

CHAPTER 397—S.F.No. 2471

An act relating to state government; regulating certain political expenditures and contributions; modifying certain filing and reporting requirements; providing civil penalties; regulating certain filings with the Campaign Finance and Public Disclosure Board; amending Minnesota Statutes 2008, sections 10A.01, subdivision 18, by adding subdivisions; 10A.12, by adding subdivisions; 10A.20, subdivisions 2, 4, 12; 10A.27, by adding subdivisions; 10A.323, as amended; 211B.04; 211B.15, subdivisions 2, 3, by adding a subdivision; 216B.16, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 10A; repealing Minnesota Statutes 2008, sections 72A.12, subdivision 5; 211B.15, subdivision 12.

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

Section 1. Minnesota Statutes 2008, section 10A.01, subdivision 18, is amended to read:

Subd. 18. **Independent expenditure.** "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. ~~An expenditure by a political party or political party unit in a race where the political party has a candidate on the ballot is not an independent expenditure.~~ An independent expenditure does not include the act of announcing a formal public endorsement of a candidate for public office, unless the act is simultaneously accompanied by an expenditure that would otherwise qualify as an independent expenditure under this subdivision.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2008, section 10A.01, is amended by adding a subdivision to read:

Subd. 18a. **Independent expenditure political committee.** "Independent expenditure political committee" means a political committee that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.

Sec. 3. Minnesota Statutes 2008, section 10A.01, is amended by adding a subdivision to read:

Subd. 18b. **Independent expenditure political fund.** "Independent expenditure political fund" means a political fund that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.

Sec. 4. Minnesota Statutes 2008, section 10A.12, is amended by adding a subdivision to read:

Subd. 1a. **When required for independent expenditures.** An association other than a political committee that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1, must do so by forming and registering an independent expenditure political fund if the expenditure is in excess of \$100 or by contributing to an existing independent expenditure political committee or political fund.

Sec. 5. Minnesota Statutes 2008, section 10A.12, is amended by adding a subdivision to read:

Subd. 1b. **Penalty for noncompliant independent expenditure.** An association that makes an independent expenditure without complying with subdivision 1a is subject to a civil penalty of up to four times the amount of the independent expenditure, but not to exceed \$25,000, except when the violation was intentional.

Sec. 6. **[10A.121] INDEPENDENT EXPENDITURE POLITICAL COMMITTEES AND INDEPENDENT EXPENDITURE POLITICAL FUNDS.**

Subdivision 1. **Permitted disbursements.** An independent expenditure political committee or an independent expenditure political fund, in addition to making independent expenditures, may:

(1) pay costs associated with its fund-raising and general operations;

(2) pay for communications that do not constitute contributions or approved expenditures; and

(3) make contributions to other independent expenditure political committees or independent expenditure political funds.

Subd. 2. **Penalty.** (a) An independent expenditure political committee or independent expenditure political fund is subject to a civil penalty of up to four times the amount of the contribution or approved expenditure if it does the following:

(1) makes a contribution to a candidate, party unit, political committee, or political fund other than an independent expenditure political committee or an independent expenditure political fund; or

(2) makes an approved expenditure.

(b) No other penalty provided in law may be imposed for conduct that is subject to a civil penalty under this section.

Sec. 7. Minnesota Statutes 2008, section 10A.20, subdivision 2, is amended to read:

Subd. 2. **Time for filing.** (a) The reports must be filed with the board on or before January 31 of each year and additional reports must be filed as required and in accordance with paragraphs (b) ~~and (c)~~ to (d).

(b) In each year in which the name of the candidate is on the ballot, the report of the principal campaign committee must be filed 15 days before a primary and ten days before a general election, seven days before a special primary and a special election, and ten days after a special election cycle.

(c) In each general election year, a political committee, ~~or~~ political fund, ~~or~~ party ~~unit~~ must file reports 28 and 15 days before a primary and 42 and ten days before a general election. Beginning in 2012, reports required under this paragraph must also be filed 56 days before a primary.

(d) In each general election year, a party unit must file reports 15 days before a primary and ten days before a general election.

Sec. 8. Minnesota Statutes 2008, section 10A.20, subdivision 4, is amended to read:

Subd. 4. **Period of report.** A report must cover the period from ~~the last day covered by the previous report~~ January 1 of the reporting year to seven days before the filing date, except that the report due on January 31 must cover the period from the last day covered by the previous report to December 31.

Sec. 9. Minnesota Statutes 2008, section 10A.20, subdivision 12, is amended to read:

Subd. 12. **Failure to file; penalty.** The board must send a notice by certified mail to any individual who fails to file a statement required by this section. If an individual fails to file a statement due January 31 within ten business days after the notice was sent, the board may impose a late filing fee of ~~\$5~~ \$25 per day, not to exceed ~~\$100~~ \$1,000, commencing ~~with~~ the ~~11th~~ day after the notice was sent.

