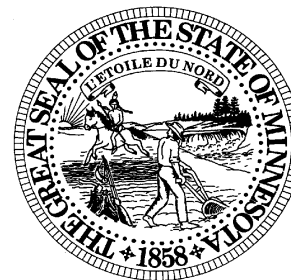


Minnesota

Campaign Finance and Public Disclosure Board



Date: May 29, 2018

Summary of 2018 Minn. Laws chapter 119 - Changes to the Campaign Finance and Public Disclosure Laws - Effective date of the act is June 1, 2018

Economic Interest Program

Section 1 raises the dollar-level threshold at which disclosure of sources of compensation is required on a statement of economic interest from \$50 of compensation in a month to \$250 in a month. Section 1 also raises the dollar-level threshold at which disclosure of securities is required from a fair market value of \$2,500 to a fair market value of \$10,000.

Section 3 codifies the existing administrative rule definition of securities that must be reported on a statement of economic interest. The definition of securities is modified to exclude shares in mutual funds, shares in exchange-traded funds and the underlying assets of an annuity or defined benefit pension plan. Annuities are added to the list of securities that must be disclosed. Section 3 also provides that for the beneficiary of a blind trust, securities does not include the underlying assets owned by the trust.

Section 11 codifies an existing administrative rule that defines the term "financial interest" for purposes of determining whether a potential conflict of interest exists for a public official.

Section 12 codifies an existing administrative rule that clarifies what steps a public official must take when faced with a potential conflict of interest.

Section 13 codifies an existing administrative rule that clarifies what information a public official must disclose when the official represents a client at an administrative rule hearing.

Section 14 codifies an existing administrative rule that defines the terms "fee" and "initial appearance at a hearing" for purposes of the disclosure required when a public official represents a client at an administrative rule hearing.

Section 15 changes the references to the dollar-level thresholds at which disclosure of sources of compensation and securities is required on a statement of economic interest to match the new thresholds set in section 1. Section 15 also raises the dollar-level threshold at which disclosure of a business or professional activity category is required for officials who are both owners and employees of a business. This threshold increased from \$50 of compensation in a month to \$250 in a month. Finally, section 15 codifies existing administrative rules that specify what real property must be disclosed on an original statement of economic interest, how to determine the fair market value of an official's real property; and how to determine when the official started serving in office.

Section 16 codifies an existing administrative rule that specifies what real property must be reported on an annual statement of economic interest.

Coordinated expenditures

Section 22 defines terms used in new provisions identifying noncoordinated expenditures that are independent of a candidate and coordinated expenditures that are contributions to a candidate. The terms defined are “agent,” “candidate,” “consulting services,” “coordinated,” and “spender.”

Section 23 codifies Board advisory opinions and enforcement actions determining that expenditures that expressly advocate for the election of a candidate, or the defeat of the candidate’s opponent, are coordinated, and therefore not independent, under the following circumstances.

- The candidate, on or after January 1 of the year in which the candidate will appear on the ballot, engages in fundraising of money to be used for political purposes for a spender that makes an expenditure on the candidate’s behalf. This provision **does not apply** to (1) fundraising for a party unit, or (2) fundraising of money that is not raised for political purposes (which is called general treasury money in the statute).
- The candidate, on or after January 1 of the year in which the candidate will appear on the ballot, was a chair or treasurer, or a deputy chair or treasurer, of the spender that makes an expenditure on the candidate’s behalf. This provision **does not apply** to party units.
- The candidate and the spender obtain consulting services from the same vendor and the vendor does not have the specified firewall procedures in place to separate vendor staff working for the candidate from vendor staff working for the spender.
- The spender makes an expenditure after receiving information from the candidate that is not publicly available about the candidate’s campaign plans, strategy, or needs.
- The spender provides information to the candidate about an expenditure’s content, audience, timing, location or mode, volume, or frequency before the expenditure is communicated to the public.
- The candidate participates in any of the processes required for the creation and development of the expenditure or any decision regarding the content, timing, location, audience, volume of distribution, or frequency of the expenditure.

