

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 863
Version: First engrossment

DATE: March 18, 2013

Authors: Winkler

Subject: Campaign Finance

Analyst: Matt Gehring, 651-296-5052

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 bill makes a number of technical and substantive changes to the procedures and standards for campaign finance regulation and reporting, including establishment of reporting requirements for “electioneering communications,” increasing spending and contribution limits for certain candidates, and increasing thresholds for registration and reporting by certain types of entities. The bill also expands the Campaign Finance and Public Disclosure Board’s enforcement authority to include certain provisions of the Fair Campaign Practices Act.

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.
- 3** **Candidate.** Updates a cross-reference to reflect changes made elsewhere in the bill.
- 4** **Contribution.** Provides that a transfer from an association’s general treasury to its political fund constitutes a contribution that must be reported as required in current law.
- 5** **Expressly advocating.** Establishes a definition of “expressly advocating.” This phrase is used elsewhere in chapter 10A, including within the definition of “independent expenditure.”

Section

- 6** **General treasury money.** Establishes a definition of “general treasury money.” This phrase is used in various new sections established in the bill.
- 7** **Person.** Establishes a definition of “person” to include an individual, association, political subdivision, or public higher education system.
- 8** **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.
- 9** **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.
- 10** **Documents; information.** Provides conforming changes to reflect the expanded scope of the Campaign Finance and Public Disclosure Board’s jurisdiction, as provided in section 12.
- 11** **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.
- 12** **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.
- 13** **Advisory opinions.** Provides conforming changes to reflect the expanded scope of the Campaign Finance and Public Disclosure Board’s jurisdiction, as provided in section 12.
- 14** **Penalty for false statements.** Expands the scope of the civil and criminal penalties for knowingly providing false statements to the board.
- 15** **Record keeping; penalty.** Establishes a civil penalty and increases the criminal penalty from a misdemeanor to a gross misdemeanor for failure to maintain financial records related to reports or statements required to be filed under chapter 10A.
- 16** **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.

Section

- 17** **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.
- 18** **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.
- 19** **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.
- 20** **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.
- 21** **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.
- These requirements do not apply to independent expenditure political committees or funds, which are covered in section 22 of the bill.
- 22** **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:
- (i) receiving aggregate contributions for independent expenditures of more than \$1,500 during the calendar year;
 - (ii) receiving aggregate contributions for expenditures to promote or defeat a ballot question of more than \$5,000 in a calendar year;
 - (iii) making independent expenditures of more than \$1,500 in a calendar year; or
 - (iv) 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.
- 23** **Anonymous contributions.** Increases the allowance for receipt of anonymous contributions from \$25 to \$50.

Section

- 24 Source; amount; date.** Provides a conforming change to reflect the increase in the anonymous contribution allowance in section 24.
- 25 Deposit.** Extends the time during which a treasurer may return a contribution from 60 days to 90 days.
- 26 First filing; duration.** Provides a technical modification related to the first filing of campaign reports.
- 27 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 is provided in the bill.
- 28 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 the bill.
- 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 more than \$500 in a calendar year.
- 29 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 the bill.
- 30 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.
- 31 Statement of inactivity.** Eliminates a requirement that a political fund file a statement of inactivity, if applicable. This requirement was declared unconstitutional in 2012.
- 32 Activity of political fund.** Clarifies the elimination of the inactivity reporting requirement,

Section

as applied to political funds.

- 33 Electioneering communications.** Establishes a new disclosure category for “electioneering communication.” An extensive definition and list of exceptions is provided in the bill.

Electioneering communications made by a political committee, party unit, or principal campaign committee must be disclosed. Any other association may register a political fund and disclose its electioneering communications on the fund’s reports. An association that does not disclose under either of the methods above must disclose its electioneering communications as provided on a schedule contained in the bill.

A person who makes a disbursement of more than \$1500 in a calendar year for producing or distributing electioneering communications must file a disclosure statement with the board containing the specified information.

An electioneering communication must include a statement of attribution. The statement to be included depends on the type of communication. Late fees and civil penalties may be imposed for failure to file a required statement.

- 34 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 later in the bill.

- 35 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 in the bill.

- 36 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 by the bill. A definition of inactivity is provided.

- 37 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.

- 38 Amounts; spending limits.** Increases the spending limits for candidates who have signed a public subsidy agreement. The limits are modified to apply to a complete election cycle, rather than a single election year.

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.

Section

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

- Governor/lieutenant governor: \$5,000,000;
- Attorney general, secretary of state, and state auditor: \$1,500,000
- State senator: \$120,000
- State representative: \$60,000

- 39** **Aggregated expenditures.** Provides a conforming reference update to reflect changes made earlier in the bill.
- 40** **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.
- 41** **Independent expenditure and electioneering communications.** Prohibits a principal campaign committee from making disbursements for electioneering communications. Electioneering communications are regulated in a new statute established earlier in the bill.
- 42** **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 the bill.
- 43** **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: \$6,000
 - Attorney general, secretary of state, and state auditor: \$4,000
 - State senator: \$3,000
 - State representative: \$1,500
 - Judicial office: \$4,500
- 44** **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.
- 45** **Contributions from certain contributors.** Extends the aggregate special source contribution limit to include contributions from associations not registered with the board.

Section

46 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.

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

48 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.

This section also changes how an association prorates contributions. The bill requires an association to prorate expenditures over all general treasury money received during the year.

This section also provides a process to attribute contributions when the amount contributed to independent expenditure and ballot question political committees or funds exceeds the amount of general treasury money received by the association during the year.

49 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.

50 Administrative remedy; exhaustion. Updates a provision of the fair campaign practices act, to reflect the expanded jurisdiction of the board over certain matters, established earlier in the bill.

51 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.

52 Effective date. Provides that the bill is effective the day following final enactment.