

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 441

DATE: April 12, 1999

Version: First Engrossment

Authors: Knoblach and Rhodes

Subject: Campaign Finance and Gift Law

Analyst: Deborah K. McKnight, 651-296-5056

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

The bill makes numerous changes in the campaign finance, disclosure, lobbyist, and gift law. Significant changes affect session fundraising (section 7); gift ban (sections 10 and 48); family economic disclosure (section 12); contributor information disclosure (section 20); release from spending limits if a primary opponent refuses limits (section 27); multi-candidate expenditures by parties (section 32); return of subsidy if matching requirement not met (section 39); attorney fees (sections 23 and 40); local office contribution reporting requirements (section 42); the definition of major party (section 41); and corporate contribution ban (sections 43-46).

- 1 Associated business.** Adds "independent contractor" to this definition. The effect is to apply economic interest reporting to income obtained as an independent contractor or consultant.
- 2 Contribution.** Amends the definition of contribution in chapter 10A. Provides that the use of a candidate's or volunteer's personal property or private residence on behalf of a candidate, political committee, or ballot question is not a contribution.
- 3 Public official.** Amends the definition of this term to state that a member of the Minnesota High School League or Minnesota Technology is a public official. These individuals are currently included in the definition of political subdivision and metropolitan government unit under chapter 10A. This provision does not change current law but makes it clearer.
- 4 Notice; late filing.** Amends the late filing fee law that applies to lobbyist registrations. Strikes the option of personal service of a late notice by the board. Provides for the late fee to accrue beginning the eleventh day after a late notice is mailed. Under current law seven days after a lobbyist receives a late notice, a \$5 a day fee accrues and a misdemeanor penalty applies if the report is not filed after receipt of a second notice. The bill strikes the second notice and misdemeanor penalty.
- 5 Late filing.** Amends the lobbyist late filing fee law that applies to lobbyist reports. Makes the same late filing fee changes described in section 4. Applies the new changes to principals

(entities who hire lobbyists). Under current law there is no late filing fee for principals.

- 6 Financial records.** Requires lobbyists and principals to keep records required by chapter 10A for four years to facilitate audits. The same rule currently applies to principal campaign committees, other political committees, and political funds.
- 7 Registered lobbyist contributions; legislative session.** Applies the session fund-raising ban to the *making* of contributions by lobbyists, political committees, and political funds. Currently the ban applies only to those who *accept* contributions during session.

Allows money transfers between members and their caucuses during session.

Extends the session fund-raising ban past adjournment to the governor and lieutenant governor during the 14 days after adjournment of the legislature each year.
- 8 Civil penalty.** Extends the session fund-raising ban penalty (civil fine up to \$500) to a political fund or lobbyist that violates the ban. Goes with change in previous section.
- 9 Federal offices.** Amends the session fund-raising ban to state that it does not prohibit a candidate from accepting a contribution to a campaign for federal office.
- 10 Certain gifts by lobbyists and principals prohibited.**
 - Subd. 1. Definitions.** Stricken language is covered by local gift ban law (section 48).
 - Subd. 2. Prohibition.** Prohibits certain individuals from giving a gift to a public official only when the individual, who is an officer, employee or member of an association that is a principal, is acting as an agent on behalf of the association.
 - Subd. 3. Exceptions.** Amends paragraph (a) exemptions as follows:
 - Clause (6) exempts from the gift ban contributions to candidates for federal or local office. Contributions to chapter 10A candidates are already exempt.
 - Clause (4) exempts a framed certificate, recognizing individual services. Also strikes the current limitation that the memento must relate to a field of specialty or a charitable cause.
 - Clause (6) exempts informational material that will assist an official in the performance of official duties.
 - Clause (7) exempts food or beverage at a meeting away from the official's government office. Exempts reasonable travel within the state and lodging expenses for one night incurred and necessary to participate in a program where an official is appearing.
 - Clause (8) exempts a gift up to \$100 in value given at a significant family event that does not take place annually, given by an individual (1) with whom there has been a history of gift exchanges, (2) who paid for the gift without seeking business reimbursement or tax deduction, and (3) who did not give similar gifts to anyone who was not at the event.Amends paragraph (b) exclusions as follows:
 - Clause (2) exempts a gift from a multistate government or public officials organization to a participant in an event sponsored by the organization (1) if a majority of the dues are paid from public funds or the organization is a nonprofit educational entity, (2) an equivalent gift is given to all other participants, and (3) even if the gift was made possible by a gift to the organization from a lobbyist or principal.
 - Clause (3) exempts a gift to an official attending a political party's national convention or the presidential inauguration.
 - Clause (5) exempts a gift from a principal to an official who acts as agent for the giver in making a gift to a foreign dignitary.Paragraph (c) exempts a gift or a meal from an employer to an employee in the normal

