

CHAPTER 295—H.F.No. 3172

An act relating to elections; exempting lobbying activities related to a ballot question from campaign finance reporting requirements; changing a definition and certain exceptions; requiring preelection reports of certain political committees and political funds; changing preelection reporting requirements for contributions to candidates; advancing deadline to file affidavit of contributions; requiring captioning of certain campaign advertisements; providing for delivery of absentee ballots to an agent of certain persons and return of ballots by the agent; permitting appointment of election judges not affiliated with a major political party; eliminating an approval requirement for mail elections; increasing the maximum time to conduct certain special elections; modifying recount of special primary or special election; changing certain school district election provisions; authorizing certain school board primary elections; shortening time to complete postelection review of electronic voting system results; changing a prohibition on certain expenditures; authorizing use of certain voter registration application forms; amending Minnesota Statutes 2006, sections 10A.01, subdivisions 7, 26; 10A.071, subdivision 3; 10A.14, subdivision 1; 10A.20, subdivision 5; 10A.322, subdivision 1; 10A.323; 203B.06, subdivision 3; 203B.11, subdivision 4; 204B.21, subdivisions 1, 2; 204B.46; 204D.19, subdivision 2; 204D.23, subdivision 2; 204D.27, by adding a subdivision; 205.075, by adding a subdivision; 205A.03, subdivision 1; 205A.06, subdivision 1a; 205A.10, subdivision 2; 205A.12, by adding a subdivision; 206.89, subdivision 5; 211B.12; proposing coding for new law in Minnesota Statutes, chapter 10A.

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

Section 1. Minnesota Statutes 2006, section 10A.01, subdivision 7, is amended to read:

Subd. 7. **Ballot question.** "Ballot question" means a question or proposition that is placed on the ballot and that may be voted on by all voters of the state. "Promoting or defeating a ballot question" includes activities, other than lobbying activities, related to qualifying the question for placement on the ballot.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2008.

Sec. 2. Minnesota Statutes 2006, 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:

- (1) payment for accounting and legal services;
- (2) return of a contribution to the source;

(3) repayment of a loan made to the principal campaign committee by that committee;

(4) return of a public subsidy;

(5) payment for food, beverages, entertainment, and facility rental for a fund-raising event;

(6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;

(7) payment for food and beverages consumed by a candidate or volunteers while they are engaged in campaign activities;

(8) payment for food or a beverage consumed while attending a reception or meeting directly related to legislative duties;

(9) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;

(10) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;

(11) costs of child care for the candidate's children when campaigning;

(12) fees paid to attend a campaign school;

(13) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;

(14) interest on loans paid by a principal campaign committee on outstanding loans;

(15) filing fees;

(16) post-general election thank-you notes or advertisements in the news media;

(17) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;

(18) contributions to a party unit;

(19) payments for funeral gifts or memorials;

(20) the cost of a magnet less than six inches in diameter containing legislator contact information and distributed to constituents; ~~and~~

(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 2006, 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 or similar memento recognizing individual services in a field of specialty or to a charitable cause~~ with a resale value of \$5 or less;
- (5) a trinket or memento costing \$5 or less;
- (6) informational material of unexceptional value; 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. 4. Minnesota Statutes 2006, section 10A.14, subdivision 1, is amended to read:

Subdivision 1. **First registration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must register with the board by filing a statement of organization no later than 14 days after the committee, fund, or party unit has made a contribution, received contributions, or made expenditures in excess of \$100, or by the end of the next business day after it has received a loan or contribution that must be reported under section 10A.20, subdivision 5, whichever is earlier.

EFFECTIVE DATE. This section is effective July 1, 2008, and applies to contributions made on or after that date.

Sec. 5. Minnesota Statutes 2006, section 10A.20, subdivision 5, is amended to read:

Subd. 5. **Preelection reports.** Any loan, contribution, or contributions to a political committee or political fund from any one source totaling \$1,000 or more, or in a statewide election for judicial office, any loan, contribution, or contributions from any one source totaling \$2,000 or more, or in any judicial district or legislative election totaling more than \$400 or more, and any loan, contribution, or contributions to a candidate for

constitutional office or for the legislature from any one source totaling 80 percent or more of the contribution limit for the office, received between the last day covered in the last report before an election and the election must be reported to the board in one of the following ways:

- (1) in person ~~within 48 hours~~ by the end of the next business day after its receipt; or
- (2) ~~by telegram or mailgram within 48 hours after its receipt;~~
- (3) ~~by certified mail sent within 48 hours after its receipt, or~~
- (4) ~~by electronic means sent within 48~~ 24 hours after its receipt.

