



MINNESOTA

CAMPAIGN FINANCE BOARD

Date: June 8, 2023

Summary of 2023 changes to campaign finance and public disclosure laws in Chapters 10A and 211B

The changes to statutory provisions administered by the Campaign Finance and Public Disclosure Board are found in 2023 Minnesota Session Laws, [Chapter 34](#), which was signed by the Governor on May 5, 2023, and in [Chapter 62](#), which was signed by the Governor on May 24, 2023. The provisions of Chapters 34 and 62 are combined by subject area in this review.

Additionally, [Chapter 64](#), the tax policy bill, which was signed by the Governor on May 24, 2023, modifies Minnesota Statutes Section 290.06, subdivision 23, by increasing the maximum political contribution refund from \$50 to \$75 per individual, and from \$100 to \$150 per couple. The Legislature placed one constitutional amendment on the ballot ([Chapter 67](#)). The amendment will decide if the authority for the Environment and Natural Resources Trust Fund should be renewed. Ballot question committees and funds in support or opposition to this amendment are required to register and report to the Board.

Lobbying Provisions

The Board's recommendation to change the nature of information reported by lobbyists and lobbyist principals was adopted in whole with one exception; when reporting total lobbying expenditures for the year lobbyist principals must round to the nearest \$9,000. The Board recommendation was to round to the nearest \$10,000.

In addition to the Board's recommendations, the Legislature expanded the scope of local government lobbying. As defined currently, lobbying of local governments only occurs within the seven-county metro area, and includes only those seven counties, the Metropolitan Council, the Metropolitan Airport Commission, and fourteen cities in the metro area with a population of over 50,000. Lobbying has now been defined to include attempting to influence the official action of any "political subdivision". For the purposes of lobbying, political subdivision means a county, town, city, school district or other municipal corporation or political subdivision of the state authorized by law to enter into contracts. This will expand the scope of local lobbying to include the other 80 counties, 839 more cities, 330 school districts, and 1,764 townships.

The following is a brief review of the sections in Chapter 62, Article 5, related to the lobbying program.

Section 2 moves the definition of "designated lobbyist" from administrative rules into Chapter 10A. The designated lobbyist includes disbursements made directly by the principal for lobbying on the lobbyist disbursement report. This section is effective January 1, 2024.

Section 3 defines “General lobbying category” as an area of lobbying interest for a principal. The Board will develop, in consultation with the lobbying community, a list of general lobbying categories for use in lobbyist registration. This section is effective January 1, 2024.

Section 4 defines “Legislative action” for the purposes of lobbying registration and reporting. Legislative action includes the development of legislation, the adoption or rejection of any bill, amendment, resolution, confirmation, or report by the legislature, working with any constitutional officer to develop or support legislation, and the actions of the governor to approve or veto legislation. This section is effective January 1, 2024.

Section 5 modifies the definition of lobbyist by replacing all references to metropolitan governmental unit with “political subdivision”. The section also clarifies that an individual who is compensated more than \$3,000 from a business that provides government relations and government affair services must register as a lobbyist if the individual’s job duties include offering direct or indirect advice or consulting that the business uses to provide those services to clients. Finally, the section raises the level at which a citizen lobbyist must register as a lobbyist from spending more than \$250 of personal funds on lobbying to more than \$3,000 in personal funds on lobbying. This section is effective January 1, 2024.

Section 7 defines “Official action of a political subdivision” to include any action that requires a vote by one or more elected local officials, or certain actions by an appointed local official to make or recommend major decisions regarding the expenditure or investment of public funds. This section is effective January 1, 2024.

Section 9 defines “Specific subject of interest” as a particular topic or area of lobbying interest within general lobbying categories. Specific subjects of interest are used by lobbyists to disclose lobbying activities on the lobbyist disbursement report. This section is effective January 1, 2024.

Section 12 provides that the general requirement that requires individuals to correct or amend a filed report within 10 days of becoming aware of an error in the report applies when the Board notifies a lobbyist that a specific subject of interest used on a lobbyist disbursement report does not provide sufficient detail about the lobbying activity. This section is effective January 1, 2024.

Section 13 requires a lobbyist at the time of registration to list the general lobbying categories of interest to the association represented. This section is effective January 1, 2024.

