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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 5106

03/21/2024 Authored by Coulter
The bill was read for the first time and referred to the Committee on Elections Finance and Policy

1.1 A bill for an act
1.2 relating to campaign finance; regulating small donor political committees and
1.3 funds; establishing a small donor match program; repealing the campaign public
1.4 subsidy program; transferring money; amending Minnesota Statutes 2022, sections
1.5 10A.25, subdivisions 1, 2; 10A.257, subdivision 1; 10A.31, subdivisions 7a, 7b;
1.6 10A.322, subdivision 1; 10A.323; Minnesota Statutes 2023 Supplement, section
1.7 10A.31, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter
1.8 10A; repealing Minnesota Statutes 2022, sections 10A.31, subdivisions 5, 6, 6a,
1.9 7, 10, 10a, 10b, 11; 10A.315; 10A.321; 10A.324, subdivisions 1, 3.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2022, section 10A.25, subdivision 1, is amended to read:

1.12 Subdivision 1. Limits are voluntary. The expenditure limits imposed by this section
1.13 apply only to a candidate who has signed an agreement under section 10A.322 to be bound
1.14 by them as a condition of receiving a public subsidy small donor match under section
1.15 10A.305 for eligible contributions to the candidate's campaign.

1.16 Sec. 2. Minnesota Statutes 2022, section 10A.25, subdivision 2, is amended to read:

1.17 Subd. 2. Amounts. (a) In a segment of an election cycle, the principal campaign
1.18 committee of the candidate must not make campaign expenditures nor permit approved
1.19 expenditures to be made on behalf of the candidate that result in aggregate expenditures in
1.20 excess of the following:

1.21 (1) for governor and lieutenant governor, running together, \$4,232,700 in the election
1.22 segment and \$1,697,400 in the nonelection segment \$10,000,000;

1.23 (2) for attorney general, \$725,800 in the election segment and \$226,400 in the nonelection
1.24 segment and secretary of state, separately, \$3,000,000;

2.1 (3) for ~~secretary of state and state auditor, separately, \$483,900 in the election segment~~
 2.2 ~~and \$113,300 in the nonelection segment~~ \$500,000;

2.3 (4) for state senator, ~~\$109,100 in the election segment and \$32,800 in a nonelection~~
 2.4 ~~segment~~ \$300,000;

2.5 (5) for state representative, ~~\$72,700 in the election segment~~ \$150,000.

2.6 (b) In addition to the amount in paragraph (a), clause (1), a candidate for endorsement
 2.7 for the office of lieutenant governor at the convention of a political party may make campaign
 2.8 expenditures and approved expenditures of five percent of that amount to seek endorsement.

2.9 (c) If a special election cycle occurs during a general election cycle, expenditures by or
 2.10 on behalf of a candidate in the special election do not count as expenditures by or on behalf
 2.11 of the candidate in the general election.

2.12 (d) The expenditure limits in this subdivision for an office are increased by ten percent
 2.13 for a candidate who has not previously held the same office, whose name has not previously
 2.14 been on the primary or general election ballot for that office, and who has not in the past
 2.15 ten years raised or spent more than \$750 in a run for any other office whose territory now
 2.16 includes a population that is more than one-third of the population in the territory of the
 2.17 new office. Candidates who qualify for first-time candidate status receive a ten percent
 2.18 increase in the campaign expenditure limit in all segments of the applicable election cycle.
 2.19 In the case of a legislative candidate, the office is that of a member of the house of
 2.20 representatives or senate without regard to any specific district.

2.21 Sec. 3. Minnesota Statutes 2022, section 10A.257, subdivision 1, is amended to read:

2.22 Subdivision 1. **Unused funds.** After all campaign expenditures and noncampaign
 2.23 disbursements for an election cycle have been made, an amount up to 25 percent of the
 2.24 election cycle expenditure limit for the office may be carried forward. Any remaining amount
 2.25 up to the total amount of the ~~public subsidy~~ small donor match from the state elections
 2.26 campaign fund must be returned to the state treasury for credit to the general fund under
 2.27 section 10A.324. Any remaining amount in excess of the total ~~public subsidy~~ small donor
 2.28 match must be contributed to the state elections campaign account or a political party for
 2.29 multicandidate expenditures as defined in section 10A.275.

