

House Research Act Summary

CHAPTER: 309

SESSION: 2014 Regular Session

TOPIC: Campaign Finance

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Date: May 30, 2014

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Overview

This act makes a number of miscellaneous changes to chapter 10A, governing campaign finance and public disclosure. Among the changes are new requirements related to complaints filed with the Campaign Finance and Public Disclosure Board, a requirement that the board conduct audits if resources allow, and expansion of the items required to be included in a public official's statement of economic interest.

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- 1 Associated business.** Modifies a financial threshold for qualifying under the definition of "associated business" in certain circumstances from "\$2,500 or more" to "more than \$2,500." This modification conforms the phrasing to the phrasing of other financial thresholds in chapter 10A.
- 2 Candidate.** Modifies the financial threshold for qualifying as a "candidate" for purposes of chapter 10A, to conform to the threshold for registering a campaign committee with the Campaign Finance and Public Disclosure Board.
- 3 Prima facie determination.** Establishes a definition of "prima facie determination." This term is used as part of several new requirements related to complaints filed with the board, established in section 7.
- 4 Executive director; staff.** Provides that the executive director of the campaign finance and public disclosure board is not an ex-officio member of the board.
- 5 Duties.** Restricts the board's ability to vote on matters unless a notice and background materials are provided each member of the board at least seven days before the meeting at which the matter will be considered. The board may override this requirement by majority

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vote.

- 6 Audits and investigations.** In paragraph (a), requires the Campaign Finance and Public Disclosure Board to make audits and investigations of compliance with campaign finance laws, within the limits of available resources. Current law provides discretionary audit and investigation authority to the board. This paragraph also grants the board authority to require testimony under oath, and to permit written statements to be given under oath, when conducting matters related to its official duties.

In new paragraph (b), the board is required to issue expedited rules setting forth procedures to be followed for audits and investigations. Specific requirements for the content of the rules are provided.

In new paragraph (c), the board is required to provide notice to the chairs and ranking minority members of the appropriate legislative committees at various points in the rulemaking process.

- 7 Violations; enforcement.** Establishes a new process for review of written complaints by the board. The following principles would direct this process:

- (1) after receiving notice of a complaint, the subject of the complaint is entitled to 15 days to respond, addressing whether there is a “prima facie” case.
- (2) Within 30 days of the complaint being filed, a single member of the board (the chair, or a designee) determines whether the complaint alleges a prima facie violation of the law.
- (3) If the initial complaint is dismissed for not stating a prima facie violation, the complainant could file a revised complaint, which would be reviewed by a single member of the board (but not the same member who reviewed the original complaint, and who does not support the same political party as the first member)
- (4) At the chair’s discretion, any complaint can be referred to the full board for review for a prima facie determination. A revised complaint that has been submitted for a third time must be reviewed by the full board.
- (5) Upon determination that a prima facie case exists, the full board must make findings and conclusions on whether there is probable cause to believe a violation has occurred. These must be made within 45 days of the prima facie determination. The parties must have an opportunity to be heard by the board.
- (6) If probable cause exists, the board must initiate an investigation as provided for in current law. In an investigation, the subject of the complaint must be afforded the opportunity to respond in writing, and in person.

This section also updates terminology and eliminates a reference to findings of “probable cause” to more accurately reflect that the board issues, findings, conclusions, and orders.

- 8 Data privacy.** Eliminates a reference to findings of “probable cause.”
- 9 Data privacy related to electronic reporting system.** Authorizes the board to develop and

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maintain a system that allows treasurers to enter and store records online, for purposes of complying with the campaign finance reporting laws.

This section provides that data stored in such a system may not be accessed by the board for any purpose without written consent, and is not considered “government data” for purposes of chapter 13 until the data are submitted to the board in a filed report.