Section 14 provides that the Board will develop lists of general lobbying categories and specific subjects of interest and update those lists with comments from the lobbying community and public. The creation and modification of the lists do not require the Board to adopt administrative rules. This section is effective January 1, 2024.

Section 15 clarifies that lobbyists who have designated another lobbyist to report on their behalf, and principals, must provide information needed by the reporting lobbyist no later than 5 days prior to the report deadline. This section is effective January 1, 2024.

Section 16 contains new reporting requirements for the lobbyist disbursement report. The disbursement report must include the specific subjects of interest lobbied on for the principal along with the public entity that was the focus of the lobbying. The section eliminates the reporting of administrative costs related to lobbying.

For administrative lobbying the lobbyist must report each state agency that the principal sought to influence during the reporting period, the revisor number assigned to the agency's administrative rulemaking, and the principal's specific subjects of interest within the rulemaking.

For local lobbying the lobbyist must report each political subdivision that the principal sought to influence during the reporting period, the official action of the political subdivision that was the subject of lobbying, and the specific subjects of interest for the principal within the official action.

For legislative lobbying the lobbyist must report the general lobbying categories on which the lobbyist attempted to influence legislative action, and up to four specific subjects of interest for each of the general lobbying categories during the reporting period. If the lobbyist attempted to influence more than four specific subjects of interest for a general lobbying category then the lobbyist must confer with the represented association to determine which four specific subjects of interest were the highest priorities during the reporting period, and report only the four highest priority specific subjects of interest.

For lobbying of the Public Utilities Commission, the lobbyist must report the project name for each rate setting, power plant/power line siting, or certificate of need that the represented association sought to influence. This section is effective January 1, 2024.

Section 17 provides modifications to the annual lobbyist principal report. The principal may round the total amount spent on each lobbying type during a calendar year to the nearest \$9,000 (the current statute allows rounding to the nearest \$20,000). The principal must report the total amount spent to influence legislative lobbying, administrative action, lobbying to influence the Public Utilities Commission, and lobbying to influence the official action of a political subdivision.

Additionally, a principal that paid more than \$2,000 for advertising that urges members of the public to contact public or local officials in order to influence official actions must itemize the advertising costs. The principal report will disclose the date the advertising was purchased, the name and address of the vendor, a description of the advertising purchased, and identify any specific subjects of interest addressed in the advertisement. This section is effective January 1, 2024.

Section 18 clarifies that an association represented by more than one lobbyist must appoint one designated lobbyist to report lobbying disbursements made directly by the association, but may not have more than one designated lobbyist at a time. This section is effective January 1, 2024.

Section 19 replaces a reference to "metropolitan governmental unit" with "political subdivision" in the requirement that the Board publish the name of any lobbyist that has failed to report along with information on the type of lobbying, and the association, that the lobbyist represents. This section is effective January 1, 2024.

Section 20 updates the prohibition on contingency fee lobbying by replacing "metropolitan governmental unit" with "political subdivision". This section is effective January 1, 2024.

Section 21 changes the definition of officials covered by the gift prohibition. The current prohibition on gifts from a lobbyist or principal includes local officials for a metropolitan governmental unit. The amended definition applies the gift prohibition to all local officials for any political subdivision. This section is effective January 1, 2024.

Economic Interest Statement

The Board's legislative recommendations regarding the economic interest statement program were adopted in whole. The recommended changes included three major changes. First, expanding the disclosure of associated businesses to include the sources of income and investments held by a public official's spouse. Second, the disclosure of any contract, professional license, or lease issued to the public official or to a business in which the public official has at least a 25% ownership interest by the government agency on which the official serves. Finally, the Legislature accepted the Board's recommendation to require less disclosure on the economic interest statement from public officials who serve as a soil and water conservation district supervisor, manager of a watershed district, or member of a watershed management organization.

In addition to Board recommendations, the Legislature adopted a requirement that public officials disclose lobbyists, lobbyist principals, or an "interested person" as defined, for whom the public or local official provides services as an independent contractor or consultant. All changes to the economic interest statement program are located in Chapter 62, Article 5, and are effective January 1, 2024.

Section 1 modifies the definition of associated business to include a business, company, partnership, or other association that provides compensation to the official or the official's spouse, or in which the official or the official's spouse holds securities worth more than \$10,000.

