

House Research Act Summary

CHAPTER: 138

SESSION: 2013 Regular Session

TOPIC: Campaign Finance

Analyst: Matt Gehring, 651-296-5052

Date: May 29, 2013

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd/.

Overview

This act makes a number of changes to the procedures and standards for campaign finance regulation and reporting, including increasing spending and contribution limits for certain candidates, and increasing thresholds for registration and reporting by certain types of entities. It also expands the Campaign Finance and Public Disclosure Board's enforcement authority to include certain provisions of the Fair Campaign Practices Act.

Article 1: Policy Changes

Overview

This article contains the provisions of HF 863 (Winkler), with modifications.

Section

- 1 Ballot question political committee.** Establishes a definition of "ballot question political committee." These committees are only permitted to make expenditures to promote or defeat a ballot question, and disbursements in the same manner as permitted for independent expenditure political committees and funds.
- 2 Ballot question political fund.** Establishes a definition of "ballot question political fund." These committees are only permitted to make expenditures to promote or defeat a ballot question, and disbursements in the same manner as permitted for independent expenditure political committees and funds.

Section

- 3** **Candidate.** Updates a cross-reference to reflect changes made elsewhere in this article.
- 4** **Contribution.** Provides that an allocation from an association’s general treasury to its political fund constitutes a contribution that must be reported as required in current law.
- 5** **Election cycle.** Separates the definition of “election cycle” into an “election segment” and a “non-election segment.” This distinction is used later in the bill for purposes of establishing new contribution and expenditure limits for candidates.
- 6** **Expressly advocating.** Establishes a definition of “expressly advocating.” This phrase is used elsewhere in chapter 10A, within the definition of “independent expenditure.”
- 7** **General treasury money.** Establishes a definition of “general treasury money.” This phrase is used in various new sections established in this article.
- 8** **Person.** Establishes a definition of “person” to include an individual, association, political subdivision, or public higher education system.
- 9** **Political committee.** Modifies the existing definition of “political committee” to provide that its major purpose may be to influence the nomination or election of more than one candidate.
- 10** **Political fund.** Modifies the existing definition of “political fund” to provide that it may be used to influence the nomination or election of more than one candidate. This section also clarifies that, in context within chapter 10A, the term may refer to an association acting through its political fund.
- 11** **Documents; information.** Provides conforming changes to reflect the expanded scope of the Campaign Finance and Public Disclosure Board’s jurisdiction, as provided in sections 12 and 13.
- 12** **Audits and investigations.** Permits the board to impose statutory civil penalties, and issue orders for compliance related to provisions of law under the board’s jurisdiction.
- 13** **Violations; enforcement.** Extends the scope of the board’s enforcement jurisdiction to cover certain provisions of the fair campaign practices act, including disclaimer requirements contained in section 211B.04; restrictions on the use of money collected for political purposes in section 211B.12; and regulation of corporate political activity provided in section 211B.15.

Legal authority to recover, in the name of the board, contributions used for an impermissible purpose is provided in this section. Standards for disbursement of recovered money are also provided.

This section also provides that a matter that is under the board’s jurisdiction and which also may result in a criminal prosecution must be finally disposed of by the board before the violation may be prosecuted as criminal matter.

Section

- 14** **Advisory opinions.** Provides conforming changes to reflect the expanded scope of the Campaign Finance and Public Disclosure Board’s jurisdiction, as provided in sections 12 and 13.
- 15** **Disposition of fees.** Requires civil penalties collected by the board to be deposited into the general fund.
- 16** **Penalty for false statements.** Expands the scope of the civil and criminal penalties for knowingly providing false statements to the board.
- 17** **Record keeping; penalty.** Establishes a civil penalty for failure to maintain financial records related to reports or statements required to be filed under chapter 10A.
- 18** **Exception.** Provides an exception to the state’s gift ban law, which regulates gifts to certain public officials from lobbyists and lobbyist principals. The exception would permit members of the legislature, and legislative staff, to receive food and drink at a reception, meal, or meeting if all members of the legislature are invited to the reception, meal, or meeting at least five days prior to the event.
- 19** **Single committee.** Increases the threshold for the requirement that a candidate form a principal campaign committee. Current law requires formation of a principal campaign committee upon receipt of a contribution in excess of \$100. This section increases the threshold to \$750.
- 20** **When required for contributions and approved expenditures.** Increases the threshold for the requirement that a political fund be formed. Current law requires an association to form a political fund upon engaging in contribution activity of \$100 or more, or certain expenditure activity of any amount. This section standardizes the threshold for both to \$750.
- 21** **When required for independent expenditures or ballot questions.** Increases the threshold for forming an independent expenditure political committee or fund from \$100 to \$1,500. The threshold for forming a ballot question political committee or fund is set at \$5,000.
- 22** **Commingling prohibited.** Clarifies certain activities that do not constitute prohibiting commingling of funds under chapter 10A, and provides standards for the separation of funds into different depositories in certain circumstances.
- 23** **Independent expenditure and ballot question political committees and funds.** Clarifies and expands the scope of permissible activities of independent expenditure political committees and funds, and ballot question political committees and funds. Activities that are not permitted include contributions to principal campaign committees, party units, or political committees or funds that are not limited to independent expenditure activity.
- 24** **First registration.** Increases the threshold for registration of a political committee, political fund, principal campaign committee, or party unit. Current law requires registration upon contribution or expenditure activity of more than \$100. This section increases the threshold to \$750.

