;

(21) costs associated with a candidate attending a political party state or national convention in this state; and

(22) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question.

The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

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

Sec. 3. Minnesota Statutes 2008, section 10A.04, subdivision 5, is amended to read:

Subd. 5. **Late filing.** ~~The board must send a notice by certified mail to any lobbyist or principal who fails after seven days after a filing date imposed by this section to file a report or statement or to pay a fee required by this section.~~ If a lobbyist or principal fails to file a report ~~or pay a fee required by this section~~ within ten business days after the ~~notice was sent~~ report was due, the board may impose a late filing fee of \$5 per day, not to exceed \$100, commencing with the 11th day after the ~~notice was sent~~ report was due. The board must send ~~an additional~~ notice by certified mail to any lobbyist or principal who fails to file a report ~~or pay a fee~~ within ~~14 days after the first notice was sent by the board~~ ten business days after the report was due that the lobbyist or principal may be subject to a civil penalty for failure to file the report or pay the fee. A lobbyist or principal who fails to file a report or statement or pay a fee within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Sec. 4. Minnesota Statutes 2008, section 10A.071, subdivision 3, is amended to read:

Subd. 3. **Exceptions.** (a) The prohibitions in this section do not apply if the gift is:

(1) a contribution as defined in section 10A.01, subdivision 11;

(2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;

(3) services of insignificant monetary value;

(4) a plaque with a resale value of \$5 or less;

(5) a trinket or memento costing \$5 or less;

(6) informational material ~~of unexceptional value~~ with a resale value of \$5 or less; or

(7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) The prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group; or

(2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.

Sec. 5. Minnesota Statutes 2008, section 10A.08, is amended to read:

10A.08 REPRESENTATION DISCLOSURE.

A public official who represents a client for a fee before an individual, board, commission, or agency that has rulemaking authority in a hearing conducted under chapter 14, must disclose the official's participation in the action to the board within 14 days after the appearance. ~~The board must send a notice by certified mail to any public official who fails to disclose the participation within 14 days after the appearance.~~ If the public official fails to disclose the participation within ten business days after the ~~notice was sent~~ disclosure required by this section was due, the board may impose a late filing fee of \$5 per day, not to exceed \$100, starting on the 11th day after the ~~notice was sent~~ disclosure was due. The board must send ~~an additional~~ notice by certified mail to a public official who fails to disclose the participation within ~~14~~ ten days after the ~~first notice was sent by the board~~ disclosure was due that the public official may be subject to a civil penalty for failure to disclose the participation. A public official who fails to disclose the participation within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Sec. 6. Minnesota Statutes 2008, section 10A.09, subdivision 7, is amended to read:

Subd. 7. **Late filing.** ~~The board must send a notice by certified mail to any individual who fails within the prescribed time to file a statement of economic interest required by this section.~~ If an individual fails to file a statement of economic interest required by this section within ten business days after the notice was sent, the board may impose a late filing fee of \$5 per day, not to exceed \$100, commencing on the 11th day after the ~~notice was sent~~ statement was due. The board must send ~~an additional~~ notice by certified mail to any individual who fails to file a statement within ~~14~~ ten days after the ~~first notice was sent by the board~~ statement was due that the individual may be subject to a civil penalty for failure to file a statement. An individual who fails to file a statement

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within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board up to \$1,000.

Sec. 7. Minnesota Statutes 2008, section 10A.14, subdivision 2, is amended to read:

Subd. 2. **Form.** The statement of organization must include:

(1) the name and address of the committee, fund, or party unit;

(2) the name ~~and~~ address, and e-mail address of the chair of a political committee, principal campaign committee, or party unit;

(3) the name and address of any supporting association of a political fund;

(4) the name ~~and~~ address, and e-mail address of the treasurer and any deputy treasurers;

(5) the name, address, and e-mail address of the candidate of a principal campaign committee;

(6) a listing of all depositories or safety deposit boxes used; and

~~(6)~~ (7) for the state committee of a political party only, a list of its party units.