course of business, to the extent that other employees are entitled to the same benefits.

Subd. 4. Return of gift. Exempts from a penalty under the gift law: an official who accepts a gift in the good faith belief that it is lawful and then returns it, or gives equal or greater consideration for it, upon learning it was not lawful.

- 11 **Representation disclosure.** Amends the late reporting fee that applies to a public official who does not timely file a representation disclosure. Makes the same late filing fee change indicated elsewhere in the bill, except that there is no misdemeanor in this current law to strike.
- 12 **Form.** Adds spouse and dependent assets to what public officials and certain employees must disclose. Provides for a unified form that does not assign assets or interests to particular family members.
- 13 **Late filing.** Amends the late filing fee law for economic interest statements to provide the same late filing fee changes as earlier sections of the bill.
- 14 **Notice of failure to file; penalty.** Amends the late filing fee applicable to political committee and fund registrations to conform to the other late filing fees in the bill.
- 15 **Deposit in account.** Amends the statute on depositing transfers received by political committees. Requires a deposit to be made within 30 days after receipt. Current law requires deposit "promptly," and within the reporting period when they were received.
- 16 **Lobbyist, political committee, or fund registration number on checks.** Allows a candidate to rely on the presence or absence of a registration number in determining whether a contribution is from a lobbyist. Imposes a civil penalty up to \$300 on a lobbyist, committee, or fund that fails to put its registration number on a contribution check.
- 17 **Contribution from a joint account.** Unless one of the owners specifies otherwise, allows apportioning a check from a joint account equally between the account holders, if the total contribution per person does not exceed \$100.
- 18 **Prohibited expenditures.** A principal campaign committee may not make an independent expenditure on behalf of another principal campaign committee.
- 19 **Inaugural, legal, defense, and other committees.** Requires registration and disclosure, in the same manner as now governs political committees, for inaugural committees, legal funds, transition offices, defense funds, and similar entities that (1) specifically benefit a public official or official-elect, and (2) are created and funded by supporters of the individual.
- 20 **Contents of report.** Provides for including in the report, the name and board registration number of each contributor that is a political fund, committee, or lobbyist.

Requires disclosure of an individual contributor's occupation or employer if the individual contributed or loaned or endorsed a loan for more than \$250. Current law requires this information on contributions, loans, or endorsement of loans, over \$100.

Amends a reference to independent expenditures to indicate that they can be made either in support of or in opposition to a candidate.

- 21 **Preelection reports.** Amends the last minute contribution report requirement. Allows a mailed report by first class rather than certified mail. Adds the option of fax or any other electronic transmission method approved by the board.
- 22 **Failure to file; penalty.** Places the same late filing fee change in the political committee and fund reporting law as was placed in earlier sections of the bill.
- 23 **Equitable relief.** Allows a candidate to petition district court to enforce the filing requirement if an opponent does not file the report due ten days before the general election. Lets the court

award the winning party attorney fees.

