

**ETHICAL PRACTICES BOARD**

**First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603**

Issued to:

Ronald W. Esau, Treasurer

(Arne) Carlson/(Joanne) Benson Volunteer Committee, #1-2300 GOV

1821 University Avenue West, Suite 135 South

St. Paul, MN 55104

**RE: Governor and Lt. Governor Joint Expenditures**

**ADVISORY OPINION #145**

**SUMMARY**

145. An individual who runs for lieutenant governor who has not previously sought or held statewide office and is running together with an individual who has run previously for governor does not qualify for the expenditure increase as set out in Minn. Stat. § 10A.25, subd. 2 (c). The 1994 expenditure limit of \$1,725,920 may be increased by up to \$86,296 for the amount spent by the Carlson/Benson Volunteer Committee on behalf of Joanne Benson's endorsement for the office of lieutenant governor. Any expenditures made by the governor and lieutenant governor running together as a single team, under Minn. Stat. § 10A.25, subd. 1, toward the endorsement of the lieutenant governor candidate may be treated as expenditures under Minn. Stat. § 10A.25, subd. 3, in addition to the expenditures limit of Minn. Stat. § 10A.25, subd. 2 (a) (1).

**FACTS**

As treasurer of the Carlson/Benson Volunteer Committee, you request an advisory opinion from the Ethical Practices Board on three matters related to the lieutenant governor expenditure provisions of the Ethics in Government Act based on your statement of the following facts:

1. State Senator Joanne Benson has replaced Joannell Dyrstad as the candidate for lieutenant governor on the Carlson/Benson ticket.
2. Senator Benson is a candidate for statewide office for the first time.
3. A candidate for governor and a candidate for lieutenant governor, running together, shall be deemed a single candidate.
4. Minn. Stat. § 10A.25, subd. 2, provides that expenditure limits are increased by ten percent for first-time candidates.
5. Five percent of the spending limit is available for expenditures made on behalf of

Joanne Benson as she seeks endorsement as a candidate for lieutenant governor (Minn. Stat. § 10A.25, subd. 3).

6. Many of the activities of candidates for governor and lieutenant governor are done on a combined basis as is recognized by law and in those instances of joint activities, the committee proposes to allocate joint expenditures to the two candidates fifty-fifty unless there is a more specific determination that can be made of such expenditures.
7. The matters as described above require immediate attention as the state party endorsing convention is scheduled for mid June.

You ask the Board to respond to the following questions:

#### **QUESTION ONE**

Is the expenditure limit of the Carlson/Benson Volunteer Committee increased under Minn. Stat. § 10A.25, subd. 2, because Senator Joanne Benson is a first-time candidate for statewide office?

#### **OPINION**

No. An individual who has run previously for governor is not a first-time candidate under Minn. Stat. § 10A.25, subd. 2 (c). A candidate for lieutenant governor who has not previously sought or held statewide office and is running together with an individual who has been a candidate for governor does not qualify for the expenditure increase as set out in Minn. Stat. §§ 10A.25, subd. 2 (c) (1993 Supplement). See also Minn. Stat. §§ 204.12, subd. 2 (b), and 204B.13, subd. 5 (a) (1992).

#### **QUESTION TWO**

Are the expenditures made by the Carlson/Benson Volunteer Committee on behalf of Joanne Benson's candidacy for the lieutenant governor endorsement included in the \$30,000 or five per cent of the expenditure limit, whichever is greater, increased spending available to a lieutenant governor candidate who seeks endorsement at a political party convention as set out in Minn. Stat. § 10A.25, subd. 3?

#### **OPINION**

Yes, provided the expenditures are made to seek Joanne Benson's endorsement for the office of lieutenant governor at the convention of a political party.