Sec. 8. Minnesota Statutes 2008, section 10A.14, subdivision 4, is amended to read:

Subd. 4. **Failure to file; penalty.** ~~The board must send a notice by certified mail to any individual who fails to file a statement required by this section. If the individual fails to file a statement required by this section within ten business days after the notice was sent statement was due, the board may impose a late filing fee of \$5 per day, not to exceed \$100, commencing with the 11th day after the notice was sent statement was due.~~

The board must send ~~an additional~~ notice by certified mail to any individual who fails to file a statement within ~~14~~ ten days after the ~~first notice was sent by the board statement was due~~ that the individual may be subject to a civil penalty for failure to file the ~~report~~ statement. An individual who fails to file the statement within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Sec. 9. Minnesota Statutes 2008, section 10A.14, is amended by adding a subdivision to read:

Subd. 5. **Exemptions.** For good cause shown, the board must grant exemptions to the requirement that e-mail addresses be provided.

Sec. 10. Minnesota Statutes 2008, section 10A.20, subdivision 1, is amended to read:

Subdivision 1. **First filing; duration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must begin to file the reports required by this section in the first year it receives contributions or makes expenditures in excess of \$100 and must continue to file until the committee, fund, or party unit is terminated. The reports must be filed electronically in a standards-based open format specified by the board. For good cause shown, the board must grant exemptions to the requirement that reports be filed electronically.

EFFECTIVE DATE. This section is effective January 1, 2012, and applies to reports for election years on or after that date.

Sec. 11. Minnesota Statutes 2008, section 10A.20, is amended by adding a subdivision to read:

Subd. 1b. **Release of reports.** Except as provided in subdivision 1c, a report filed under this section is nonpublic data until 8:00 a.m. on the day following the day the report was due.

Sec. 12. Minnesota Statutes 2008, section 10A.20, is amended by adding a subdivision to read:

Subd. 1c. **Reports of certain political party units.** (a) This subdivision applies to the following party units:

(1) the two state party units of major political parties that received the highest level of contributions in the last election year;

(2) the two party units established by members of a major party in the house of representatives that received the highest level of contributions in the last election year; and

(3) the two party units established by members of a major party in the senate that received the highest level of contributions in the last election year.

(b) A report filed under this section by a member of one of the party units listed in paragraph (a) is nonpublic data until the reports of each of the party units in that group have been filed.

(c) A report filed electronically under this section by a member of one of the party units listed in paragraph (a) is nonpublic data unless the reports of each of the party units in that group are filed electronically or until the board has created electronic data from the nonelectronic report so that data from each report are available in the same electronic form. The board may produce a viewable image of an electronic report after the requirements of paragraph (b) have been met.

(d) A party unit may waive the restrictions on publication of data established in this section through a written statement signed by the treasurer.

(e) Nothing in this subdivision prevents the board from publicly disclosing that an entity subject to this section has filed a report and the date the report was filed.

(f) Each group listed in paragraph (a) is exempt from the electronic filing requirement unless both members of the group have approved the filing format specified by the board.

Sec. 13. Minnesota Statutes 2008, section 10A.20, subdivision 12, is amended to read:

Subd. 12. **Failure to file; penalty.** ~~The board must send a notice by certified mail to any individual who fails to file a statement required by this section.~~ If an individual fails to file a statement report required by this section that is due January 31 within ten business days after the ~~notice was sent~~ report was due, the board may impose a late filing fee of \$5 per day, not to exceed \$100, commencing with the 11th day after the ~~notice was sent~~ report was due.

If an individual fails to file a statement report required by this section that is due before a primary or election within three days after the date due, regardless of whether the individual has received any notice, the board may impose a late filing fee of \$50 per day, not to exceed \$500, commencing on the fourth day after the date the statement was due.

