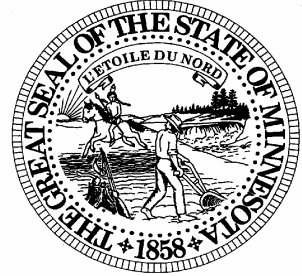


Minnesota

Campaign Finance and Public Disclosure Board



**THIS ADVISORY OPINION IS PUBLIC DATA PURSUANT TO A
CONSENT FOR RELEASE OF INFORMATION SIGNED BY THE REQUESTER**

Issued to: Ron Berry
105 Summit Avenue
Walker, MN 56484

RE: First Time Candidate

ADVISORY OPINION 384

SUMMARY

Requesting that a canvassing board tabulate write in votes for an office at one election does not preclude a candidate at a subsequent election from the ten percent increase in the spending limit available to candidates who run for an office for the first time.

FACTS

As a candidate for State Representative with a principal campaign committee registered with the Campaign Finance and Public Disclosure Board (the Board), you ask for an advisory opinion based on the following facts.

1. You did not raise or spend any money during 2004 for election to the legislature, and you did not register a principal campaign committee with the Board in 2004.
2. You did not file an affidavit of candidacy for legislative office in 2004; therefore, your name did not appear on the primary or general election ballot. In 2004, you did submit the written request provided for in Minnesota Statutes section 204B.09, subdivision 3, which requires the canvassing board to count any write-in votes that you received for the office of State Representative, District 4B. The official canvass of the 2004 election results show that you received 84 write-in votes.
3. For the 2006 state general election, you have filed an affidavit of candidacy for State Representative, District 4B. The Public Subsidy Agreement you have signed for that office identifies you as a first time candidate.

ISSUE ONE

Did your activities in 2004 disqualify you from the ten percent increase in the campaign expenditure limit provided to candidates in Minnesota Statutes, section 10A.25, subdivision 2 (d)?

OPINION ONE

No. Minnesota Statutes section 10A.25, subdivision 2 (d), provides a ten percent increase in the campaign spending limit "...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." As provided in the facts of this opinion you did not file an affidavit of candidacy or file a nominating petition to gain access to the state primary or general election ballot in 2004. Therefore, you did not take action to qualify for nomination or election to the legislature. You also did not raise or spend money or create a principal campaign committee to accept contributions or make expenditures to further your nomination or election to office.

Requesting the counting of write-in votes is a procedure related to the tabulation of votes, not to the conduct of a campaign.

Issued August 15, 2006



Bob Milbert, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes and Administrative Rules

10A.25 Spending limits.

Subd. 2. **Amounts.** (a) In a year in which an election is held for an office sought by a candidate, the principal campaign committee of the candidate must not make campaign expenditures nor permit approved expenditures to be made on behalf of the candidate that result in aggregate expenditures in excess of the following:

- (1) for governor and lieutenant governor, running together, \$2,188,090;
 - (2) for attorney general, \$364,690;
 - (3) for secretary of state and state auditor, separately, \$182,350;
 - (4) for state senator, \$54,740;
 - (5) for state representative, \$28,400.
- (b) In addition to the amount in paragraph (a), clause (1), a candidate for endorsement for the office of lieutenant governor at the convention of a political party may make campaign expenditures and approved expenditures of five percent of that amount to seek endorsement.
- (c) If a special election cycle occurs during a general election cycle, expenditures by or on behalf of a candidate in the special election do not count as expenditures by or on behalf of the candidate in the general election.
- (d) 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.