Section

These requirements do not apply to independent expenditure political committees or funds, which are covered in the next section of the bill.

25 Independent expenditure committees and funds; registration; reporting. Establishes a new subdivision containing standards for registration of an independent expenditure or ballot question political committee or fund. Registration would be required within 14 days of the following activities:

- . receiving aggregate contributions for independent expenditures of more than \$1,500 during the calendar year;
- . receiving aggregate contributions for expenditures to promote or defeat a ballot question of more than \$5,000 in a calendar year;
- . making independent expenditures of more than \$1,500 in a calendar year; or
- . making aggregate expenditures to promote or defeat a ballot question of more than \$5,000 in a calendar year.

Registration by the end of the next business day is required if a qualifying loan or contribution is received in the final days before an election.

26 Anonymous contributions. Updates terminology to reflect changes made in a later article of the bill. The anonymous contribution threshold is not changed.

27 Deposit. Extends the time during which a treasurer may return a contribution from 60 days to 90 days.

28 First filing; duration. Provides a technical modification related to the first filing of campaign reports.

29 Time for filing. Modifies the structure and timing for filing campaign reports, in certain cases. Legislative and district court reporting periods remain unchanged. Six reports would be required in a general election year from political committees, political funds, a state party committee, a party caucus within the legislature, and the principal campaign committee of a candidate for constitutional office or appellate judicial office. The timing and other technical requirements of these reports are provided.

30 Contents of report. Clarifies that campaign reports only need to include those items that are applicable to the filer. This section also increases the itemized reporting threshold for certain types of aggregate yearly contributions, loans, and receipts, and provides other conforming changes to reflect changes made elsewhere in this article.

The threshold for itemized reporting of activity related to legislative or statewide candidates is increased from an aggregate contribution of more than \$100 in a calendar year to an aggregate contribution of more than \$200 in a calendar year.

The threshold for itemized reporting activity related to ballot questions is increased from an aggregate contribution of more than \$100 in a calendar year to an aggregate contribution of

Section

more than \$500 in a calendar year.

- 31 Pre-election reports.** Provides technical modification to certain triggering thresholds for 24-hour notices to conform to other standards in chapter 10A.

This section also modifies the triggering threshold for 24-hour reporting during the days prior to an election from 80 percent or more of the contribution limit for an office to more than 50 percent of the election cycle contribution limit. This change reflects an increase in the contribution limits provided later in this article.

- 32 Report when no committee.** Increases the threshold for reporting for a candidate who does not form a principal campaign committee, to reflect the increased thresholds for reporting established earlier in the bill. A report would be required upon expenditures of more than \$750, rather than expenditures of more than \$100.

A reporting threshold for independent expenditure activity of more than \$1,500 or ballot question expenditure activity of more than \$5,000 is also provided.

- 33 Statement of inactivity.** Eliminates a requirement that a political fund file a statement of inactivity, if applicable. This requirement was declared unconstitutional in 2012.

- 34 Activity of political fund.** Clarifies the elimination of the inactivity reporting requirement, as applied to political funds.

- 35 Transfer of debts.** Eliminates a cross-reference to section 10A.24, which is repealed by this bill, and a cross-reference to section 10A.324.

- 36 Termination of registration.** Establishes a new process for termination of a political committee, political fund, principal campaign committee, or party unit after it has disposed of all of its assets in excess of \$100. A definition of “assets” is provided in the bill.

These entities may terminate by filing a report of receipts and expenditures and must be identified as a termination report.

This section replaces the current section on termination that is repealed.

- 37 Voluntary inactive status; political funds.** Establishes a procedure for an association with a political fund to voluntarily go into inactive status, without terminating the fund’s registration with the board. The effect of the inactive status, and the procedures for changing status, are provided.