2.30 Sec. 4. **[10A.305] SMALL DONOR CONTRIBUTION MATCH PROGRAM.**

2.31 Subdivision 1. **Small donor match program established.** Subject to the eligibility
 2.32 requirements provided in subdivision 2, the principal campaign committee of a candidate

3.1 for state constitutional office or for the legislature is eligible to receive a small donor match
 3.2 for each contribution received by the committee during an election year from a contributor
 3.3 who is eligible to vote in Minnesota, as follows:

3.4 (1) a contribution made by a contributor residing in the district that the candidate seeks
 3.5 to represent must be matched with a state contribution equal to eight times the amount of
 3.6 the contribution; and

3.7 (2) a contribution made by a contributor who does not reside in the district that the
 3.8 candidate seeks to represent must be matched with a state contribution equal to two times
 3.9 the amount of the contribution.

3.10 Subd. 2. **Eligibility.** (a) To be eligible to receive a small donor match, the contribution
 3.11 must have been made by a contributor who is eligible to vote in Minnesota and who is not
 3.12 a lobbyist, and the contributor must not contribute more than \$75 to the candidate's principal
 3.13 campaign committee during the candidate's election year. A contribution made anonymously
 3.14 is not eligible for a small donor match.

3.15 (b) An individual may make eligible contributions to multiple principal campaign
 3.16 committees during an election year, but only the first \$225 in contributions are eligible to
 3.17 be matched under this section.

3.18 (c) If a contributor's contributions exceed \$75 to the candidate's principal campaign
 3.19 committee during the election year after a contribution qualifies for a small donor match
 3.20 under this section, the candidate must:

3.21 (1) refund the excess contribution to the contributor;

3.22 (2) return the match on the original contributions to the board; or

3.23 (3) transfer the excess contribution to the board for deposit in the state elections campaign
 3.24 account.

3.25 Subd. 3. **Maximum amount of small donor match.** The maximum amount of small
 3.26 donor matching funds an eligible candidate may receive in an election year is 60 percent
 3.27 of the election cycle expenditure limit for the office provided in section 10A.25, subdivision
 3.28 2.

3.29 Subd. 4. **Distribution of funds.** Amounts deposited in the state elections campaign
 3.30 account must be used for the purpose of providing matching funds under this section.
 3.31 Amounts designated in the account for each separate political party may only be used to
 3.32 provide matching funds for candidates of that political party. The board must distribute
 3.33 small donor matching funds on a quarterly basis to qualifying candidates, until all funds are

4.1 exhausted. Any balance remaining in an account after funds for all eligible match requests
 4.2 are distributed carry over for distribution in the next general election year. Disbursements
 4.3 must be made by March 1 of each year, and within 30 days of the reports due on June 14,
 4.4 15 days before the primary election, and 42 days before the general election. The board
 4.5 may prescribe a form for the purpose of receiving matching funds and may require the
 4.6 committee to submit documentation demonstrating each contribution's eligibility to receive
 4.7 a match. A distribution to a candidate must be in the form of a check made "payable to the
 4.8 campaign fund of (name of candidate....)." The name, residential address, and any other
 4.9 data submitted to the board that would identify an individual contributor for the purpose of
 4.10 documenting a contribution's eligibility to receive a match are private data on individuals,
 4.11 as defined in section 13.02, subdivision 12.

4.12 Subd. 5. **Rulemaking.** The board may adopt rules using the expedited process in section
 4.13 14.389 as necessary to implement the program established by this section.

4.14 Sec. 5. Minnesota Statutes 2023 Supplement, section 10A.31, subdivision 4, is amended
 4.15 to read:

4.16 Subd. 4. **Appropriation.** (a) The amounts designated by individuals for the state elections
 4.17 campaign account, less three percent, are appropriated from the general fund, must be
 4.18 transferred and credited to the appropriate account in the state elections campaign account,
 4.19 and are annually appropriated ~~for distribution as set forth in subdivisions 5, 5a, 6, and 7 for~~
 4.20 distribution under section 10A.305, subdivision 4. The remaining three percent must be
 4.21 kept in the general fund for administrative costs.

