

**State of Minnesota**  
**Campaign Finance & Public Disclosure Board**  
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

**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: Eligibility for spending increase for candidate running for office for the first time**

**ADVISORY OPINION 397**

**SUMMARY**

Candidate is entitled to increase in spending limit for candidates running for office for the first time where candidate's prior activities were so insignificant as to not constitute "running for office".

**FACTS**

As the chair of a principal campaign committee registered with the Campaign Finance and Public Disclosure Board ("the Board"), you ask the Board for an advisory opinion on behalf of the principal campaign committee's candidate (" the Requester") based on the following facts provided by the Requester and Board Records:

1. Less than two weeks before the close of filings for office, the incumbent legislator in the Requester's district announced that the incumbent would not run for re-election.
2. The district called a special endorsing convention to endorse a candidate for the November election which was held the night before filings for election closed.
3. The Requester appeared at the endorsing convention seeking the party's endorsement. However, the party endorsed another candidate.
4. Two days before the convention the Requester's father spent \$263.22 for signs and printed materials to use at the convention. The only other expenditures by the Requester during the election cycle were \$48.61 for checks and bank service charges.
5. At the time of the convention, the Requester did not have a principal campaign committee registered with the Board. The principal campaign committee was registered within the 14 days that a candidate has to register after raising or spending more than \$100.
6. The Requester raised \$\$200 through two contributions from a relative and \$200 through a contribution from the political fund of the local union of which the Requester is a member.

7. Because he had not received the party's endorsement, the Requester did not file for office and did not engage in fundraising or spending other than as indicated in paragraphs 4 and 6 above.
8. The Requester now wishes to run for the House of Representatives in another district and asks if he is eligible for the campaign expenditure limit increase available to candidates running for office for the first time.

### **Issue**

**Does the Requester's raising of \$400 and spending less than \$265 on signs for an endorsing convention for a seat in the legislature constitute a previous run for that office that will disqualify the Requester from the ten percent increase in the campaign expenditure limit for candidates who are running for an office for the first time?**

### **Opinion**

Minnesota Statutes, Section 10A.25, subd. 2(d) provides that:

"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."

Among the offices for which the subdivision specifies campaign expenditure limits is the office of state representative.

The Requester registered a principal campaign committee for the office sought in a different district during the previous election cycle, but never filed for office or sought the support of the general voting public.

In the previous election cycle, the Requester met the definition of a "candidate" under Minnesota Statutes Chapter 10A since he raised and spent more than \$100 to influence his nomination at the endorsing convention. However, the statutory language that qualifies a person for a campaign expenditure limit increase is not based on whether an individual has been a "candidate" for the office before, but whether the person has "run for office" previously. Meeting the minimal financial threshold for becoming a candidate does not necessarily constitute running for office.

In determining whether a candidate ran for office in a previous election cycle, the Board examines a number of relevant factors. Among these factors are (1) if the candidate sought and did not receive party endorsement, did the candidate, nevertheless, file for election to that office; (2) did the candidate incur any campaign expenditures during the election cycle after the endorsing convention; (3) what was the scope and timing of the candidate's prior fundraising efforts; (4) what was the dollar level of the candidate's fundraising during the prior election cycle; (5) what was the candidate's overall level of campaign expenditures and noncampaign disbursements during the prior election cycle?

Examining these factors in view of the facts presented, the Board notes that the requester did seek his party's endorsement in the previous election cycle. He could not have made the

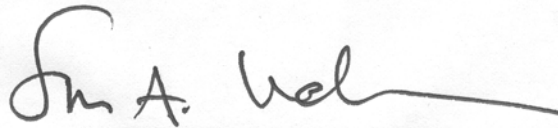
decision to do so until the incumbent announced the intention not to run again; less than two weeks before filings for office closed. The Requester's only expense, which was incurred prior to the endorsing convention, was for less than \$265 for signs for the convention. After the convention, the Requester had no further campaign spending activity.

The Requester did not engage in general fundraising. His minimal fundraising efforts were directed to a relative and the political fund of the union of which he was a member. Because the Requester spent more than \$100 in 2006 to influence his nomination, he was required to register a principal campaign committee with the Board.

The Requester's efforts were directed solely toward influencing his nomination as the party's candidate at its endorsing convention. He spent no money and engaged in no efforts to influence voters in the general election. This is not to say that every candidate who loses the endorsement and does not file for office will be found eligible for the campaign expenditure limits increase for a person who has not previously run for office. Each matter must be evaluated on its own merits using the factors listed above as well as any other factors relevant to the particular facts.

Considering all of the facts, the activities of the Requester do not constitute "running for office" as that phrase is used in Minnesota Statutes, Section 10A.25, subd. 2(d). The Requester is eligible for the spending increase prescribed in the statute.

Issued May 16, 2008

A handwritten signature in black ink, appearing to read "Sven A. Wehrwein". The signature is written in a cursive style with a long horizontal stroke at the end.

Sven A. Wehrwein, Chair  
Campaign Finance and Public Disclosure Board

## Cited Statutes and Rules

### 10A.25 SPENDING LIMITS.

Subdivision 1. **Limits are voluntary.** The expenditure limits imposed by this section apply only to a candidate who has signed an agreement under section 10A.322 to be bound by them as a condition of receiving a public subsidy for the candidate's campaign.

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, \$2,393,800;
- (2) for attorney general, \$399,000;
- (3) for secretary of state and state auditor, separately, \$199,500;
- (4) for state senator, \$59,900;
- (5) for state representative, \$30,100.

(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.