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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1689

02/13/2023 Authored by Stephenson, Greenman, Pursell, Freiberg and Frederick
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; providing certain record-keeping and reporting
1.3 requirements related to political advertisements; requiring the Campaign Finance
1.4 and Public Disclosure Board to provide public access to certain reports, including
1.5 copies of campaign advertisements; amending requirements related to the display
1.6 of a disclaimer on campaign material; amending Minnesota Statutes 2022, section
1.7 211B.04, subdivisions 1, 2, by adding subdivisions; proposing coding for new law
1.8 in Minnesota Statutes, chapter 10A.

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

1.10 Section 1. 10A.205] CAMPAIGN MATERIAL; RECORD-KEEPING AND
1.11 REPORTS.

1.12 Subdivision 1. Definitions. For purposes of this section:

1.13 (1) "advertiser" means a person who is responsible for the content of a qualified political
1.14 advertisement and directs the funds used to purchase dissemination of a qualified political
1.15 advertisement, regardless of whether the advertiser is assisted by an agent or other person
1.16 to create the advertisement or purchase placement of the advertisement;

1.17 (2) "Internet platform" means any public-facing website, Internet-enabled application,
1.18 or other digital application that displays, or causes to be displayed, political advertisements
1.19 and receives more than \$1,000 in aggregate revenue from displaying, or causing to be
1.20 displayed, political advertisements in a calendar year; and

1.21 (3) "political advertisement" means any print, audio, broadcast, Internet, or digital
1.22 communication that the disclaimer requirements of section 211B.04 apply to.

1.23 For purposes of this section, an advertiser may treat multiple versions of an advertisement
1.24 that contain no material differences, including versions that differ only because they contain

2.1 a recipient's name or differ only in size, color, font, or layout, as a single political  
2.2 advertisement.

2.3 Subd. 2. Accessible archive required. Not later than January 1, 2024, the board shall  
2.4 maintain and make available on the Internet in a standardized, machine-readable, searchable,  
2.5 sortable, downloadable, and publicly accessible format a complete record of the information  
2.6 reported under this section. Public access to this record shall be expeditious and must include  
2.7 search interface capabilities including but not limited to searches by candidate name, political  
2.8 committee name, issue, purchaser, advertiser, and date.

2.9 Subd. 3. Requirements for advertisers. An advertiser whose aggregate spending to  
2.10 disseminate political advertisements during the calendar year exceed \$500 must:

2.11 (1) file with the board electronic reports that contain the information required by this  
2.12 section, consistent with any rules adopted by the board; and

2.13 (2) for Internet advertisements, inform the platform at the time it seeks to place a political  
2.14 advertisement that the advertisement is a political advertisement subject to this section.

2.15 Subd. 4. Requirements for Internet platforms. (a) An Internet platform must exercise  
2.16 due diligence to provide such information to the advertiser that is timely, true, complete,  
2.17 and accurate as is necessary for the advertiser to comply with the requirements of this section  
2.18 including:

2.19 (1) the date on which the Internet platform first met the criteria described in subdivision  
2.20 1;

2.21 (2) the information required to be reported under subdivision 5; and

2.22 (3) the timing requirements under subdivision 6.

2.23 (b) To the extent that any Internet platform displays advertisements that are sold directly  
2.24 to advertisers through another Internet platform, the other Internet platform must also comply  
2.25 with the disclosure obligations required by paragraph (a) that would otherwise be borne by  
2.26 the displaying platform.

2.27 Subd. 5. Contents of report. A report filed under subdivision 3 must contain:

2.28 (1) a digital copy of each political advertisement;

2.29 (2) if the advertisement was disseminated by broadcast or an Internet platform, the  
2.30 identity of the broadcast station or Internet platform on which the advertisement was  
2.31 disseminated to the extent that the cost to disseminate the advertisement during the calendar  
2.32 year exceeds \$100; and

3.1 (3) information describing:

3.2 (i) the amount paid to disseminate the advertisement;

3.3 (ii) the dates on which the advertisement was sent, broadcast, displayed, or contracted  
3.4 to be displayed;

3.5 (iii) the demographic or geographic audience, if any, targeted by the advertisement;

3.6 (iv) the number of people to whom the advertisement was disseminated directly or to  
3.7 whom the advertisement is expected to be disseminated;

3.8 (v) the name of the candidate to whom the advertisement refers and the office to which  
3.9 the candidate is seeking election or the election to which the advertisement refers, as  
3.10 applicable;

3.11 (vi) the top three donors responsible for paying for the advertisement;

3.12 (vii) in the case of an advertiser who is a candidate, the name of the candidate, the  
3.13 authorized committee of the candidate, and the treasurer of such committee;

3.14 (viii) in the case of an advertiser who is a political committee, the name of the political  
3.15 committee and the treasurer of such committee; and

3.16 (ix) in the case of any advertiser not described in item (vii) or (viii), the name of the  
3.17 advertiser; the name, address, and phone number of a contact person for such person; and  
3.18 a list of the chief executive officers or members of the executive committee or of the board  
3.19 of directors of such person.

3.20 Subd. 6. **Timing of reports.** (a) An advertiser whose aggregate spending to disseminate  
3.21 political advertisements during the calendar year exceed \$500 shall file a report containing  
3.22 the information required under this section within 48 hours of becoming obligated to  
3.23 purchases that exceed that threshold.

