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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3190

02/07/2022 Authored by Long; Greenman; Olson, L.; Klevorn; Boldon and others
The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act
1.2 relating to campaign finance; modifying a definition related to express advocacy
1.3 in certain communications; requiring additional information on the independent
1.4 expenditure disclaimer; directing the Campaign Finance and Public Disclosure
1.5 Board to adopt rules related to disclaimer requirements on small electronic
1.6 communications; amending Minnesota Statutes 2020, section 211B.04, subdivisions
1.7 2, 3, by adding a subdivision; Minnesota Statutes 2021 Supplement, section 10A.01,
1.8 subdivision 16a.

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

1.10 Section 1. Minnesota Statutes 2021 Supplement, section 10A.01, subdivision 16a, is
1.11 amended to read:

1.12 Subd. 16a. Expressly advocating. "Expressly advocating" means:

1.13 (1) that a communication clearly identifies a candidate or a local candidate and uses
1.14 words or phrases of express advocacy;

1.15 (2) that a communication when taken as a whole and with limited reference to external
1.16 events, such as the proximity to the election, is susceptible of no reasonable interpretation
1.17 other than as an appeal advocating the election or defeat of one or more clearly identified
1.18 candidates; or

1.19 (3) that a communication promotes, supports, criticizes, or opposes a candidate, regardless
1.20 of whether the communication expressly advocates the election or defeat of a candidate.

1.21 Sec. 2. Minnesota Statutes 2020, section 211B.04, subdivision 2, is amended to read:

1.22 Subd. 2. Independent expenditures. (a) The required form of the disclaimer on a written
1.23 independent expenditure is: "This is an independent expenditure prepared and paid for by

2.1 ..... (name of entity participating in the expenditure), ..... (address). It is not coordinated  
 2.2 with or approved by any candidate nor is any candidate responsible for it. The top three  
 2.3 contributors funding this expenditure are (1)....., (2)....., and (3)....." The address must  
 2.4 be either the entity's mailing address or the entity's website, if the website includes the  
 2.5 entity's mailing address. When a written independent expenditure is produced and  
 2.6 disseminated without cost, the words "and paid for" may be omitted from the disclaimer.

2.7 (b) The required form of the disclaimer on a broadcast independent expenditure is: "This  
 2.8 independent expenditure is paid for by ..... (name of entity participating in the expenditure).  
 2.9 It is not coordinated with or approved by any candidate nor is any candidate responsible  
 2.10 for it. The top three contributors funding this expenditure are (1)....., (2)....., and (3)....."  
 2.11 When a broadcast independent expenditure is produced and disseminated without cost, the  
 2.12 following disclaimer may be used: "..... (name of entity participating in the expenditure)  
 2.13 is responsible for the contents of this independent expenditure. It is not coordinated with  
 2.14 or approved by any candidate nor is any candidate responsible for it."

2.15 (c) The listing of the top three contributors required to be included in a disclaimer under  
 2.16 this subdivision must identify by name the three individuals or entities making the largest  
 2.17 contribution required to be reported under chapter 10A to the expending entity during the  
 2.18 12-month period preceding the first date at which the expenditure was published or presented  
 2.19 to the public. Contributions to the expending entity that are segregated, tracked, and used  
 2.20 for purposes other than the expenditure requiring the disclaimer should not be included in  
 2.21 calculating the top three contributors required to be identified under this subdivision.

2.22 Sec. 3. Minnesota Statutes 2020, section 211B.04, subdivision 3, is amended to read:

2.23 Subd. 3. **Material that does not need a disclaimer.** (a) This section does not apply to  
 2.24 fund-raising tickets, business cards, personal letters, or similar items that are clearly being  
 2.25 distributed by the candidate.

2.26 (b) This section does not apply to an individual or association that is not required to  
 2.27 register or report under chapter 10A or 211A.

2.28 (c) This section does not apply to the following:

2.29 (1) bumper stickers, pins, buttons, pens, or similar small items on which the disclaimer  
 2.30 cannot be conveniently printed; and

2.31 (2) skywriting, wearing apparel, or other means of displaying an advertisement of such  
 2.32 a nature that the inclusion of a disclaimer would be impracticable; ~~and~~.

3.1 ~~(3) online banner ads and similar electronic communications that link directly to an~~  
3.2 ~~online page that includes the disclaimer.~~

3.3 (d) This section does not modify or repeal section 211B.06.

3.4 Sec. 4. Minnesota Statutes 2020, section 211B.04, is amended by adding a subdivision to  
3.5 read:

3.6 Subd. 3a. **Certain electronic communications and advertisements.** Notwithstanding  
3.7 subdivisions 1 and 2, the Campaign Finance and Public Disclosure Board must adopt rules  
3.8 using the expedited process in section 14.389 to specify the form and content of the disclaimer  
3.9 required by those subdivisions for small electronic communications on which the full  
3.10 disclaimer cannot be conveniently printed including but not limited to online banner ads,  
3.11 text messages, social media communications, and small advertisements appearing on a  
3.12 mobile telephone or other handheld electronic device. In its rules, the board may waive the  
3.13 disclaimer requirement for categories of communications where inclusion would be  
3.14 technologically impossible.