- 24 Changes and corrections.** Provides that if the board finds a report under chapter 10A is inaccurate or incomplete, it will provide the person filing the report certified mail notice of the need to correct the report.
- Imposes the same late filing fee formula provided in earlier sections on persons who fail to file a corrected report within ten days after (1) the event prompting the change, (2) the date the person became aware of the inaccuracy or (3) the date the notice was mailed by the board.
- 25 Maximum expenditures.** Shifts the current spending limits from a calendar year to election cycle basis. Does not change the limits. Provides an election cycle spending limit of 120 percent of the amount in current section 10A.25, subdivision 2, for house members and senators during their two year term; and 160 percent of the amount in current law for four-year offices.
- 26 Aggregated expenditures.** Changes from "election year" to "election cycle" the time period that applies for aggregating one candidate's expenditures from more than one principal campaign committee for statewide office at the same election.
- 27 Effect of opponent's conduct.** Amends the law on releasing a candidate from spending limits if his or her opponent declines spending limits. Permits such release after the primary, based on having a primary opponent who refused spending limits.
- In order to be released from limits under this provision, a candidate must file notice with the board not more than one day after the state canvassing board declares the primary results. The candidate is also released from limits on spending from his or her own funds.
- Releases the candidate's general election opponents from limits but lets them keep their public subsidy.
- 28 Freedom to associate and communicate.** States that corporations, liability companies, and nonprofit corporations may communicate with members, employees, and shareholders for or against candidates without expenditures being allocated to a candidate under the spending limit law.
- 29 Contribution limits.** Amends the current contribution limits to reflect the shift from calendar year to election cycle treatment of spending and contribution limits.
- 30 Transfers among committees; contributions from certain candidates.** Amends the law on contributions by a principal campaign committee as it is dissolving. Requires such a contribution to include a statement of the committee's intent to dissolve by the end of the calendar year. If the committee fails to dissolve by that time, a civil penalty equal to the amount of the contribution (up to the amount left in the committee's treasury) may be imposed against the contributing committee.
- 31 Prohibited contributions.** Creates an exception to the current limit on what a candidate who takes a public subsidy can contribute to her or his own campaign. Allows a candidate, when terminating the principal campaign committee, to contribute whatever is needed to pay committee debts.
- 32 Exceptions.** Amends the provision on multi-candidate expenditures by a party. Exempts expenditures for three or more candidates from being allocated to a particular candidate only if each candidate gets a proportionately equal share of the expenditure.
- Adds an exemption for consultant expenditures that benefit three or more candidates.
- Defines an official party sample ballot for this law: it contains the names of candidates and offices, the words "sample ballot," the party identification, and required disclaimers. It may also include candidate photographs, address information needed to distribute the ballot and voter registration or precinct location information. Any additional information must be allocated

among the candidates as campaign expenditures.

- 33 Circumvention.** Amends the law that makes it a gross misdemeanor to avoid chapter 10A restrictions by redirecting contributions through another. Prohibits trying to evade the law by giving a gift through or on behalf of another.
- 34 Distribution of general account.** Provides for the board to pay a candidate's public subsidy into an escrow account until he or she files a report that is due or pays money owed to the board. If the candidate is not in compliance by the end of the fiscal year, the subsidy is applied to any debt the candidate owes the board. The balance goes to the state general fund.
- 35 Distribution.** Allows a public subsidy check to a candidate to include as an additional payee a financial institution named by the candidate in a notice filed with the board at least ten days before the payment was due to be made.
- 36 Special election subsidy.** Changes the qualifying contributions a candidate must obtain. Lets the candidate count contributions received during the 45 days just before the special election, except for contributions the candidate used for an affidavit of match for another election.
Appropriates the special election subsidy to the board rather than the state treasurer. Consistent with law on general election subsidy.
- 37 Agreement by candidate.** Moves the deadline for filing a spending limit agreement from September 1 to August 1 before a general election.
Provides the deadline for filing a spending agreement if a candidate is filling a vacancy in nomination: the day after the candidate fills the vacancy.
- 38 Refund receipt forms; penalty.** Applies the definition of political party in section 290.06, subdivision 23 for purposes of the refund receipt program. Requires the return to the board with its termination report or the destruction of any refund receipt forms that have not been issued by a committee or party unit.
- 39 When return required.** Strikes current paragraph (b), which requires return of public subsidy to the extent that subsidy received exceeds the aggregate of (1) the campaign committee's expenditures, and (2) approved expenditures made on behalf of the candidate.