#### **QUESTION THREE**

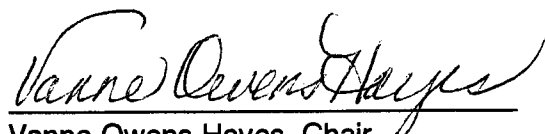
May the Carlson/Benson Volunteer Committee allocate a portion of the committee's joint

expenditures for activities of the two candidates as lieutenant governor endorsement expenditures under Minn. Stat. § 10A.25, subd. 3?

### OPINION

Any expenditures made by the governor and lieutenant governor running together as a single team, under Minn. Stat. § 10A.25, subd. 1, toward the endorsement of the lieutenant governor candidate at the convention of a political party may be treated as expenditures under Minn. Stat. § 10A.25, subd. 3, in addition to the expenditures limits of Minn. Stat. § 10A.25, subd. 2 (a) (1).

Issued: June 15, 1994

  
Vanne Owens Hayes, Chair  
Ethical Practices Board

### PERTINENT STATUTES

Minn. Stat. § 10A.25 LIMITS ON CAMPAIGN EXPENDITURES provides:

Subdivision 1. For the purposes of sections 10A.11 to 10A.34, a candidate for governor and a candidate for lieutenant governor, running together, shall be deemed to be a single candidate. Except as provided in subdivision 3, all expenditures made by and all approved expenditures made on behalf of the candidate for lieutenant governor shall be considered to be expenditures by and approved expenditures on behalf of the candidate for governor.

Subd. 2. (a) In a year in which an election is held for an office sought by a candidate, no expenditures made by the principal campaign committee of that candidate, nor any approved expenditures made on behalf of that candidate which expenditures an approved expenditures result in an aggregate amount in excess of the following:

(1) for governor and lieutenant governor, running together, \$1,626,691\*;

\* \$1,725,920 for 1994. Minn. Stat. § 10A.255 (1993 Supplement)

...

(c) The expenditure limits in this subdivision for an office are increased by ten percent for a candidate who is running for that office for the first time and who has not run previously for any other office whose territory now includes a population that is more than one-third of the population in the territory of the new office.

...

Subd. 3. Notwithstanding subdivision 2, clause (a), a candidate for endorsement for the office of lieutenant governor at the convention of a political party may make expenditures and approved expenditures of \$30,000 or five percent of the amount in subdivision 2, clause (a), whichever is greater, to seek endorsement. This amount shall be in addition to the amount which may be expended pursuant to subdivision 2, clause (a).

...

Subd. 10. (a) The expenditure limits imposed by this section apply only to candidates whose major party opponents agree to be bound by the limits and who themselves agree to be bound by the limits as a condition of receiving a public subsidy for their campaigns.

Minn. Stat. § 204B.12 WITHDRAWAL OF CANDIDATES provides:

...

Subd. 2b. **Governor's race.** If a candidate for governor withdraws, the secretary of state shall remove from the ballot the name of the candidate for governor and the name of that candidate's running mate for lieutenant governor.

Minn. Stat. § 204B.12 VACANCY IN NOMINATION provides:

...

Subd. 5. **Candidates for governor and lieutenant governor.** (a) If a vacancy in nomination occurs in the race for governor, the candidate for governor determined under this section shall select the candidate for lieutenant governor. If a vacancy in nomination occurs in the race for lieutenant governor, due to a vacancy in nomination for governor or due to the withdrawal or death of the candidate for lieutenant governor, the candidate for governor shall select the candidate for lieutenant governor as provided in this subdivision.

(b) For a vacancy in nomination that occurs before the 16th day before the general election, the name of the lieutenant governor candidate must be submitted by the governor candidate to the filing officer within seven days after the vacancy occurs, or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the death or catastrophic illness of the candidate for lieutenant governor, the candidate for governor shall submit the name of the new lieutenant governor candidate to the secretary of state within seven days after the vacancy in nomination occurs, but no later than four days before the general election. If the vacancy in nomination occurs through the death or catastrophic illness of the candidate for governor, the new candidate for governor shall submit the name of the lieutenant governor candidate within seven days after the vacancy in nomination for governor is filled under section 204B.12, subdivision 2, but no later than four days before the general election.