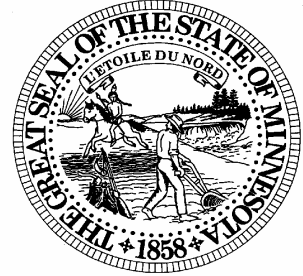


Minnesota

Campaign Finance and Public Disclosure Board



**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY THE
REQUESTER OF THE ADVISORY OPINION, WHICH IS NON PUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12(b)**

RE: Timing of Notification Required by Minnesota Statutes Section 10A.25

ADVISORY OPINION 373

SUMMARY

Candidates must provide written notification of receipts and expenditures in excess of the limits set by Minnesota Statutes, sections 10A.25 and 10A.255 as soon as the necessary facts are available.

FACTS

As representative for a principal campaign committee (the Committee) registered with the Campaign Finance and Public Disclosure Board, (the Board), you request an advisory opinion based on the following:

1. The candidate has not signed the public subsidy agreement.
2. It is possible that the Committee will exceed the expenditure or contribution thresholds that trigger a notification requirement under Minnesota Statutes Section 10A.25.
3. Section 10A.25 requires a candidate to give notice to the Board and to opponents when the candidate's receipts or expenditures reach 20 or 50 percent of a limit. Receipt of such a notice may affect an opponent's campaign expenditure limit.

ISSUE ONE

When must a candidate give notice to the board, as required by Minnesota Statutes, section 10A.25, subdivision 10, clause (b), if the candidate reaches 20 percent of the expenditure limit before the exact limit is established in March or April 2006, pursuant to Minnesota Statutes, section 10A.255, subdivision 3?

OPINION ONE

The requester correctly points out that campaign expenditure limits are adjusted each election year for offices that are on the ballot. The Board adjusts the campaign expenditure limit based on increases in the Consumer Price Index. As provided in Minnesota Statutes section 10A.255, subdivision 3, the Board will publish the campaign expenditure limits in the State Register as soon as possible, but no later than, April 15, 2006.

Notice must be given to the Board within 24 hours after the 2006 campaign expenditure limit is published in the State Register.

ISSUE TWO

When must a candidate give notice to his or her primary election opponent(s), as required by Minnesota Statutes, section 10A.25, subdivision 10, clause (b), if the candidate reaches the statutory percent of an expenditure limit before the primary election opponents have been identified?

OPINION TWO

Minnesota Statutes, section 10A.25, subdivision 10, provides that before the primary election, a candidate's "opponents" are only those candidates of the same party that will appear on the primary ballot. Notice must be given to primary election opponents within 24 hours after the close of the filing and withdraw periods for the state election. In 2006, the list of candidates at the primary election will be finalized after July 21, 2006, which is the last day for a candidate to withdraw their affidavit of candidacy.

ISSUE THREE

When must a candidate give notice to his or her general election opponent(s), as required by Minnesota Statutes, section 10A.25, subdivision 10, clause (b)?

OPINION THREE

General election opponents are identified by the results of the state primary election as certified by the appropriate county or state canvassing board. Notice must be given to the candidate's general election opponents within 24 hours after the results of the primary election are certified.

NOTE

The Board notes that Minnesota Statutes, section 10A.25, subdivision 10, provides that a candidate who has signed a public subsidy agreement and who chooses to be released from the campaign expenditure limits based on the notification received from a primary election opponent may not exceed the campaign expenditure limit prior to September 2, 2006. Exceeding the campaign expenditure limit for the office prior to September 2, 2005, will result in a violation of Minnesota Statutes, section 10A.25, subdivision 2.

Issued January 11, 2006

A handwritten signature in black ink, appearing to read "Bob Milbert", written over a horizontal line.

Bob Milbert, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes and Administrative Rules

10A.25 Spending limits.

Subd. 10. **Effect of opponent's conduct.** (a) After the deadline for filing a spending limit agreement under section 10A.322, a candidate who has agreed to be bound by the expenditure limits imposed by this section as a condition of receiving a public subsidy for the candidate's campaign may choose to be released from the expenditure limits but remain eligible to receive a public subsidy if the candidate has an opponent who has not agreed to be bound by the limits and has received contributions or made or become obligated to make expenditures during that election cycle in excess of the following limits:

- (1) up to the close of the reporting period before the primary election, receipts or expenditures equal to 20 percent of the expenditure limit for that office as set forth in subdivision 2; or
- (2) after the close of the reporting period before the primary election, cumulative receipts or expenditures during that election cycle equal to 50 percent of the expenditure limit for that office as set forth in subdivision 2.

Before the primary election, a candidate's "opponents" are only those who will appear on the ballot of the same party in the primary election.

- (b) A candidate who has not agreed to be bound by expenditure limits, or the candidate's principal campaign committee, must file written notice with the board and provide written notice to any opponent of the candidate for the same office within 24 hours of exceeding the limits in paragraph (a). The notice must state only that the candidate or candidate's principal campaign committee has received contributions or made or become obligated to make campaign expenditures in excess of the limits in paragraph (a).
- (c) Upon receipt of the notice, a candidate who had agreed to be bound by the limits may file with the board a notice that the candidate chooses to be no longer bound by the expenditure limits. A notice of a candidate's choice not to be bound by the expenditure limits that is based on the conduct of an opponent in the state primary election may not be filed more than one day after the State Canvassing Board has declared the results of the state primary.
- (d) A candidate who has agreed to be bound by the expenditure limits imposed by this section and whose opponent in the general election has chosen, as provided in paragraph (c), not to be bound by the expenditure limits because of the conduct of an opponent in the primary election is no longer bound by the limits but remains eligible to receive a public subsidy.

10A.255 Adjustment by Consumer Price Index.

Subdivision 1. **Method of calculation.** The dollar amounts in section 10A.25, subdivision 2, must be adjusted for general election years as provided in this section. Each general election year, the executive director of the board must determine the percentage increase in the Consumer Price Index from December of the year preceding the last general election year to December of the year preceding the year in which the determination is made. The dollar amounts used for the preceding general election year must be multiplied by that percentage. The product of the calculation must be added to each dollar amount to produce the dollar limitations to be in effect for the next general election. The product must be rounded up to the next highest \$100 increment. The index used must be the revised Consumer Price Index for all urban consumers for the St. Paul-Minneapolis metropolitan area prepared by the United States Department of Labor.

Subd. 3. **Publication of expenditure limit.** By April 15 of each election year the board must publish in the State Register the expenditure limit for each office for that calendar year under section 10A.25 as adjusted by this section. The revisor of statutes must code the adjusted amounts in the next edition of Minnesota Statutes, section 10A.25, subdivision 2.