- 38 Administrative termination of inactive committees and funds.** Permits the board to administratively terminate an inactive principal campaign committee, political committee, political fund, or party unit. This section replaces the current section of law on dissolution of inactive committees and funds, which is repealed. A definition of inactivity is provided.

- 39 Unpaid debt upon termination.** Provides that termination of a registration with the board does not affect liability for obligations incurred by the association or its fund.

Section

40 Amounts; spending limits. Modifies the spending limits for candidates who have signed a public subsidy agreement. The limits are modified to apply to a complete election cycle, and the election and non-election segments within that cycle.

This section also makes technical clarifications, including establishing a standard for determining whether a candidate is entitled to the statutory 10 percent increase for being a first-time candidate.

Spending limits are increased for candidates for the following offices, as specified:

- Governor/lieutenant governor: \$3.5 million in the election segment and \$1.5 million in the non-election segment;
- Attorney general, \$600,000 in the election segment and \$200,000 in the non-election segment
- Secretary of state and State auditor, \$400,000 in the election segment and \$100,000 in the non-election segment
- State senator: \$90,000 in the election segment and \$30,000 in the non-election segment
- State representative: \$60,000 in the election segment

41 Aggregated expenditures. Provides a conforming reference update to reflect changes made earlier in this article.

42 Governor and lieutenant governor a single candidate. Clarifies that for the purposes of the entirety of chapter 10A, and not just the specified sections, a candidate for governor and a candidate for lieutenant governor are considered a single candidate.

43 Unused funds. Modifies the amount of permissible carryforward in a campaign committee's account from 50 percent of the election year expenditure limit to 25 percent of the election cycle expenditure limit, and provides other technical modifications to reflect changes made earlier in this article.

44 Contribution limits. Increases contribution limits for candidates, which apply to the complete election cycle rather than an individual year. The limits are increased for candidates, as follows:

- Governor and lieutenant governor: \$4,000 in the election segment and \$2,000 in the non-election segment
- Attorney general: \$2,500 in the election segment and \$1,500 in the non-election segment
- Secretary of state and state auditor: \$2,000 in the election segment and \$1,000 in the non-election segment

Section

- State senator: \$1,000 in the election segment and \$1,000 in the non-election segment
- State representative: \$1,000 in the election segment
- Judicial office: \$2,500 in the election segment and \$1,000 in the non-election segment

The language in this section also clarifies that the contribution limits apply to contributions from associations not registered with the board.

45 Limited personal contributions. Provides technical and conforming clarifications to reflect changes made elsewhere in the bill, in the section of statute regulating contributions made directly to a candidate's campaign committee by the candidate, including modification of a reference to the amount a candidate can contribute to the candidate's own political committee.

46 Contributions from certain contributors. Extends the aggregate special source contribution limit to include contributions from associations not registered with the board.

47 Unregistered association limits. Increases the amount that may be accepted from an association not registered with the board from \$100 to \$200.

This section specifies that this limit does not apply when a national political party contributes money to its state committee or to certain types of purchases by candidates.

48 Contributions of business revenue. Allows an association to contribute business revenue to ballot question political committees.

49 Contributions or use of general treasury money. Modifies procedures related to use of an association's general treasury money to contribute to independent expenditure or ballot question committees or funds, and increases the threshold for itemized reporting of individual contributors. Currently, itemization is required of individuals whose dues, fees, or donations aggregate more than \$1,000 of the contribution from the association. That threshold is increased to individuals whose dues, fees, or donations aggregate more than \$5,000 of the contribution from the association.

50 Affidavit of contributions. Clarifies language related to affidavits of contributions. In-kind contributions are not counted in an affidavit of contributions from a candidate who receives a public subsidy. The candidate must file an affidavit with the board stating that the principal campaign committee has complied with the stated requirements.

51 Penalty for individuals. Establishes a tiered penalty structure for violations of the laws governing corporate political activity by individuals acting on behalf of the corporation. The existing criminal penalty provided by law, and a fine of up to \$20,000 would apply to knowing violations of the law; violations that do not occur knowingly would be subject to a lesser civil penalty.

52 Penalty for corporations. Establishes a tiered penalty structure for violations of the laws

Section

governing corporate political activity by the corporation itself. The existing criminal penalty provided by law, and a fine of up to \$40,000 would apply to knowing violations of the law; violations that do not occur knowingly would be subject to a lesser civil penalty.