The board must send ~~an additional~~ notice by certified mail to an individual who fails to file a statement report within 14 days after the ~~first notice was sent by the board~~ report was due that the individual may be subject to a civil penalty for failure to file ~~a statement the report~~. An individual who fails to file the statement report within seven days after the ~~second certified mail~~ notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Sec. 14. Minnesota Statutes 2008, section 10A.27, subdivision 1, is amended to read:

Subdivision 1. **Contribution limits.** (a) Except as provided in subdivision 2, a candidate must not permit the candidate's principal campaign committee to accept aggregate contributions made or delivered by any individual, political committee, or political fund in excess of the following:

(1) to candidates for governor and lieutenant governor running together, \$2,000 in an election year for the office sought and \$500 in other years;

(2) to a candidate for attorney general, \$1,000 in an election year for the office sought and \$200 in other years;

(3) to a candidate for the office of secretary of state or state auditor, \$500 in an election year for the office sought and \$100 in other years;

(4) to a candidate for state senator, \$500 in an election year for the office sought and \$100 in other years; ~~and~~

(5) to a candidate for state representative, \$500 in an election year for the office sought and \$100 in the other year; and

(6) to a candidate for judicial office, \$2,000 in an election year for the office sought and \$500 in other years.

(b) The following deliveries are not subject to the bundling limitation in this subdivision:

(1) delivery of contributions collected by a member of the candidate's principal campaign committee, such as a block worker or a volunteer who hosts a fund-raising event, to the committee's treasurer; and

(2) a delivery made by an individual on behalf of the individual's spouse.

(c) A lobbyist, political committee, political party unit, or political fund must not make a contribution a candidate is prohibited from accepting.

Sec. 15. Minnesota Statutes 2008, section 10A.31, subdivision 6, is amended to read:

Subd. 6. **Distribution of party accounts.** As soon as the board has obtained from the secretary of state the results of the primary election, but no later than one week after certification by the State Canvassing Board of the results of the primary, the board must distribute the available money in each party account, as certified by the commissioner of revenue on September 1, to the candidates of that party who have signed a spending limit agreement under section 10A.322 and filed the affidavit of contributions required by section 10A.323, who were opposed in either the primary election or the general election, and whose names are to appear on the ballot in the general election, according to the allocations set forth in subdivisions 5 and 5a. The public subsidy from the party account may not be paid in an amount greater than the expenditure limit of the candidate or the expenditure limit that would have applied to the candidate if the candidate had not been freed from expenditure limits under section 10A.25, subdivision 10. ~~If a candidate files the affidavit required by section 10A.323 after September 1 of the general election year, the board must pay the candidate's allocation to the candidate at the next regular payment date for public subsidies for that election cycle that occurs at least 15 days after the candidate files the affidavit.~~

Sec. 16. Minnesota Statutes 2008, section 10A.31, is amended by adding a subdivision to read:

9.1 Subd. 7a. **Withholding of public subsidy.** If a candidate who is eligible for
9.2 payment of public subsidy under this section has not filed the report of receipts and
9.3 expenditures required under section 10A.20 before a primary election, any public subsidy
9.4 for which that candidate is eligible must be withheld by the board until the candidate
9.5 complies with the filing requirements of section 10A.20 and the board has sufficient time
9.6 to review or audit the report. If a candidate who is eligible for public subsidy does not file
9.7 the report due before the primary election under section 10A.20 by the date that the report
9.8 of receipts and expenditures filed before the general election is due, that candidate shall
9.9 not be paid public subsidy for that election.

9.10 Sec. 17. Minnesota Statutes 2008, section 10A.322, subdivision 1, is amended to read:

9.11 Subdivision 1. **Agreement by candidate.** (a) As a condition of receiving a public
9.12 subsidy, a candidate must sign and file with the board a written agreement in which the
9.13 candidate agrees that the candidate will comply with sections 10A.25; 10A.27, subdivision
9.14 10; 10A.31, subdivision 7, paragraph (c); 10A.324; and 10A.38.