Further, this section provides that an associated business includes providing independent contractor or consultant services to a lobbyist, principal, or interested person. An interested person is defined as a person or a representative of a person who has a direct financial interest in a decision that a public or local official is authorized to make, or will be able to make if they become a public or local official.

Section 22 modifies the information that must be included on an economic interest statement, in particular that the public or local official must disclose real property as described in statute whether owned by the official or the official's spouse, any associated business of the official or the official's spouse, each principal business or professional activity from which the official or official's spouse received compensation of over \$2,500 in the last 12 months, or any security with a value of over \$10,000 owned in part or in full by the official or the official's spouse.

This section also provides the requirement that the economic interest statement list any contract, professional license, lease, or franchise that is held by the official or the official's spouse, and which is issued by the government agency on which the public official serves.

Finally, this section provides that the economic interest statement must not identify whether the official or the official's spouse is associated with or owns the listed item.

Section 23 provides reduced economic interest statement reporting requirements for soil and water conservation district supervisors, a manager of a watershed district, and a member of a watershed management organization. Individuals who hold these positions must continue to disclose their occupation and sources of compensation, and must disclose the real property interests of themselves and their spouses within the state. Further, the individual must disclose any contract they have with the government agency on which they serve.

However, individuals who hold these positions no longer will disclose securities of over \$10,000

or a professional business or professional activity that compensated the individual over \$2,500.

Campaign Finance

Most of the Board's recommendations regarding the campaign finance provisions of Chapter 10A were adopted, or adopted with modification. The Legislature did not adopt the Board's recommendation that successful constitutional office candidates should be able to use committee funds to pay for transition costs for up to three months after election. The Legislature also declined to adopt the Board's recommended language regarding the functional equivalent of expressly advocating for the election or defeat of a candidate, but did approve a provision that will have the same effect in expanding the range of communications that may require registration and reporting with the Board.

The Legislature also passed provisions that will require reporting of certain types of "electioneering communications," which are communications that must be reported because they refer to a candidate and were issued within a set time around nominating conventions, the state primary election, or the state general election. Another major new provision will require for-profit corporations that contribute to independent expenditure committees or funds, or ballot question committees or funds, to certify to the Board that the corporation is not a "foreign influenced" corporation at the time the contribution is made.

The following is a brief review of the sections in Chapter 34, Article 3, related to the campaign finance program.

Section 1 changes the definition of "expressly advocating" to include not only the recognized words of express advocacy but also statements that when taken as a whole can only be viewed as advocacy to elect or defeat a clearly identified candidate. The expressly advocating definition is used to identify independent expenditures that may require registration and reporting with the Board. This provision is effective August 1, 2023.

Section 2 specifically provides that a candidate's principal campaign committee may not accept a corporate contribution prohibited in Chapter 211B. This prohibition is added to Chapter 10A, making it easier to investigate and enforce the prohibition on corporate contributions to candidates. This provision is effective January 1, 2024.

Section 3 establishes new definitions in Minnesota Statutes section 211B.15 that are used to identify contributions from a "foreign-influenced corporation". A foreign-influenced corporation is defined as a corporation organized for profit or a limited liability company in which a single foreign investor owns or controls at least one percent of the corporation, or two or more foreign investors own or control five percent or more of the corporation. A "foreign investor" is defined as a government of a foreign country, a political party organized in a foreign country, an individual who is not a citizen or national of the United States and who is not a permanent resident of the United States, or a corporation organized in a foreign country, or another corporation in which a foreign investor owns or controls 50 percent or more of the corporation. This provision is effective January 1, 2024.

Section 4 prohibits a foreign-influenced corporation from making direct expenditures to influence the nomination or election of a candidate, from making contributions or expenditures to promote or defeat a ballot question, and from contributing to a political committee, political fund, or political party unit. This provision is effective January 1, 2024. Chapter 62, Article 5 section 43, amends section 4 to provide that the section does not prohibit donations by a foreign-influenced

corporation to an association's general treasury money for its general purposes that are not election related.

Section 5 requires any for-profit corporation or limited liability company that makes a contribution or expenditure to influence a ballot question, or a contribution or expenditure to influence the nomination or election of a candidate, to submit a certification to the Board that the corporation was not a foreign-influenced corporation at the time the contribution or expenditure was made. The certification must be submitted to the Board within seven business days of the when the contribution or expenditure is made. The certification must be signed by the corporation's chief executive officer under penalty of perjury. The section also provides the process to be followed by the corporation to identify beneficial ownership that may qualify as ownership by a foreign investor. This provision is effective January 1, 2024.