4.22 (b) In addition to the amounts in paragraph (a), \$2,432,000 for each general election is
 4.23 appropriated from the general fund for transfer to the general account of the state elections
 4.24 campaign account.

4.25 Sec. 6. Minnesota Statutes 2022, section 10A.31, subdivision 7a, is amended to read:

4.26 Subd. 7a. **Withholding of ~~public subsidy~~ small donor match.** If a candidate who is
 4.27 eligible for payment of ~~public subsidy under this~~ a small donor match under section 10A.305
 4.28 has not filed the report of receipts and expenditures required under section 10A.20 before
 4.29 a primary election, any ~~public subsidy match~~ match for which that candidate ~~is~~ becomes eligible
 4.30 after the filing deadline must be withheld by the board until the candidate complies with
 4.31 the filing requirements of section 10A.20 and the board has sufficient time to review or
 4.32 audit the report. If a candidate who is eligible for ~~public subsidy~~ a small donor match does
 4.33 not file the report due before the primary election under section 10A.20 by the date that the

5.1 report of receipts and expenditures filed before the general election is due, that candidate
5.2 shall not be paid ~~public subsidy~~ any further matching funds for that election and must return
5.3 to the board any match funds that were previously paid.

5.4 Sec. 7. Minnesota Statutes 2022, section 10A.31, subdivision 7b, is amended to read:

5.5 Subd. 7b. **Failure to repay.** A candidate who fails to repay money required by the
5.6 agreement cannot be paid additional ~~public subsidy~~ small donor match funds during the
5.7 current or future election cycles until the entirety of the unexpended funds and any associated
5.8 collection fees are either repaid to the board or discharged by court action.

5.9 Sec. 8. Minnesota Statutes 2022, section 10A.322, subdivision 1, is amended to read:

5.10 Subdivision 1. **Agreement by candidate.** (a) As a condition of receiving a ~~public subsidy~~
5.11 small donor match under section 10A.305, a candidate must sign and file with the board a
5.12 written agreement in which the candidate agrees that the candidate will comply with sections
5.13 10A.25; 10A.27, subdivision 10; 10A.324; and 10A.38.

5.14 (b) Before the first day of filing for office, the board must forward agreement forms to
5.15 all filing officers. The board must also provide agreement forms to candidates on request
5.16 at any time. The candidate must file the agreement with the board at least three weeks before
5.17 the candidate's state primary. An agreement may not be filed after that date. An agreement
5.18 once filed may not be rescinded.

5.19 (c) The board must notify the commissioner of revenue of any agreement signed under
5.20 this subdivision.

5.21 (d) Notwithstanding paragraph (b), if a vacancy occurs that will be filled by means of
5.22 a special election and the filing period does not coincide with the filing period for the general
5.23 election, a candidate may sign and submit a spending limit agreement not later than the day
5.24 after the close of the filing period for the special election for which the candidate filed.

5.25 (e) Notwithstanding paragraphs (b) and (d), if a vacancy occurs that will be filled by
5.26 means of a special election called under section 204B.13, subdivision 2, paragraph (c), a
5.27 candidate may sign and submit a spending limit agreement not later than eight calendar
5.28 days after the general election.

6.1 Sec. 9. Minnesota Statutes 2022, section 10A.323, is amended to read:

6.2 **10A.323 AFFIDAVIT OF CONTRIBUTIONS.**

6.3 (a) In addition to the requirements of section 10A.322, to be eligible to receive a ~~public~~
 6.4 ~~subsidy under section 10A.31~~ small donor match under section 10A.305 a candidate or the
 6.5 candidate's treasurer must:

6.6 (1) between January 1 of the previous year and the cutoff date for transactions included
 6.7 in the report of receipts and expenditures due before the primary election, accumulate
 6.8 contributions from ~~individuals eligible to vote in this state~~ Minnesota residents in at least
 6.9 the amount indicated for the office sought, counting only the first ~~\$50~~ \$75 received from
 6.10 each contributor, excluding in-kind contributions:

6.11 (i) candidates for governor and lieutenant governor running together, ~~\$35,000~~ \$100,000
 6.12 from all contributors, and 1,000 contributions from individuals whose total contribution
 6.13 was \$75 or less;

6.14 (ii) candidates for attorney general, ~~\$15,000~~ secretary of state, and state auditor,
 6.15 separately, \$20,000 from all contributors, and 200 contributions from individuals whose
 6.16 total contribution was \$75 or less;

6.17 ~~(iii) candidates for secretary of state and state auditor, separately, \$6,000;~~

6.18 ~~(iv)~~ (iii) candidates for the senate, \$3,000 from all contributors, and 30 contributions
 6.19 from individuals whose total contribution was \$75 or less; and

6.20 ~~(v)~~ (iv) candidates for the house of representatives, \$1,500 from all contributors, and 15
 6.21 contributions from individuals whose total contribution was \$75 or less;

6.22 (2) file an affidavit with the board stating that the principal campaign committee has
 6.23 complied with this paragraph. The affidavit must state the total amount of contributions that
 6.24 have been received from individuals eligible to vote in this state, excluding:

6.25 (i) the portion of any contribution in excess of ~~\$50~~ \$75;

6.26 (ii) any in-kind contribution; and

6.27 (iii) any contribution for which the name and address of the contributor is not known
 6.28 and recorded; and

6.29 (3) submit the affidavit required by this section to the board in writing by the deadline
 6.30 for reporting of receipts and expenditures before a primary under section 10A.20, subdivision

6.31 2.

7.1 (b) A candidate for a vacancy to be filled at a special election for which the filing period
 7.2 does not coincide with the filing period for the general election must accumulate the
 7.3 contributions specified in paragraph (a) and must submit the affidavit required by this section
 7.4 to the board within five days after the close of the filing period for the special election for
 7.5 which the candidate filed.

7.6 (c) Notwithstanding paragraphs (a) and (b), a candidate for a vacancy to be filled at a
 7.7 special election called under section 204B.13, subdivision 2, paragraph (c), must accumulate
 7.8 the contributions specified in paragraph (a) and must submit the affidavit required by this
 7.9 section to the board within 12 calendar days after the general election.

7.10 (d) A candidate or the candidate's treasurer must be able to electronically file the affidavit
 7.11 required under this section in the same manner as other reports required by this chapter.
 7.12 The board must not require the candidate or candidate's treasurer to notarize the affidavit
 7.13 of contribution.

7.14 Sec. 10. **STATE ELECTIONS CAMPAIGN ACCOUNT.**

7.15 \$..... in fiscal year is transferred from the general fund to the general account of the
 7.16 state elections campaign account in the special revenue fund.

7.17 **EFFECTIVE DATE.** This section is effective

7.18 Sec. 11. **REPEALER.**

7.19 Minnesota Statutes 2022, sections 10A.31, subdivisions 5, 6, 6a, 7, 10, 10a, 10b, and
 7.20 11; 10A.315; 10A.321; and 10A.324, subdivisions 1 and 3, are repealed.

7.21 Sec. 12. **EFFECTIVE DATE; RULEMAKING.**

7.22 Except where otherwise provided, this act is effective, except that the Campaign
 7.23 Finance and Public Disclosure Board may proceed to propose and adopt administrative
 7.24 rules required by this article beginning the day following final enactment.

10A.31 DESIGNATION OF INCOME TAX PAYMENTS.

Subd. 5. **Allocation.** (a) **General account.** In each calendar year the money in the general account must be allocated to candidates as follows:

- (1) 21 percent for the offices of governor and lieutenant governor together;
- (2) 4.2 percent for the office of attorney general;
- (3) 2.4 percent each for the offices of secretary of state and state auditor;
- (4) in each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator, and 46-2/3 percent for the office of state representative; and
- (5) in each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative.