- 10 Fees and penalties.** Requires the board to waive the imposition of a late filing fee or civil penalty for late filing of a report or statement required by chapter 10A, if a certified request is made in writing and the requestor demonstrates good cause for the late filing or submission.
- 11 Changes and corrections.** Increases the late fees that may be assessed if an individual fails to file an amended report, when required to do so. The increased late fees would conform to the late fees provided in law for other types of required filings.
- This section also updates procedures related to providing notice to an individual required to file an amended report.
- 12 Reconciliation information; penalty.** Requires individuals and associations required to file reports to provide information requested by the board to resolve discrepancies. Failure to respond or cooperate with the board is subject to late filing fees and, if the failure to cooperate is willful, may also result in civil penalties.
- 13 Time for filing.** Specifies the deadline for filing statements of economic interest by supreme court justices, judges and county commissioners, who were newly-added to this requirement during the 2013 legislative session.
- Justices, judges and county commissioners are required to file a statement of economic interest within 60 days of assuming office. Filing an affidavit of candidacy for one of these offices does not trigger a filing requirement.
- 14 Exception; retired judges.** Provides that retired justices and judges who are appointed by the chief justice to serve in certain capacities are exempt from the economic interest statement filing requirement.
- 15 Form (statements of economic interest).** Modifies financial thresholds for including certain data on a statement of economic interest to require reporting of property with a fair market value of “more than \$50,000” rather than “\$50,000 or more.” This modification conforms the phrasing to the phrasing of other financial thresholds in chapter 10A.

This section also requires individuals who file a statement of economic interest to list relevant principal business or professional activity categories in the following circumstances:

- if the individual receives more than \$50 in any month as an employee of a business, and if the individual owns more than a 25 percent interest in the business (new clause (6))
- if the individual received compensation of more than \$2,500 in the past 12 months as

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an independent contractor (new clause (7))

The list of principal business or professional activity categories are the general topic headings used by the Internal Revenue Service for purposes of reporting self-employment income. Additional categories may added if enacted by law.

These new requirements would apply to new public officials and candidates beginning the day following final enactment. Current public officials would be required to include these new disclosures in their supplementary statement due April 15, 2015.

- 16 Board audits; data classification.** Classifies data related to audits conducted by the board, except for the board's final audit report, as confidential data, and prohibits disclosure of the data by a member, employee, or agent of the board except as necessary to carry out the audit or take action in the matter.
- A final audit report must publicly disclose the name of the individual subject to the audit, a description of the audit's findings, a description of any responses provided by the individual, and the manner in which the findings were resolved.
- 17 Dues or membership fees.** Increases the threshold for reporting the names of members who contribute dues, membership fees, and contributions to an association's political fund. Current law requires identification of members who contribute more than \$100 in a year. This section would instead require identification of those who contribute more than \$200 in a year.
- 18 Time for filing.** Modifies the reporting schedules for various candidates, including candidates for constitutional office, candidates for appellate judicial seats, and candidates whose name will not appear on the general election ballot.
- 19 Pre-election reports.** Updates a reference from "election cycle" to "election segment," to conform to changes that were enacted in 2013.
- 20 Publication of expenditure limit.** Requires the board to post the expenditure limit for offices on the ballot in an election year on the board's website, rather than in the State Register.
- 21 Civil action.** Eliminates language related to civil actions filed by the board, which is already authorized in other portions of law.
- This section also authorizes the board to use existing remedy provisions in chapter 10A to recover fees and penalties, or to seek an injunction.
- 22 Statements of economic interest.** Provides a cross-reference in the data practices act to the new data classification contained in section 16.
- 23 Campaign reports and data.** Provides a cross-reference in the data practices act to the government data exemption in section 9.
- 24 Information required.** For candidates and committees in elections for local office, clarifies

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a “cash on hand” reporting requirement to provide that only the cash on hand designated for political purposes is required to be reported. This section also updates terminology.

- 25** **Repealer.** Repeals a provision of law that requires the board to suspend a public official who fails to file a required statement of economic interest.
- 26** **Effective date.** Provides that this act is effective the day following final enactment, except where otherwise provided. The act became effective May 22, 2014.