Section 24 provides that the actions listed below, by themselves, do not establish that an expenditure was coordinated.

- A candidate asks a spender not to make any independent expenditures supporting the candidate or opposing the candidate’s opponent.
- A candidate provides the spender with a list of donors provided that the spender does not state or suggest to the candidate that the list will be used to raise funds for independent expenditures to benefit the candidate.
- An expenditure uses a photo, video, or audio recording from a publicly available source or event.

- An expenditure uses information about a candidate from a publicly available source or event.
- A spender makes a contribution to or endorses the candidate.
- A spender includes a hyperlink to the candidate's website or social media page in the expenditure.
- The expenditure is referenced in a news story.
- The spender discusses the candidate's positions on legislative or policy issues with the candidate or the candidate completes a survey distributed by the spender.
- The candidate participates in an event before the spender's members, employees, or shareholders, provided that the event does not promote the candidate's campaign.

Noncampaign disbursements

Section 2 moves language regarding the limits on noncampaign disbursements after the legislature's adjournment sine die to a new statutory section dealing with noncampaign disbursements. Section 2 also adds the following noncampaign disbursements recognized by the Board in advisory opinions to the statutory definition of noncampaign disbursements:

- Contributions to a fund established to support the candidate's recount efforts,
- Costs of one reception given in honor of the candidate's retirement from office,
- Donations to the state general fund, and
- Donations to a county obligated to pay for the costs of a special election needed because the candidate resigned from office.

Section 4 codifies an existing administrative rule that defines "constituent services."

Section 21 codifies Board advisory opinions and enforcement actions that recognize specific expenses as noncampaign disbursements and exclude other expenses from that categorization. Expenses that are recognized as noncampaign disbursements may be paid for with committee funds and do not count towards the spending limits.

The first subdivision in section 21 lists expenses that qualify as noncampaign disbursements for services for a constituent. The limits on noncampaign disbursements after adjournment sine die that were deleted in section 2 are moved to this subdivision and apply to the new provisions. Under subdivision 1, the following expenses now are recognized as services for a constituent:

- Paying for a charter bus to bring constituents to an educational day at the capitol,
- Costs for a legislative intern if the intern is used for constituent services,
- Congratulatory letters to high school graduates or other constituents if information on registering to vote or other government services is provided in the letter,
- Refreshments for constituents at meetings, but amount spent is limited to \$5 per person,
- Food and beverage for volunteers when they are distributing a sessional wrap up, and
- Production and mailing of sessional wrap up.

Subdivision 2 in section 21 provides that the cost of food and beverages consumed by the candidate and volunteers when they are campaigning outside the candidate's district cannot be

claimed as a noncampaign disbursement unless the candidate intends to terminate the candidate's committee within 12 months.

Subdivision 3 in section 21 provides that the cost of food and beverages consumed by other legislators and legislative staff at a reception or meeting may be claimed as a noncampaign disbursement for food and beverages; legislative duties. The cost of food and beverages consumed by anyone other than the legislators or legislative staff at the reception or meeting, however, cannot be claimed under this category.

Subdivision 4 of section 21 provides that the following expenses are noncampaign disbursements for the costs of serving in office:

- Transportation, lodging, and other expenses necessary to attend conferences related to legislative duties,
- Mileage to the capitol for scheduled committee meetings and regular and special legislative session if the mileage is not reimbursed by other sources, and
- Cost of staff meals while the staff member is working on legislative duties.

The following expenses, however, cannot be claimed as costs of serving in office:

- Membership dues and fees necessary to belong to organizations located in the office holder's district,
- Cost of trips taken outside of the office holder's district for the purpose of relationship building, and
- Additional costs incurred by someone accompanying an office holder on a trip, unless the office holder is a person with a disability and the accompanying individual is providing services made necessary by the disability.