If an individual fails to file a statement due before a primary or election within three days after the date due, regardless of whether the individual has received any notice, the board may impose a late filing fee of \$50 per day, not to exceed ~~\$500~~ \$1,000, commencing on the ~~fourth~~ day after the date the statement was due.

The board must send an additional notice by certified mail to an individual who fails to file a statement within 14 days after the first notice was sent by the board that the individual may be subject to a civil penalty for failure to file a statement. An individual who fails to file the statement within seven days after the second notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

EFFECTIVE DATE. This section is effective June 1, 2010, and applies to statements required to be filed on or after that date.

Sec. 10. Minnesota Statutes 2008, section 10A.27, is amended by adding a subdivision to read:

Subd. 14. **Contributions of business revenue.** An association may, if not prohibited by other law, contribute revenue from the operation of a business to an independent expenditure political committee or an independent expenditure political fund without complying with section 10A.27, subdivision 13.

Sec. 11. Minnesota Statutes 2008, section 10A.27, is amended by adding a subdivision to read:

Subd. 15. **Contributions of dues or contribution revenue.** (a) An association may, if not prohibited by other law, contribute revenue from membership dues or fees, or from contributions received by the association to an independent expenditure political committee or an independent expenditure political fund without complying with section 10A.27, subdivision 13. Before the day when the recipient committee or fund's next report must be filed with the board under section 10A.20, subdivision 2 or 5, an association

that has contributed \$5,000 or more in aggregate to independent expenditure political committees or funds during the calendar year must provide in writing to the recipient's treasurer a statement that includes the name, address, and amount attributable to each individual or association that paid the association dues or fees, or made contributions to the association that, in total, aggregate \$1,000 or more of the contribution from the association to the independent expenditure political committee or fund. The statement must also include the total amount of the contribution from individuals or associations not subject to itemization under this section. The statement must be certified as true and correct by an officer of the donor association.

(b) To determine the membership dues or fees, or contributions made by an individual or association that exceed \$1,000 of the contribution made by the donor association to the independent expenditure political committee or fund, the donor association must:

(1) apply a pro rata calculation to all unrestricted dues, fees, and contributions received by the donor association in the calendar year; or

(2) as provided in paragraph (c), identify the specific individuals or associations whose dues, fees, or contributions are included in the contribution to the independent expenditure political committee or fund.

(c) Dues, fees, or contributions from an individual or association must be identified in a contribution to an independent expenditure political committee or fund under paragraph (b), clause (2), if:

(1) the individual or association has specifically authorized the donor association to use the individual's or association's dues, fees, or contributions for this purpose; or

(2) if the individual's or association's dues, fees, or contributions to the donor association are unrestricted and the donor association designates them as the source of the subject contribution to the independent expenditure political committee or fund. After a portion of an individual's or association's dues, fees, or contributions to the donor association have been designated as the source of a contribution to an independent expenditure political committee or fund, that portion of the individual's or association's dues, fees, or contributions to the donor association may not be designated as the source of any other contribution to an independent expenditure political committee or fund.

(d) For the purposes of this section, "donor association" means the association contributing to an independent expenditure political committee or fund that is required to provide a statement under paragraph (a).

Sec. 12. Minnesota Statutes 2008, section 10A.27, is amended by adding a subdivision to read:

Subd. 16. **Treasurer to submit disclosure statements.** The treasurer of a political committee or political fund receiving a statement required under section 10A.27, subdivision 15, must file a copy of the statement before the deadline for the committee or fund's next report filed with the board under section 10A.20, subdivision 2 or 5, after receiving the statement.

Sec. 13. Minnesota Statutes 2008, section 10A.27, is amended by adding a subdivision to read:

Subd. 17. **Penalty.** (a) An association that makes a contribution under section 10A.27, subdivision 15, and fails to provide the required statement within the time

specified is subject to a civil penalty of up to four times the amount of the contribution, but not to exceed \$25,000, except when the violation was intentional.

(b) An independent expenditure political committee or an independent expenditure political fund that files a report without including the statement required under section 10A.27, subdivision 15, is subject to a civil penalty of up to four times the amount of the contribution for which disclosure was not filed, but not to exceed \$25,000, except when the violation was intentional.

(c) No other penalty provided in law may be imposed for conduct that is subject to a civil penalty under this section.

Sec. 14. Minnesota Statutes 2008, section 10A.323, as amended by Laws 2010, chapter 184, section 4, is amended to read:

10A.323 AFFIDAVIT OF CONTRIBUTIONS.