9.15 (b) Before the first day of filing for office, the board must forward agreement forms to
9.16 all filing officers. The board must also provide agreement forms to candidates on request at
9.17 any time. The candidate must file the agreement with the board by September 1 preceding
9.18 the candidate's general election or a special election held at the general election. An
9.19 agreement may not be filed after that date. An agreement once filed may not be rescinded.

9.20 (c) The board must notify the commissioner of revenue of any agreement signed
9.21 under this subdivision.

9.22 (d) Notwithstanding paragraph (b), if a vacancy occurs that will be filled by means
9.23 of a special election and the filing period does not coincide with the filing period for the
9.24 general election, a candidate may sign and submit a spending limit agreement not later
9.25 than the day after the ~~candidate files the affidavit of candidacy or nominating petition for~~
9.26 ~~the office~~ close of the filing period for the special election for which the candidate filed.

9.27 Sec. 18. Minnesota Statutes 2008, section 10A.323, is amended to read:

9.28 **10A.323 AFFIDAVIT OF CONTRIBUTIONS.**

9.29 In addition to the requirements of section 10A.322, to be eligible to receive a public
9.30 subsidy under section 10A.31 a candidate or the candidate's treasurer must file an affidavit
9.31 with the board stating that during that calendar year the candidate has accumulated
9.32 contributions from persons eligible to vote in this state in at least the amount indicated for
9.33 the office sought, counting only the first \$50 received from each contributor:

9.34 (1) candidates for governor and lieutenant governor running together, \$35,000;

- 10.1 (2) candidates for attorney general, \$15,000;
10.2 (3) candidates for secretary of state and state auditor, separately, \$6,000;
10.3 (4) candidates for the senate, \$3,000; and
10.4 (5) candidates for the house of representatives, \$1,500.

10.5 The affidavit must state the total amount of contributions that have been received
10.6 from persons eligible to vote in this state, disregarding the portion of any contribution in
10.7 excess of \$50.

10.8 The candidate or the candidate's treasurer must submit the affidavit required by this
10.9 section to the board in writing by the cutoff date for reporting of receipts and expenditures
10.10 before a primary under section 10A.20, subdivision 4.

10.11 A candidate for a vacancy to be filled at a special election for which the filing period
10.12 does not coincide with the filing period for the general election must submit the affidavit
10.13 required by this section to the board within five days after ~~filing the affidavit of candidacy~~
10.14 the close of the filing period for the special election for which the candidate filed.

10.15 Sec. 19. Minnesota Statutes 2008, section 10A.35, is amended to read:

10.16 **10A.35 COMMERCIAL USE OF INFORMATION PROHIBITED.**

10.17 Information copied from reports and statements filed with the board, other than
10.18 reports and statements filed by lobbyists and lobbyist principals, may not be sold or used
10.19 by an individual or association for a commercial purpose. Purposes related to elections,
10.20 political activities, or law enforcement are not commercial purposes. An individual or
10.21 association who violates this section is subject to a civil penalty of up to \$1,000. An
10.22 individual who knowingly violates this section is guilty of a misdemeanor.

10.23 Sec. 20. Minnesota Statutes 2008, section 13.607, is amended by adding a subdivision
10.24 to read:

10.25 Subd. 5a. **Campaign reports.** Certain reports filed with the Campaign Finance and
10.26 Public Disclosure Board are classified under section 10A.20.

10.27 Sec. 21. **CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD;**
10.28 **FUNDING OPTION.**

10.29 The Campaign Finance and Public Disclosure Board shall analyze the potential use
10.30 of funds collected under Minnesota Statutes, section 10A.31, as the exclusive source of
10.31 funding for the operations of the board.

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11.1 The board must submit a report describing the board's findings and recommendations
11.2 under this section to the chairs of the legislative committees with jurisdiction over
11.3 elections finance no later than January 15, 2010.

11.4 Sec. 22. **REPEALER.**

11.5 Minnesota Statutes 2008, section 10A.20, subdivision 6b, is repealed.