- 53** **Knowing violations.** Establishes the requirements for a “knowing violation,” for purposes of the enhanced penalty structure provided in sections 51 and 52.
- 54** **Administrative remedy; exhaustion.** Updates a provision of the fair campaign practices act, to reflect the expanded jurisdiction of the board over certain matters, established in section 13.
- 55** **Repealer.** Repeals the following sections of statute:
- 10A.24: Dissolution or termination of reporting entities. New standards for these procedures are established earlier in the bill.
 - 10A.242: Dissolution of inactive committees and funds. New standards for these procedures are established earlier in the bill.
 - 10A.25, subdivision 6: Spending limits in a nonelection year. This section is obsolete, based on changes made earlier in the bill.
- 56** **Effective date.** Provides that this article is effective the day following final enactment.

Article 2: Public Official

Overview

This article contains HF 136 (Hansen), modifying provisions related to public officials, including adding certain judges and county commissioners to the definition of “public official.”

- 1** **Public official.** Adds judges, including district court judge, appeals court judge, and justice of the Supreme Court, and county commissioners to the definition of “public official” under the campaign finance and public disclosure law.
- 2** **Conflicts of interest.** Exempts public officials who are judges from the section of law establishing procedures when the official has a conflict of interest. Judges are subject to conflict of interest standards and procedures established in the Code of Judicial Conduct.
- 3** **Definitions (gift ban).** Provides a conforming reference to reflect the addition of judges to the definition of “public official” in section 1.
- 4** **Representation disclosure.** Exempts public officials who are judges from the section of law requiring disclosure of certain clients of the official. Judges are subject to disclosure standards established in the Code of Judicial Conduct.
- 5** **Place of filing.** Provides that, if an official is both a “public official” and a “local official” as defined in the law (these officials include county commissioners of metropolitan-area

Section

counties), the official is only required to file a statement of economic interest with the campaign finance and public disclosure board, and is not required to file a second statement with the local political subdivision.

- 6 **Waivers.** Permits the Campaign Finance and Public Disclosure Board, on a showing of good cause, to waive the requirement that a public official disclose the address of certain types of real property.
- 7 **Effective date.** Provides that this article is effective January 1, 2014, and applies to public officials elected or appointed to terms of office commencing on or after that date.

Article 3: Technical Changes

Overview

This article, and article 4, contain the provisions of HF 663 (Laine).

- 1 **Public official.** Expands the definition of “public official” to include nonpartisan fiscal analysts employed by the House and Senate.
- 2 **Changes and corrections.** Provides a technical modification to an existing gross misdemeanor penalty related to willful failure to report a material change or correction to a report or statement previously submitted to the Campaign Finance and Public Disclosure Board.
- 3 **Late filing.** Increases the late filing fee, and eliminates a grace period for timely filing, for reports required to be filed by a lobbyist or lobbyist principal.
- 4 **Earmarking contributions prohibited.** Provides a technical modification to an existing gross misdemeanor penalty related to knowingly accepting an earmarked contribution.
- 5 **Period of report.** Modifies the period that must be included on the campaign finance report required to be filed on January 31. The report must cover the period from January 1 to December 31 of the reporting year.
- 6 **Failure to file; penalty.** Eliminates a grace period for timely filing of a campaign finance report.
- 7 **Contributions during legislative session.** Prohibits associations not registered with the Campaign Finance and Public Disclosure Board from making contributions to candidates, a candidate’s principal campaign committee, or a party unit of the legislature during a regular legislative session. A prohibition on contributions by dissolving principal campaign committees is eliminated.
- 8 **Civil penalty.** Provides conforming references to the change made in section 7 of the bill related to contributions during the legislative session, and provides that the board is permitted, rather than required, to forward a matter to the county attorney if there is probable cause to believe a violation has occurred.

Section

- 9 State elections campaign account.** Renames the current “state elections campaign fund” the “state elections campaign account,” and establishes a new account for special elections, known as the “state special elections campaign account.”
- 10 Distribution of general account.** Provides a technical modification to the time that the amount of available funding in the state campaign fund general amount is certified, due to the shift in the date of the state primary.
- This section also eliminates procedures and requirements related to repayment of public subsidy money unspent by a candidate.
- 11 Special election subsidy.** Provides a technical modification of the procedure for appropriating money to be used for public subsidies to candidates in a special election.
- 12 Refund receipt forms; penalty.** Provides a technical modification to an existing misdemeanor penalty for willfully issuing a political contribution refund receipt form, in the event the candidate did not sign a spending limit agreement. The modification includes expansion of the penalty to cover issuance of these forms by a candidate’s treasurer.

Article 4: Conforming Changes

- 1-7 Terminology changes.** Updates various references in statute to the state elections campaign fund, to reflect the renaming of the fund the “state elections campaign account.”
- 8 Effective date.** Provides that this article is effective the day following final enactment.