

File Number: H.F. 3837

Date: March 23, 2018

Version: First engrossment

Authors: O'Driscoll and Nelson

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 miscellaneous changes to the laws governing campaign finance and public disclosure, including reorganization and recodification of certain administrative rules, adoption of new standards related to the campaign finance and public disclosure board's investigation of complaints, guidance for determining when certain expenditures qualify as "coordinated expenditures," and required disclosures when goods or services are sold for political purposes.

Section

- 1 **Associated business.** Raises the financial thresholds for determining when an entity is an "associated business" for purposes of public disclosure law. This definition is used within the laws governing conflicts of interest, including as part of the statement of economic interest that must be filed by certain officials.
- 2 **Noncampaign disbursement.** Modifies the definition of "noncampaign disbursement" to add additional items, and cross reference a new section that further describes more complex types of disbursements, including constituent services, which is enacted later in the bill.
- 3 **Securities.** Enacts a definition of "securities" for purposes of public disclosure law. This term is used in connection with the laws governing conflicts of interest and statements of economic interest.
- 4 **Services for a constituent or constituent services.** Codifies most of an existing administrative rule that provides a definition of "services for a constituent" and "constituent services." These terms are used in relation to noncampaign disbursements.

Section

- 5 **Investigation authority; complaint process.** Limits the Campaign Finance Board's authority to investigate alleged or potential violations of laws if the board receives a written complaint, or discovers a potential violation as a result of a board audit or staff review. The scope of investigation following a written complaint may not be expanded absent probable cause for doing so.
- 6 **Matter under staff review resolved by conciliation agreement.** Provides that a matter under staff review that is resolved by conciliation agreement must be presented to the campaign finance board for approval at a closed meeting. Additional standards governing this process are provided.
- 7 **Matter under staff review; no violation.** Requires a matter to be closed by the executive director if a staff review establishes no violation of the law. The closure must be reported to the board and to the respondent (the subject of the review).
- 8 **Matter under staff review resolved without formal investigation.** Provides that a matter under staff review that is resolved without formal investigation must be presented to the campaign finance board for approval at a closed meeting. Additional standards governing this process are provided.
- 9 **Submission to board.** Provides standards for submitting matters under staff review that are not otherwise resolved using the new standards described above to be submitted to the board for determination, including other matters that the board is to consider for the authorization of a formal investigation. Additional standards governing this process are provided.
- 10 **Completion of filing.** Codifies an existing administrative rule used for determining whether a filing with the board is complete. The standards vary based on the method of submission.
- 11 **Disclosure of potential conflicts.** Codifies an existing administrative rule defining the term "financial interest" for purposes of the law governing conflicts of interest.
- 12 **Required actions.** Codifies existing administrative rules that specify a procedure to address certain types of conflicts of interest of officials who are not legislators.
- 13 **Disclosure required.** Codifies existing administrative rules governing the content of a disclosure submission when a public official represents a client for a fee before certain governmental bodies.
- 14 **Definitions.** Codifies existing administrative rules that provide definitions related to disclosures when a public official represents a client for a fee before certain governmental bodies.
- 15 **Form; general requirements.** Increases the financial threshold for reporting certain securities on a statement of economic interest, and codifies existing administrative rules related to these statements.
- 16 **Annual statement.** Codifies existing administrative rules related to statements of economic interest.
- 17 **Time of receipt.** Provides new standards for determining the date a contribution is received, based on the method of the contribution's submission to the receiving candidate, committee, fund, or party unit.

Section

- 18 Electronic contribution processors.** Provides an exemption from campaign finance registration for certain business organizations that process electronic contributions for committees or funds as part of their ordinary course of business.
- 19 Reimbursement of automobile use.** Modifies the standard for determining the allowable reimbursement for mileage by allowing use of the standard rate set by the IRS for business miles. New recordkeeping requirements are provided.
- 20 Independent expenditures.** Eliminates language related to the required disclaimer for independent expenditures. Language related to these disclaimers is reorganized and recodified later in the bill.
- 21 Noncampaign disbursements.** Provides expanded definitions of certain types of complex noncampaign disbursements, including expenditures that result from providing services to a constituent, the purchase of food and beverages while campaigning or while engaged in legislative duties, and for expenses that result from serving in public office.
- 22 Coordinated and noncoordinated expenditures; definitions.** Establishes a series of definitions that apply to the substantive sections that follow related to coordinated and noncoordinated expenditures.
- 23 Coordinated expenditures.** Establishes a series of actions that qualify a campaign expenditure as a “coordinated expenditure.” Whether an expenditure qualifies as “coordinated” impacts the manner in which it must be reported to the campaign finance board. Entities that are only permitted to engage in independent expenditures by law may not make coordinated expenditures.
- 24 Noncoordinated expenditures.** Establishes a series of actions that, individually, are not sufficient to constitute a “coordinated expenditure” under the law.
- This section does not prohibit other facts and circumstances from being used to determine that an expenditure qualifies as a coordinated expenditure with a candidate.
- 25 Expenditures and noncampaign disbursements; general provisions.** Provides standards to be used for reporting and, where applicable, itemizing reimbursements made to an individual or association for an expenditure or noncampaign disbursement.
- This section also provides standards for allocating ongoing expense when they have both a campaign purpose and a purpose that qualifies as a noncampaign disbursement.
- 26 Contents of report.** Requires campaign reports to include explanations for how certain types of expenditures were used.
- 27 Independent expenditures.** Provides that, when a candidate’s principal campaign committee makes a contribution to an independent expenditure committee or fund during the candidate’s election year, the committee or fund may not make an independent expenditure on behalf of the contributing candidate.
- 28 Contributions to governor and lieutenant governor; merger.** Governs contributions given to campaign committees for governor and lieutenant governor before and after the merger of their committees.

Section

- 29** **Sale of goods and services for fundraising purposes.** Requires disclosures to customers when the proceeds from a committee, fund, or party unit's sale of goods or services are meant to be used as campaign contributions. An exemption is provided for certain ticketed events, and events where the main purpose is to conduct fund raising. Penalties for violation of this section are also provided.
- 30** **Definition.** Clarifies the time of a regular session of the legislature, in the law restricting certain contributions and solicitations during the legislative session.
- 31** **Agreement by candidate.** Provides procedures for signing a spending limit agreement to include delayed special elections that result from a vacancy in nomination for the office (these special elections occur in February when a qualifying candidate for a partisan office dies, withdraws due to a catastrophic illness, or is declared ineligible within a short time prior to the November general election date).
- 32** **Affidavit of contributions.** Provides standards for filing an affidavit of contributions for candidates, when a delayed special election will be conducted due to a vacancy in nomination.
- 33** **Campaign material must include disclaimer.** Modifies certain standards related to the required disclaimer on campaign material, including recodification of language stricken earlier in the bill related to disclaimers on independent expenditures.
- 34** **Repealer.** Repeals a series of administrative rules, which are largely recodified in statute earlier in this bill.
- 35** **Effective date.** Provides that the bill is effective June 1, 2018, unless otherwise provided.