Notice to contributors

Section 29 provides that a political committee or fund, party unit, or candidate committee that raises contributions from the sale of goods or services must disclose to potential customers that the proceeds of the sale are a political contribution and to whom the contribution is being made. The disclosure may be provided verbally at the time of purchase or through the prominent display of a sign in immediate proximity to the point of sale. Knowingly failing to provide notice is punishable by a civil penalty of up to \$1,000. This provision does not apply to goods or services sold at a fundraiser that requires the purchase of a ticket to attend or at an event where the main purpose is to conduct fundraising.

Disclaimers

Sections 20 and 33 move the independent expenditure disclaimer requirements from Chapter 10A to Minnesota Statutes section 211B.04 where the general disclaimer requirements for campaign material are located. This allows the independent expenditure disclaimer language requirements to be used by local candidates and committees. Section 33 also specifies the form of the disclaimer that must be used on independent expenditure communications.

Section 33 also provides the following:

- A committee may use its website address in the disclaimer if the website includes the committee's mailing address;

- The disclaimer requirements are satisfied for an entire website or social media page if the required disclaimer appears once on the homepage of the site; and
- The disclaimer must be printed in at least 8-point font or larger on written communications other than outdoor signs, websites, or social media pages.

Campaign finance recordkeeping and reporting

Section 17 specifies the time of receipt for contributions made through electronic and non-electronic means. Section 17 codifies existing administrative rules that specify that monetary contributions not made through electronic means are received for all purposes when the contribution is physically received by recipient. When the delivery method is through the U.S. mail, the contribution is physically received when the mail is collected from the delivery point.

Section 17 also provides that for contributions made through electronic means, such as PayPal, the contribution is received for purposes of the deposit requirement when the treasurer has access to the funds under the terms of the agreement with the contribution processor. A contribution made through electronic means is received for all other purposes, such as reporting to the Board and affidavits of contribution, on the date that the contribution was made by the contributor.

Section 19 clarifies that committees must use the IRS business rate for mileage reimbursement payments. Section 19 also specifies the records that committees must keep to document those mileage reimbursements.

Section 25 clarifies how to report payments that reimburse a candidate or another entity for an expense. Section 25 also specifies how to allocate on-going expenses that have both campaign and noncampaign disbursement components.

Section 26 requires reports of receipts and expenditures to include an explanation of how an expenditure was used.

Public Subsidy Program

Section 27 provides that if the committee of a candidate who has signed a public subsidy agreement makes a contribution to an independent expenditure committee or fund during the year in which the candidate's office appears on the ballot, the independent expenditure committee or fund may not make an independent expenditure on behalf of that candidate.

Section 31 establishes the deadline for signing and filing a public subsidy agreement for a special election that is held without a filing period.

Section 32 establishes the deadline for filing an affidavit of contributions for a special election that is held without a filing period.

Procedures for Board investigations

Section 5 clarifies that Board staff must secure the authorization of the Board before expanding the scope of an investigation started in response to a complaint.

Section 6 codifies an existing administrative rule that specifies the procedure to be used when a violation is resolved by a conciliation agreement.

Section 7 establishes a streamlined procedure that may be used to resolve apparent violations that are simply reporting errors. Section 7 allows the executive director to close these matters without a full investigation and to report to the Board that no actual violation occurred.

Section 8 establishes a streamlined procedure that may be used to resolve violations that do not require a formal investigation, such as when a committee has admitted a violation.

Section 9 codifies an existing administrative rule that specifies the procedure that must be used by staff to secure authorization for a formal investigation and the rights of the respondent during this process.

Miscellaneous technical changes

Section 10 codifies an existing administrative rule that specifies when a filing to the Board is complete.

Section 18 codifies Board advisory opinions that hold that a vendor that provides online contribution services is not required to register or report as a political committee.

Section 28 codifies an existing administrative rule that specifies how the contribution limits apply when the committees of candidates for governor and lieutenant governor merge.

Section 30 clarifies when the legislative session begins and ends for purposes of the sessional contribution prohibition.

Section 34 repeals the rule provisions that were codified into statute.

Section 35 establishes that the effective date of the act is June 1, 2018.