

January 14, 2025

VIA EFILING ONLY

Andrew D. Olson
Campaign Finance and Public Disclosure
Board
190 Centennial Office Building
658 Cedar St
Saint Paul, MN 55155
andrew.d.olson@state.mn.us

**Re: In the Matter of the Proposed Permanent Rules Relating to Campaign
Finance; Lobbying; and Audits and Investigations
OAH 24-9030-39382; Revisor 4809**

Dear Andrew D. Olson:

Enclosed herewith and served upon you is the **ORDER ON REVIEW OF PROPOSED RULES PURSUANT TO MINN. STAT. § 14.26** in the above-entitled matter. The Administrative Law Judge has determined there are no negative findings in these rules.

The Office of Administrative Hearings has closed this file and is returning the rule record so that the Campaign Finance and Public Disclosure Board can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365. Please ensure that the agency's signed order adopting the rules is filed with our office. The Office of Administrative Hearings will request the finalized rules from the Revisor's office following receipt of that order. Our office will then file the adopted rules with the Secretary of State, who will forward one copy to the Revisor of Statutes, one copy to the Governor, and one to the agency for its rulemaking record. The Board will then receive from the Revisor's office three copies of the Notice of Adoption of the rules.

The Board's next step is to arrange for publication of the Notice of Adoption in the State Register. Two copies of the Notice of Adoption provided by the Revisor's office should be submitted to the State Register for publication. A permanent rule without a hearing does not become effective until five working days after a Notice of Adoption is published in the State Register in accordance with Minn. Stat. § 14.27.

Andrew D. Olson
January 14, 2025
Page 2

If you have any questions regarding this matter, please contact William Moore at (651) 361-7893, william.t.moore@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,

A handwritten signature in black ink that reads "Nichole Sletten". The script is cursive and fluid, with the first name "Nichole" and last name "Sletten" clearly distinguishable.

NICHOLE SLETTEN
Legal Assistant

Enclosure

cc: Legislative Coordinating Commission
Revisor of Statutes

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Rules
Relating to Campaign Finance;
Lobbying; and Audits and Investigations

**ORDER ON REVIEW OF
PROPOSED RULES
PURSUANT TO
MINN. STAT. § 14.26**

This matter is pending before Assistant Chief Administrative Law Judge Kristien R. E. Butler upon request of the Minnesota Campaign Finance Board (Board) for a review of the proposed adoption of rules without a public hearing pursuant to Minn. Stat. § 14.26 (2024). On January 2, 2025, Board filed documents required pursuant to Minn. Stat. 14.26 and Minn. R. 1400.2310 (2023).

Following review, **IT IS HEREBY DETERMINED:**

1. Board has the statutory authority to adopt the rule.
2. Board has fulfilled all procedural requirements of Minn. Stat. § 14.14 (2024) and all other procedural requirements of law and rule.
3. The rulemaking record demonstrates the rule is needed and reasonable.

Based upon the record, including submitted comments, and for the reasons explained in the accompanying Memorandum, the Judge now hereby issues the following:

ORDER

The proposed rule parts are **APPROVED**.

Dated: January 14, 2025

A handwritten signature in black ink, appearing to read 'Kristien R. E. Butler', written over a horizontal line.

KRISTIEN R. E. BUTLER
Assistant Chief Administrative Law Judge

NOTICE

This Report must be available for review to all affected individuals upon request for at least five working days before the agency takes any further action on the rules. The Agency may then adopt the final rules or modify or withdraw its proposed rules. If the Agency makes any changes in the rules, it must submit the rules to the Chief Administrative Law Judge for a review of the changes prior to final adoption. Upon adoption of final rules, the Agency must submit a copy of the Order Adopting Rules to the Chief Administrative Law Judge. After the rules' adoption, the Office of Administrative Hearings will file certified copies of the rules with the Secretary of State. At that time, the Agency must give notice to all persons who requested to be informed when the rules are adopted and filed with the Secretary of State.

MEMORANDUM

I. Standard of Review

Board submitted the proposed rules for a legal review pursuant to Minn. Stat. § 14.26. When conducting the review, the Judge must consider whether the agency has the authority to adopt the rules; whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules; and whether the rules as modified are substantially different from the rules as originally proposed.

The applicable rules identify several circumstances under which a proposed rule must be disapproved by the Judge.¹ These include:

- situations in which the rule exceeds, conflicts with, does not comply with, or grants the agency discretion beyond what is allowed by its enabling statute or other applicable law;
- when the rule was not adopted in compliance with procedural requirements, unless the Judge finds that the error was harmless in nature and should be disregarded;
- if a rule is not rationally related to the agency's objectives or the agency has not demonstrated the need for and reasonableness of the rule; and
- if the rule is substantially different than the rule as originally proposed and the agency did not comply with the required procedures on Minn. R. 1400.2110 (2023);

¹ Minn. R. 1400.2100 (2023).

- if the rule is unconstitutional² or illegal;
- when the rule improperly delegates the agency's powers to another entity;
- when the proposal does not fall within the statutory definition of a "rule"; or
- when the proposal is subject to Minn. Stat. § 14.25, subd. 2 (2024), and the notice that hearing requests have been withdrawn and written responses to it show that the withdrawal is inconsistent with Minn. Stat. § 14.001(2), (4), and (5) (2024).

After a thorough review of the record, the Judge finds that none of these circumstances exist in the present matter.

II. Received Comments

The role of the Judge in this matter is solely to determine if the rules as proposed meet all legal requirements of law and rule. As previously stated, the Judge finds that they do.

Board seeks to implement significant changes to the rules in question, primarily as the result of legislative changes enacted by the Minnesota Legislature in January of 2024. Board received approximately four (4) comments in response to its Request for Comments and no requests for a public hearing. Board provided considered and thoughtful responses to said comments; Board also made modifications to some of its proposals due to the received comments. Pursuant to Minn. Stat. § 14.05, subd. 2 (2024), the Judge finds that these modifications are not substantially different from those initially proposed in Board's Dual Notice.

While the Judge read through all of the received comments and Board's responses to them, the Judge is inclined to agree with Board that the majority of the comments appear to rise to the level of requiring State legislative intervention as opposed to Board rules promulgation. For these reasons, the proposed rule parts are approved.

K. R. E. B.

² In order to be constitutional, a rule must be sufficiently specific to provide fair warning of the type of conduct to which the rule applies. See *Cullen v. Kentucky*, 407 U.S. 104, 110 (1972); *Thompson v. City of Minneapolis*, 300 N. W.2d 763, 768 (Minn. 1980).