In addition to the requirements of section 10A.322, to be eligible to receive a public subsidy under section 10A.31 a candidate or the candidate's treasurer must file an affidavit with the board stating that between January 1 of the ~~election~~ previous year and the cutoff date for transactions included in the report of receipts and expenditures due before the primary election the candidate has accumulated contributions from persons eligible to vote in this state in at least the amount indicated for the office sought, counting only the first \$50 received from each contributor:

- (1) candidates for governor and lieutenant governor running together, \$35,000;
- (2) candidates for attorney general, \$15,000;
- (3) candidates for secretary of state and state auditor, separately, \$6,000;
- (4) candidates for the senate, \$3,000; and
- (5) candidates for the house of representatives, \$1,500.

The affidavit must state the total amount of contributions that have been received from persons eligible to vote in this state, disregarding the portion of any contribution in excess of \$50.

The candidate or the candidate's treasurer must submit the affidavit required by this section to the board in writing by the deadline for reporting of receipts and expenditures before a primary under section 10A.20, subdivision 4.

A candidate for a vacancy to be filled at a special election for which the filing period does not coincide with the filing period for the general election must submit the affidavit required by this section to the board within five days after filing the affidavit of candidacy.

Sec. 15. Minnesota Statutes 2008, section 211B.04, is amended to read:

211B.04 CAMPAIGN LITERATURE MUST INCLUDE DISCLAIMER.

(a) A person who participates in the preparation or dissemination of campaign material other than as provided in section 211B.05, subdivision 1, that does not prominently include the name and address of the person or committee causing the material to be prepared or disseminated in a disclaimer substantially in the form provided in paragraph (b) or (c) is guilty of a misdemeanor.

(b) Except in cases covered by paragraph (c), the required form of disclaimer is: "Prepared and paid for by the committee,(address)" for material prepared and paid for by a principal campaign committee, or "Prepared and paid for by the committee,(address), in support of(insert name of candidate or ballot question)" for material prepared and paid for by a person or committee other than a principal campaign committee.

(c) In the case of broadcast media, the required form of disclaimer is: "Paid for by the committee."

(d) Campaign material that is not circulated on behalf of a particular candidate or ballot question must also include in the disclaimer either that it is "in opposition to(insert name of candidate or ballot question....)"; or that "this publication is not circulated on behalf of any candidate or ballot question."

(e) This section does not apply to objects stating only the candidate's name and the office sought, fund-raising tickets, or personal letters that are clearly being sent by the candidate.

(f) This section does not apply to an individual or association who acts independently of any candidate, candidate's committee, political committee, or political fund and spends only from the individual's or association's own resources a sum that is less than ~~\$500~~ \$2,000 in the aggregate to produce or distribute campaign material that is distributed at least seven days before the election to which the campaign material relates.

(g) This section does not modify or repeal section 211B.06.

EFFECTIVE DATE. This section is effective June 1, 2010, and applies to campaign material prepared and disseminated on or after that date.

Sec. 16. Minnesota Statutes 2008, section 211B.15, subdivision 2, is amended to read:

Subd. 2. **Prohibited contributions.** A corporation may not make a contribution or offer or agree to make a contribution; directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a major political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. For the purpose of this subdivision, "contribution" includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate but does not include an independent expenditure authorized by subdivision 3.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 17. Minnesota Statutes 2008, section 211B.15, subdivision 3, is amended to read:

Subd. 3. **Independent expenditures.** A corporation may not make an ~~independent~~ expenditure or offer or agree to make an ~~independent~~ expenditure to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office, unless the expenditure is an independent expenditure. For the purpose of this subdivision, ~~"independent expenditure" means an expenditure that is not made with the authorization or expressed or implied consent of, or in cooperation or concert with, or at the request~~

~~or suggestion of, a candidate or committee established to support or oppose a candidate has the meaning given in section 10A.01, subdivision 18.~~

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 18. Minnesota Statutes 2008, section 211B.15, is amended by adding a subdivision to read:

Subd. 7a. **Application of penalties.** No penalty may be imposed for a violation of this section that is subject to a civil penalty under section 10A.121.

Sec. 19. Minnesota Statutes 2008, section 216B.16, is amended by adding a subdivision to read:

Subd. 18. **Election or ballot question expenses.** The commission may not allow a public utility to recover from ratepayers expenses resulting from a contribution or expenditure incurred to promote or defeat a candidate for public office or to advocate approval or defeat of a ballot question. This subdivision does not prohibit a public utility from engaging in political activity or making a contribution or expenditure otherwise permitted by law.

Sec. 20. **REPEALER.**

Minnesota Statutes 2008, sections 72A.12, subdivision 5; and 211B.15, subdivision 12, are repealed.

Sec. 21. **EFFECTIVE DATE.**

Except where otherwise provided, this act is effective June 1, 2010.

Presented to the governor May 18, 2010

Signed by the governor May 27, 2010, 11:04 a.m.