(b) **Party account.** In each calendar year the money in each party account must be allocated as follows:

- (1) 14 percent for the offices of governor and lieutenant governor together;
- (2) 2.8 percent for the office of attorney general;
- (3) 1.6 percent each for the offices of secretary of state and state auditor;
- (4) in each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator, and 46-2/3 percent for the office of state representative;
- (5) in each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative; and
- (6) ten percent or \$50,000, whichever is less, for the state committee of a political party; one-third of any amount in excess of that allocated to the state committee of a political party under this clause must be allocated to the office of state senator and two-thirds must be allocated to the office of state representative under clause (4).

Money allocated to each state committee under clause (6) must be deposited in a separate account and must be spent for only those items enumerated in section 10A.275. Money allocated to a state committee under clause (6) must be paid to the committee by the board as it is received in the account on a monthly basis, with payment on the 15th day of the calendar month following the month in which the returns were processed by the Department of Revenue, provided that these distributions would be equal to 90 percent of the amount of money indicated in the Department of Revenue's weekly unedited reports of income tax returns and property tax refund returns processed in the month, as notified by the Department of Revenue to the board. The amounts paid to each state committee are subject to biennial adjustment and settlement at the time of each certification required of the commissioner of revenue under subdivisions 7 and 10. If the total amount of payments received by a state committee for the period reflected on a certification by the Department of Revenue is different from the amount that should have been received during the period according to the certification, each subsequent monthly payment must be increased or decreased to the fullest extent possible until the amount of the overpayment is recovered or the underpayment is distributed.

Subd. 6. **Distribution of party accounts.** As soon as the board has obtained from the secretary of state the results of the primary election, but no later than one week after certification by the State Canvassing Board of the results of the primary, the board must distribute the available money in each party account, as certified by the commissioner of revenue one week before the state primary, to the candidates of that party who have signed a spending limit agreement under section 10A.322 and filed the affidavit of contributions required by section 10A.323, who were opposed in either the primary election or the general election, and whose names are to appear on the ballot in the general election, according to the allocations set forth in subdivisions 5 and 5a. The public subsidy from the party account may not be paid in an amount greater than the expenditure limit of the candidate or the expenditure limit that would have applied to the candidate if the candidate had not been freed from expenditure limits under section 10A.25, subdivision 10.

Subd. 6a. **Party account money not distributed.** Money from a party account not distributed to candidates for state senator or representative in any election year must be returned to the general fund of the state, except that the subsidy from the party account an unopposed candidate would otherwise have been eligible to receive must be paid to the state committee of the candidate's political party to be deposited in a special account under subdivision 5, paragraph (b), clause (6), and used for only those items permitted under section 10A.275. Money from a party account not distributed

to candidates for other offices in an election year must be returned to the party account for reallocation to candidates as provided in subdivision 5, paragraph (b), in the following year.

Subd. 7. Distribution of general account. (a) As soon as the board has obtained the results of the primary election from the secretary of state, but no later than one week after certification of the primary results by the State Canvassing Board, the board must distribute the available money in the general account, as certified by the commissioner of revenue one week before the state primary and according to allocations set forth in subdivision 5, in equal amounts to all candidates of a major political party whose names are to appear on the ballot in the general election and who:

- (1) have signed a spending limit agreement under section 10A.322;
- (2) have filed the affidavit of contributions required by section 10A.323; and
- (3) were opposed in either the primary election or the general election.

(b) The public subsidy under this subdivision may not be paid in an amount that would cause the sum of the public subsidy paid from the party account plus the public subsidy paid from the general account to exceed 50 percent of the expenditure limit for the candidate or 50 percent of the expenditure limit that would have applied to the candidate if the candidate had not been freed from expenditure limits under section 10A.25, subdivision 10. Money from the general account not paid to a candidate because of the 50 percent limit must be distributed equally among all other qualifying candidates for the same office until all have reached the 50 percent limit or the balance in the general account is exhausted.