If reports filed by a principal campaign committee do not support the existence of contributions that satisfy the affidavit of matching contributions, the board must notify the treasurer, withhold any subsidy not yet paid, and demand return of subsidy paid to the candidate during the election cycle. Requires the treasurer to pay the board the whole public subsidy.
- 40 Remedies.** Reference to "this chapter" is a technical change because it is the equivalent for practical purposes of the stricken section references.
Makes the candidate rather than the treasurer or other officers liable for any violations by a principal campaign committee.
Allows the board to recover in Ramsey county district court: civil penalties imposed or public subsidy paid.
Allows the board to impose a civil penalty up to \$300 for violations of the chapter where no crime is specified.
Allows the court to order costs, attorney fees, disbursements, and witness fees for the board if it wins an action to enforce chapter 10A.
Creates a civil penalty up to \$300 for a person who knowingly makes a false or bad faith complaint of an alleged violation of chapter 10A.
- 41 Major political party.** Amends the definition to require a party's candidate for governor or United States Senator to get five percent of the vote in order for the party to be "major." Under

current law a candidate for any statewide office who reaches that threshold would make the party a major party.

- 42 Information required.** Amends the reporting law for local government candidates. Requires reporting the name of any contributor who gives more than \$100. Current law requires disclosure of names of givers of more than \$500.
- 43 Penalty for individuals.** Modifies the penalty for corporate contributions to candidates that applies to individual contributors. Provides for a penalty of up to four times the amount of a prohibited contribution for an intentional violation in the form of a prohibited contribution, not including money, with a value less than \$5,000,
Leaves the current five year imprisonment/\$20,00 fine to apply to all contributions of money and to other kinds of contributions valued over \$5,000.
- 44 Penalty for corporations.** Amends the penalty that applies to a corporation that intentionally violates the corporate contribution law. Reduces the fine for a non-money contribution to an amount up to four times the value of the contribution, not to exceed \$20,000. Leaves the fine for money contributions or other contributions worth over \$5,000 at the current level. Current law would impose up to \$40,000 fine for all violations.
- 45 Administrative support.** Amends the current law that allows a nonprofit corporation to provide administrative support to an associated political committee or fund. Applies this law to business corporations and limited liability companies as well. Adds a new form of permitted support: expenses of soliciting donations to the political fund or committee.
Amends the current provision that limits the kinds of support that can be provided. The bill shifts from limiting possible support to the items listed, to making the listed items a sample of what can be provided.
Permits administrative assistance in "the greater" (current law has "the lesser" here) of the following amounts: \$5,000 or seven and one-half percent of the committee or fund's expenditures.
- 46 Penalty for false complaints.** Imposes up to \$300 in liability for defense costs on anyone who makes a false or bad faith complaint of a violation of the corporate contribution law.
- 47 Refund of contributions to political parties and candidates.** Amends the political contribution refund law. Requires the revenue department to give a refund equal to the amount of the official refund receipt form regardless of the cost of food, beverage, entertainment, or facility rental associated with generating the contribution.
- 48 Certain gifts by interested person prohibited.** Amends the gift law applicable to city and county officials.
Subd. 1. Definitions. Defines the phrase "direct interest" that is used in connection with the term "interested person." Defined to mean the giver's financial interest must be greater than that of other residents or taxpayers in the political subdivision.
Defines local government unit to mean a county or a city.
Subd. 3. Exceptions. Excludes from the local government gift ban: contributions to chapter 10A or federal candidates.
Provides the same exclusions the bill would apply to officials under chapter 10A in section 10 with one exception. Does not include the exclusion for events sponsored by nonprofit educational entities.
Subd. 4. Contains the same gift return provision found in section 10 that is applicable to officials under chapter 10A.
Subd. 5. Circumvention. Makes it a misdemeanor to try to avoid this section by making a gift

through another.

Subd. 6. Remedies. Except for subdivision 5, violation of the section is not a crime. Lets a county attorney enforce this section by getting an injunction in district court.

49 Repealer. Repeals (1) provision for the secretary of state to notify county auditors of the names of individuals who file a statement of economic interest; (2) an obsolete subdivision; (3) the non-election year spending limit that is replaced by section 25; and (4) the provision for increasing spending limits in the event of certain independent expenditures that was held unconstitutional by a federal court .

50 Effective date. Section 10 (chapter 10A gift law change) is effective immediately and applies to complaints pending on, or filed on or after the effective date.

Section 19 (transition and other committees) is effective August 1, 1999, and applies to committees and funds established before, on, or after that date, but requires disclosure of contributions and expenditures only on or after the effective date.

Sections 26, 27, and 30 (election cycle concept) apply to elections in 2002 and after.