These loans and contributions must also be reported in the next required report.

~~The 48-hour~~ This notice requirement does not apply with respect to a primary in which the statewide or legislative candidate is unopposed.

The board must post the report on its Web site by the end of the next business day after it is received.

Sec. 6. Minnesota Statutes 2006, section 10A.322, subdivision 1, is amended to read:

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

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

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

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

Sec. 7. Minnesota Statutes 2006, section 10A.323, is amended to read:

10A.323 AFFIDAVIT OF CONTRIBUTIONS.

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

- (1) candidates for governor and lieutenant governor running together, \$35,000;
- (2) candidates for attorney general, \$15,000;
- (3) candidates for secretary of state and state auditor, separately, \$6,000;

(4) candidates for the senate, \$3,000; and

(5) candidates for the house of representatives, \$1,500.

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

The candidate or the candidate's treasurer must submit the affidavit required by this section to the board in writing by ~~September 1 of the general election year~~ the cutoff date for reporting of receipts and expenditures before a primary under section 10A.20, subdivision 4.

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

Sec. 8. [10A.38] CAPTIONING OF CAMPAIGN ADVERTISEMENTS.

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

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

(c) A campaign advertisement that is disseminated as an advertisement by broadcast or cable television must include closed captioning for deaf and hard-of-hearing viewers, unless the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so. A campaign advertisement that is disseminated as an advertisement to the public on the candidate's Web site must include closed captioning for deaf and hard-of-hearing viewers, unless the candidate has posted on the Web site a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so. A campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's Web site a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so.

Sec. 9. Minnesota Statutes 2006, section 203B.06, subdivision 3, is amended to read:

Subd. 3. **Delivery of ballots.** (a) If an application for absentee ballots is accepted at a time when absentee ballots are not yet available for distribution, the county auditor, or municipal clerk accepting the application shall file it and as soon as absentee ballots are available for distribution shall mail them to the address specified in the application. If an application for absentee ballots is accepted when absentee ballots are available for distribution, the county auditor or municipal clerk accepting the application shall promptly:

(1) mail the ballots to the voter whose signature appears on the application if the application is submitted by mail and does not request commercial shipping under clause (2);

(2) ship the ballots to the voter using a commercial shipper requested by the voter at the voter's expense;

(3) deliver the absentee ballots directly to the voter if the application is submitted in person; or

(4) deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots, as provided in section 203B.11, subdivision 4, to a voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient in a health care facility, as provided in section 203B.11, subdivision 4, a resident of a facility providing assisted living services governed by chapter 144G, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4.

(b) If an application does not indicate the election for which absentee ballots are sought, the county auditor or municipal clerk shall mail or deliver only the ballots for the next election occurring after receipt of the application. Only one set of ballots may be mailed, shipped, or delivered to an applicant for any election, except as provided in section 203B.13, subdivision 2, or when a replacement ballot has been requested by the voter for a ballot that has been spoiled or lost in transit.

EFFECTIVE DATE. This section is effective for elections held on or after June 1, 2008.

Sec. 10. Minnesota Statutes 2006, section 203B.11, subdivision 4, is amended to read:

Subd. 4. **Agent delivery of ballots.** During the ~~four~~ seven days preceding an election and until 2:00 p.m. on election day, an eligible voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient of a health care facility, a resident of a facility providing assisted living services governed by chapter 144G, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4, may designate an agent to deliver the ballots to the voter from the county auditor or municipal clerk. An agent must have a preexisting relationship with the voter. A candidate at the election may not be designated as an agent. The voted ballots must be returned to the county auditor or municipal clerk no later than 3:00 p.m. on election day. The voter must complete an affidavit requesting the auditor or clerk to provide the agent with the ballots in a sealed transmittal envelope. The affidavit must include a statement from the voter stating that the ballots were delivered to the voter by the agent in the sealed transmittal envelope. An agent may deliver ballots to no more than three persons in any election. The secretary of state shall provide samples of the affidavit and transmission envelope for use by the county auditors.

EFFECTIVE DATE. This section is effective for elections held on or after June 1, 2008.

Sec. 11. Minnesota Statutes 2006, section 204B.21, subdivision 1, is amended to read:

Subdivision 1. **Appointment lists; duties of political parties and county auditor.** On ~~July~~ June 1 in a year in which there is an election for a partisan political office, the county or legislative district chairs of each major political party, whichever is designated by the state party, shall prepare a list of eligible voters to act as election judges in each election precinct in the county or legislative district. The chairs shall furnish the lists to the county auditor of the county in which the precinct is located.