Subd. 10. December distribution. In the event that on the date of either certification by the commissioner of revenue as provided in subdivision 6 or 7, less than 98 percent of the tax returns have been processed, the commissioner of revenue must certify to the board by December 1 the amount accumulated in each account since the previous certification. By December 15, the board must distribute to each candidate according to the allocations in subdivisions 5 and 5a the amounts to which the candidates are entitled.

Subd. 10a. Form of distribution. A distribution to a candidate must be in the form of a check made "payable to the campaign fund of(name of candidate)....."

Subd. 10b. Remainder. Money accumulated after the final certification must be kept in the respective accounts for distribution in the next general election year.

Subd. 11. Write-in candidate. For the purposes of this section, a write-in candidate is a candidate only upon complying with sections 10A.322 and 10A.323.

10A.315 SPECIAL ELECTION SUBSIDY.

(a) Each eligible candidate for a legislative office in a special election must be paid a public subsidy equal to the sum of:

- (1) the party account money at the last general election for the candidate's party for the office the candidate is seeking; and
- (2) the general account money paid to a candidate for the same office at the last general election.

(b) A candidate who wishes to receive this public subsidy must submit a signed agreement under section 10A.322 to the board and must meet the contribution requirements of section 10A.323. The special election subsidy must be distributed in the same manner as money in the party and general accounts is distributed to legislative candidates in a general election.

(c) The amount necessary to make the payments required by this section is appropriated from the general fund for transfer to the state special elections campaign account for distribution by the board as set forth in this section.

10A.321 ESTIMATES OF MINIMUM AMOUNTS TO BE RECEIVED.

Subdivision 1. Calculation and certification of estimates. The commissioner of revenue must calculate and certify to the board one week before the first day for filing for office in each election year an estimate of the total amount in the state general account of the state elections campaign account and the amount of money each candidate who qualifies, as provided in section 10A.31, subdivisions 6 and 7, may receive from the candidate's party account in the state elections campaign account. This estimate must be based upon the allocations and formulas in section 10A.31, subdivisions 5 and 5a, any necessary vote totals provided by the secretary of state to apply the

formulas in section 10A.31, subdivisions 5 and 5a, and the amount of money expected to be available after 100 percent of the tax returns have been processed.

Subd. 2. **Publication, certification, and notification procedures.** Before the first day of filing for office, the board must publish and forward to all filing officers the estimates calculated and certified under subdivision 1 along with a copy of section 10A.25, subdivision 10. Within one week after the last day for filing for office, the secretary of state must certify to the board the name, address, office sought, and party affiliation of each candidate who has filed with that office an affidavit of candidacy or petition to appear on the ballot. The auditor of each county must certify to the board the same information for each candidate who has filed with that county an affidavit of candidacy or petition to appear on the ballot. Within two weeks after the last day for filing for office, the board must notify all candidates of their estimated minimum amount. The board must include with the notice a form for the agreement provided in section 10A.322 along with a copy of section 10A.25, subdivision 10.

10A.324 RETURN OF PUBLIC SUBSIDY.

Subdivision 1. **When return required.** A candidate must return all or a portion of the public subsidy received from the state elections campaign account or the public subsidy received under section 10A.315, under the circumstances in this section or section 10A.257, subdivision 1.

To the extent that the amount of public subsidy received exceeds the aggregate of: (1) actual expenditures made by the principal campaign committee of the candidate; and (2) approved expenditures made on behalf of the candidate, the treasurer of the candidate's principal campaign committee must return an amount equal to the difference to the board. The cost of postage that was not used during an election cycle and payments that created credit balances at vendors at the close of an election cycle are not considered expenditures for purposes of determining the amount to be returned. Expenditures in excess of the candidate's spending limit do not count in determining aggregate expenditures under this paragraph.

Subd. 3. **How return determined.** Whether or not a candidate is required under subdivision 1 to return all or a portion of the public subsidy must be determined from the report required to be filed with the board by that candidate by January 31 of the year following an election. An amount required to be returned must be submitted in the form of a check or money order and must accompany the report filed with the board. The board must deposit the check or money order in the state treasury for credit to the general fund. The amount returned must not exceed the amount of public subsidy received by the candidate.