3.24 (b) After an advertiser files a report under paragraph (a), the advertiser shall file an  
3.25 additional report within 48 hours of each time the advertiser becomes obligated to make  
3.26 purchases of an additional \$500 of political advertisements.

3.27 Sec. 2. Minnesota Statutes 2022, section 211B.04, subdivision 1, is amended to read:

3.28 Subdivision 1. **Campaign material.** (a) A person who participates in the preparation or  
3.29 dissemination of campaign material other than as provided in section 211B.05, subdivision  
3.30 1, that does not ~~prominently~~ clearly and conspicuously include the name and address of the

4.1 person or committee causing the material to be prepared or disseminated in a disclaimer  
4.2 substantially in the form provided in paragraph (b) or (c) is guilty of a misdemeanor.

4.3 (b) Except in cases covered by paragraph (c), the required form of disclaimer is: "Prepared  
4.4 and paid for by the ..... committee, ..... (address)" for material prepared and paid for by  
4.5 a principal campaign committee, or "Prepared and paid for by the ..... committee, .....  
4.6 (address)" for material prepared and paid for by a person or committee other than a principal  
4.7 campaign committee. The address must be either the committee's mailing address or the  
4.8 committee's website, if the website includes the committee's mailing address. If the material  
4.9 is produced and disseminated without cost, the words "paid for" may be omitted from the  
4.10 disclaimer.

4.11 (c) In the case of broadcast media, the required form of disclaimer is: "Paid for by the  
4.12 ..... committee." If the material is produced and broadcast without cost, the required form  
4.13 of the disclaimer is: "The ..... committee is responsible for the content of this message."

4.14 Sec. 3. Minnesota Statutes 2022, section 211B.04, subdivision 2, is amended to read:

4.15 Subd. 2. **Independent expenditures.** (a) The required form of the clear and conspicuous  
4.16 disclaimer on a written independent expenditure is: "This is an independent expenditure  
4.17 prepared and paid for by ..... (name of entity participating in the expenditure), ..... (address).  
4.18 It is not coordinated with or approved by any candidate nor is any candidate responsible  
4.19 for it." The address must be either the entity's mailing address or the entity's website, if the  
4.20 website includes the entity's mailing address. When a written independent expenditure is  
4.21 produced and disseminated without cost, the words "and paid for" may be omitted from the  
4.22 disclaimer.

4.23 (b) The required form of the clear and conspicuous disclaimer on a broadcast independent  
4.24 expenditure is: "This independent expenditure is paid for by ..... (name of entity participating  
4.25 in the expenditure). It is not coordinated with or approved by any candidate nor is any  
4.26 candidate responsible for it." When a broadcast independent expenditure is produced and  
4.27 disseminated without cost, the following disclaimer may be used: "..... (name of entity  
4.28 participating in the expenditure) is responsible for the contents of this independent  
4.29 expenditure. It is not coordinated with or approved by any candidate nor is any candidate  
4.30 responsible for it."

5.1 Sec. 4. Minnesota Statutes 2022, section 211B.04, is amended by adding a subdivision to  
5.2 read:

5.3 Subd. 2a. **Internet and digital communications.** In the case of Internet-based or digital  
5.4 campaign material distributed through a medium in which the provision of all of the  
5.5 information specified in this section is not technologically possible, the communication  
5.6 shall, in a clear and conspicuous manner: (1) state the name of the person who paid for the  
5.7 communication; and (2) provide a means for the recipient of the communication to  
5.8 immediately obtain the remainder of the information required under this section with minimal  
5.9 effort and without receiving or viewing any additional material other than the required  
5.10 information.

5.11 Sec. 5. Minnesota Statutes 2022, section 211B.04, is amended by adding a subdivision to  
5.12 read:

5.13 Subd. 2b. **Clear and conspicuous display of disclaimer.** (a) For purposes of this section,  
5.14 a disclaimer is not clear and conspicuous if it is difficult to read or hear or if the placement  
5.15 is easily overlooked.

5.16 (b) A disclaimer is presumed to be made in a clear and conspicuous manner if the  
5.17 disclaimer meets any of the applicable following requirements:

5.18 (1) in the case of a text or graphic communication, the disclaimer (i) appears in letters  
5.19 at least as large as the majority of the text in the campaign material; (ii) is contained in a  
5.20 printed box set apart from the other contents of the communication; and (iii) is printed with  
5.21 a reasonable degree of color contrast between the background and the printed statement;

5.22 (2) in the case of an audio communication, the disclaimer is spoken in a clearly audible  
5.23 and intelligible manner at the beginning or end of the communications that lasts at least  
5.24 four seconds;

5.25 (3) in the case of a video communication that also includes audio, the disclaimer (i) is  
5.26 included at either the beginning or the end of the communication, and (ii) is made both in  
5.27 a written format that meets the requirements of clause (1) and appears for at least four  
5.28 seconds, and in an audible format that meets the requirements of clause (2), provided that  
5.29 in the case of a video communication that is shorter than ten seconds, the audible portion  
5.30 of the disclaimer may be omitted; or

5.31 (4) in the case of any other type of communication, the statement is at least as clear and  
5.32 conspicuous as the statement specified in clause (1), (2), or (3).