By ~~July~~ June 15, the county auditor shall furnish to the appointing authorities a list of the appropriate names for each election precinct in the jurisdiction of the appointing authority. Separate lists shall be submitted by the county auditor for each major political party.

Sec. 12. Minnesota Statutes 2006, section 204B.21, subdivision 2, is amended to read:

Subd. 2. **Appointing authority; powers and duties.** Election judges for precincts in a municipality shall be appointed by the governing body of the municipality. Election judges for precincts in unorganized territory and for performing election-related duties assigned by the county auditor shall be appointed by the county board. Election judges for a precinct composed of two or more municipalities must be appointed by the governing body of the municipality or municipalities responsible for appointing election judges as provided in the agreement to combine for election purposes. Except as otherwise provided in this section, appointments shall be made from lists furnished pursuant to subdivision 1 subject to the eligibility requirements and other qualifications established or authorized under section 204B.19. At least two election judges in each precinct must be affiliated with different major political parties. ~~If no lists have been furnished or if additional election judges are required after all listed names have been exhausted, the appointing authority may appoint any other individual to serve as an election judge subject to the same requirements and qualifications~~ individuals who meet the qualifications to serve as an election judge, including persons who are not affiliated with a major political party. The appointments shall be made at least 25 days before the election at which the election judges will serve.

Sec. 13. Minnesota Statutes 2006, section 204B.46, is amended to read:

204B.46 MAIL ELECTIONS; QUESTIONS.

A county, municipality, or school district submitting questions to the voters at a special election may ~~apply to the county auditor for approval of~~ conduct an election by mail with no polling place other than the office of the auditor or clerk. No more than two questions may be submitted at a mail election and no offices may be voted on. Notice of the election ~~and~~ must be given to the county auditor at least 53 days prior to the election. This notice shall also fulfill the requirements of Minnesota Rules, part 8210.3000. ~~The special mail procedure ballot procedures must be given~~ posted at least six weeks prior to the election. No earlier than 20 or later than 14 days prior to the election, the auditor or clerk shall mail ballots by nonforwardable mail to all voters registered in the county, municipality, or school district. Eligible voters not registered at the time the ballots are mailed may apply for ballots pursuant to chapter 203B.

Sec. 14. Minnesota Statutes 2006, section 204D.19, subdivision 2, is amended to read:

Subd. 2. **Special election when the Congress or legislature will be in session.** Except for vacancies in the legislature which occur at any time between the last day of session in an odd-numbered year and the ~~33rd~~ 40th day prior to the opening day of session in the succeeding even-numbered year, when a vacancy occurs and the Congress or legislature will be in session so that the individual elected as provided by this section could take office and exercise the duties of the office immediately upon election, the governor shall issue within five days after the vacancy occurs a writ calling for a special election. The special election shall be held as soon as possible, consistent with the notice

requirements of section 204D.22, subdivision 3, but in no event more than ~~28~~ 35 days after the issuance of the writ.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 15. Minnesota Statutes 2006, section 204D.23, subdivision 2, is amended to read:

Subd. 2. **Time of filing.** Except as provided in subdivision 3, the affidavits and petitions shall be filed no later than ~~the seventh day~~ 14 days before the special primary.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 16. Minnesota Statutes 2006, section 204D.27, is amended by adding a subdivision to read:

Subd. 12. **Recounts.** In a special primary or special election, the provisions of section 204C.35 apply, except that the secretary of state may immediately proceed to recount the votes upon review of the certified reports of the county canvassing boards if it is apparent from the review that a recount is required.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 17. Minnesota Statutes 2006, section 205.075, is amended by adding a subdivision to read:

Subd. 4. **Election judges; party balance.** The provisions of sections 204B.19, subdivision 5; 204B.21, subdivision 2; 204C.15; 204C.19; 206.83; and 206.86, subdivision 2, relating to party balance in the appointment of judges and to duties to be performed by judges of different major political parties do not apply to a town election not held in conjunction with a statewide election.

