

House Research Act Summary

CHAPTER: 277

SESSION: 2004 Regular Session

TOPIC: Fair Campaign Practices Enforcement

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Overview

This act moves from county attorneys to the Office of Administrative Hearings (OAH) primary responsibility for handling complaints of violations of the Fair Campaign Practices Act and the campaign finance reporting requirements for local elections. It repeals the mandate that a county attorney investigate every complaint and creates an administrative procedure for these complaints to be considered first by the OAH. A county attorney may only act after the OAH does.

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- 1 Appropriation.** Amends the statutory appropriation to the state elections campaign fund. Sets aside \$65,000 of that amount to pay assessments made by the OAH for the costs of proceedings on complaints filed under this act. Amounts remaining after all assessments have been paid will cancel to the general account of the state elections campaign fund.
- 2 Investigations; prosecutions.** Provides that the county attorney is required to investigate complaints of the voter registration laws only if made under oath.
- 3 Notice of failure to file.** Transfers from the county attorney to the local filing officer the responsibility for notifying a candidate or committee of failure to file a local government campaign finance report on time. If the report is not filed within ten days after the notification is mailed, the filing officer must file a complaint with the OAH under the new procedure in section 211B.32
- 4 County attorney authority.** Authorizes a county attorney to prosecute any violation of chapter 211A, relating to campaign finance reporting for local elections. The previous mandate is repealed by section 13.

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- 5** **County attorney authority.** Authorizes a county attorney to prosecute any violation of chapter 211B, the Fair Campaign Practices Act. The previous mandate is repealed by section 13.
- 6** **Definition.** Defines “office” to mean the Office of Administrative Hearings.
- 7** **Complaints.** Requires complaints of a violation of local government campaign finance reporting or the Fair Campaign Practices Act to be filed with the OAH. The complaint must be finally disposed of by the OAH before the alleged violation may be prosecuted by a county attorney. The statute of limitations on filing a complaint with the OAH is one year. The burden of proof is on the complainant. The standard of proof of false statements in campaign material is clear and convincing evidence (highest civil standard). The standard of proof for any other violation is a preponderance of the evidence (regular civil standard). The complaint must be accompanied by a filing fee of \$50 unless waived for indigency.
- 8** **Prima facie review.** Requires the chief administrative law judge to randomly assign an administrative law judge to review the complaint. Review must be completed within one business day after the complaint was filed, but not longer than three business days. A preliminary determination for its disposition may be to dismiss the complaint, to give it an expedited probable cause hearing, or to give it a regular probable cause hearing. If the complaint was filed within 60 days before the primary or special election or within 90 days before the general election and (1) it claims false statements in campaign material or (2) a party requests expedited hearing, the probable cause hearing must be expedited.
- 9** **Probable cause hearing.** The administrative law judge must hold an expedited probable cause hearing within three business days after receiving the assignment of the complaint, or for good cause may hold the hearing no later than seven days after receiving the assignment. The administrative law judge may dismiss the complaint. If the administrative law judge finds probable cause to believe that the violation of law alleged has occurred, the chief administrative law judge must schedule it for an evidentiary hearing.
- 10** **Evidentiary hearing.** Provides the procedure for evidentiary hearings by a panel of three administrative law judges. If the complaint received an expedited probable cause hearing, the evidentiary hearing must be held within ten days after the complaint was assigned to the panel. If the complaint was filed within 60 days before the primary or special election or within 90 days before the general election, but did not receive an expedited probable cause hearing, the evidentiary hearing must be held within 30 days after it was filed. Otherwise, it must be heard within 90 days after it was filed. For good cause shown, the panel may extend either of these deadlines by 60 days. The panel may dismiss the complaint, issue a reprimand, find that a false statement made in a paid advertisement or campaign material violated section 211B.06, impose a civil penalty of up to \$5,000, or refer the complaint to the appropriate county attorney for prosecution.
- 11** **Procedures.** Lets an administrative law judge or three-judge panel consider any evidence and argument submitted until a hearing record is closed. Also lets it continue a hearing to enable the parties to submit additional testimony. A complainant may withdraw a complaint at any time before an evidentiary hearing without the permission of the judge or panel or at any time after the hearing begins with the permission of the judge or panel. If the assigned administrative law judge or panel determines that the complaint was frivolous, the complainant may be ordered to pay the respondent’s reasonable attorney fees and to pay the costs of the OAH in the proceeding in which the complaint was dismissed. A hearing may be conducted by conference telephone call or by interactive television. All hearings must be

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open to the public.

An aggrieved party may seek judicial review under sections 14.63 to 14.69, but proceedings are not otherwise subject to chapter 14.

- 12** **Costs assessed.** Requires that the cost of processing complaints relating to a statewide ballot question or an election for statewide or legislative office be assessed against the statutory appropriation to the state elections campaign fund. Costs of processing complaints relating to other elections or local questions must be assessed against the county or counties where the election was held, allocated among the counties in proportion to their population within a multi-county election district.
- 13** **Repealers.** Minnesota Statutes 2002, section 211A.08, subdivisions 1 and 2, require the county attorney to investigate every complaint of a violation of chapter 211A, which relates to campaign finance reporting for local elections. Section 211B.16, subdivisions 1 and 2, require the county attorney to investigate every complaint of a violation of chapter 211B, the Fair Campaign Practices Act.
- 14** **Effective date.** July 1, 2004, for violations committed on or after that date.