Sec. 18. Minnesota Statutes 2006, section 205A.03, subdivision 1, is amended to read:

Subdivision 1. **Required Resolution requiring primary in certain circumstances.** ~~fr~~ The school board of a school district ~~election~~, may, by resolution adopted by June 1 of any year, decide to choose nominees for school board by a primary as provided in this section. The resolution, when adopted, is effective for all ensuing elections of board members in that school district until it is revoked. If the board decides to choose nominees by primary and if there are more than two candidates for a specified school board position or more than twice as many school board candidates as there are at-large school board positions available, ~~a~~ the school district must hold a primary.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 19. Minnesota Statutes 2006, section 205A.06, subdivision 1a, is amended to read:

Subd. 1a. **Filing period.** In school districts that have adopted a resolution to choose nominees for school board by a primary election, affidavits of candidacy must be filed with the school district clerk no earlier than the 70th day and no later than the 56th day before the first Tuesday after the second Monday in September in the year when the school district general election is held. In all other school districts, affidavits of candidacy must be filed no earlier than the 70th day and no later than the 56th day before the school district general election.

Sec. 20. Minnesota Statutes 2006, section 205A.10, subdivision 2, is amended to read:

Subd. 2. **Election, conduct.** A school district election must be by secret ballot and must be held and the returns made in the manner provided for the state general election, as far as practicable. The vote totals from an absentee ballot board established pursuant to section 203B.13 may be tabulated and reported by the school district as a whole rather than by precinct. For school district elections not held in conjunction with a statewide election, the school board shall appoint election judges as provided in section 204B.21, subdivision 2. The provisions of sections 204B.19, subdivision 5; 204B.21, subdivision 2; 204C.15; 204C.19; ~~206.64, subdivision 2;~~ 206.83; and 206.86, subdivision 2, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties do not apply to school district elections not held in conjunction with a statewide election.

Sec. 21. Minnesota Statutes 2006, section 205A.12, is amended by adding a subdivision to read:

Subd. 5a. **School districts.** The school board of a school district may provide for the use by the district of an electronic voting system in one or more polling places or combined polling places in the school district for an election not held in conjunction with a statewide election. No system may be adopted or used unless it has been approved by the secretary of state pursuant to section 206.57. The school district shall notify the secretary of state of its decision in compliance with section 206.58, subdivision 4.

Sec. 22. Minnesota Statutes 2006, section 206.89, subdivision 5, is amended to read:

Subd. 5. **Additional review.** (a) If the postelection review reveals a difference greater than one-half of one percent, the postelection review official must, within two days, conduct an additional review of at least three precincts in the same jurisdiction where the discrepancy was discovered. If all precincts in that jurisdiction have been reviewed, the county auditor must immediately publicly select by lot at least three additional precincts for review. The postelection review official must complete the additional review within two days after the precincts are selected and report the results immediately to the county auditor. If the second review also indicates a difference in the vote totals compiled by the voting system that is greater than one-half of one percent from the result indicated by the postelection review, the county auditor must conduct a review of the ballots from all the remaining precincts in the county. This review must be completed no later than six weeks after the state general election and the results must be reported to the secretary of state within one week after the second review was completed.

(b) If the results from the countywide reviews from one or more counties comprising in the aggregate more than ten percent of the total number of persons voting in the election clearly indicate that an error in vote counting has occurred, the secretary of state must notify the postelection review official of each county in the district that they must conduct a manual recount recounts of all the ballots in the district for the affected office using the procedure outlined in section 204C.35. The recount must be completed and the results reported to the appropriate canvassing board no later than ten weeks after the state general election within two weeks after the postelection review official received notice from the secretary of state.

Sec. 23. Minnesota Statutes 2006, section 211B.12, is amended to read:

211B.12 LEGAL EXPENDITURES.

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in section 10A.01, subdivision 26. The following are permitted expenditures when made for political purposes:

- (1) salaries, wages, and fees;
- (2) communications, mailing, transportation, and travel;
- (3) campaign advertising;
- (4) printing;
- (5) office and other space and necessary equipment, furnishings, and incidental supplies;
- (6) charitable contributions of not more than ~~\$50~~ \$100 to any charity organized under section 501(c)(3) of the Internal Revenue Code annually, except that the amount contributed by a principal campaign committee that dissolves within one year after the contribution is made is not limited by this clause; and
- (7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 24. **VOTER REGISTRATION APPLICATIONS ON HAND MAY BE USED.**

Voter registration applications in existence on July 31, 2007, may be distributed, completed, submitted, and processed until consumed, without alteration.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2007.

Sec. 25. **EFFECTIVE DATE.**

Except as otherwise provided, this act is effective June 1, 2008.

Presented to the governor May 8, 2008

Signed by the governor May 12, 2008, 1:20 p.m.