Section 6 expands the scope of knowing violations of Minnesota Statutes section 211B.15 to include an individual or corporation that made a contribution or expenditure knowing that the corporation was a foreign-influenced corporation. An officer of a corporation who is convicted of knowingly violating the prohibition on foreign-influenced corporate contributions and expenditures may be fined not more than \$20,000 or imprisoned for not more than five years. A corporation convicted of knowingly violating the prohibition on foreign-influenced corporate contributions or expenditures may be fined up to \$40,000 and dissolved or barred from doing business in the state. This provision is effective January 1, 2024.

The following is a brief review of a section in Chapter 62, Article 1, related to the campaign finance program.

Section 50 increases the statutory appropriation to the general account of the state election campaign account (public subsidy account) from \$1,020,000 to \$2,432,000 per biennium. This section is effective July 1, 2025.

The following is a brief review of the sections in Chapter 62, Article 5, related to the campaign finance program.

Section 6 expands and clarifies the list of noncampaign disbursements for principal campaign committees in four ways. First, the section clarifies that to qualify as a noncampaign disbursement, expenditures for accounting and legal services must relate to the operation of the principal campaign committee, serving in office, or for the security of the candidate or the candidate's immediate family, including but not limited to obtaining a harassment restraining order.

Second, the section recognizes a new noncampaign disbursement category for costs that support the candidate's participation in a recount of ballots affecting the candidate's election. This was a Board recommendation.

Third, the section limits the existing noncampaign disbursement category for security expenses to expenses for detection-related security monitoring expenses.

Fourth, the section creates a new noncampaign disbursement category for the cost to repair or replace campaign property that was lost, stolen or damaged to such a degree that the property can no longer be used. The section provides that campaign property includes but is not limited to campaign lawn signs. This section is effective August 1, 2023.

Section 8 expands the definition of political party unit to include any party organization designated by the chair of the political party in an annual certification of party units submitted to the Board. The section is effective August 1, 2023.

Section 10 defines “virtual currency” as any digital currency that is only available in an electronic form. Virtual currency includes cryptocurrencies. This definition is needed for section 28, and this section is effective August 1, 2023.

Section 11 extends the time frame for issuing a probable cause determination from 45 days after a prima facie determination to 60 days. Additionally, the section provides that the deadline for issuing a probable cause determination may be extended by a majority vote of the Board. This change was a Board recommendation. This section is effective August 1, 2023.

Section 24 adds disbursements for electioneering communications to the list of permitted disbursements for independent expenditure committees and funds and ballot question committees and funds. This section is effective July 1, 2024.

Section 25 provides that a ballot question committee or fund that contributes to a candidate’s committee, a political party unit, or a political committee or fund is subject to a civil penalty of up to four times the amount of the contribution. The same prohibition and penalty already exist for independent expenditure committees and funds, and this provision closes an unintended exception for ballot question committees and funds. This was a Board recommendation, and is effective August 1, 2023.

Section 26 provides that a political contribution may be temporarily held in a digital wallet or other account before the contribution is deposited into a candidate committee, political party, political committee, or political fund bank account, as long as the temporary holding account is solely owned by the committee that received the contribution. This change was needed to provide clear authorization for using a service like Venmo to receive contributions. This provision is effective August 1, 2023.

Section 27 provides that a political committee, political fund, party unit, or lobbyist must provide their registration number with contributions to “local candidates” as defined in Minnesota Statutes section 10A.01, subdivision 22. This provision is effective August 1, 2023, and was a Board recommendation.

Section 28 provides procedures for accepting a political contribution made with virtual currency. A principal campaign committee, party unit, political committee, or political fund may accept a virtual currency contribution. The virtual currency must be converted to United States currency within five business days of receipt, and deposited in the bank account of the recipient. A committee cannot use virtual currency to purchase goods or services for the committee. This section also provides the procedure to use if the virtual currency loses or gains value between the time the contribution is received and when it is converted to United States Currency. This was a Board recommendation, and is effective August 1, 2023.

Section 29 provides authorization and procedures for accepting contributions through a website, mobile payment service, or a service that uses direct carrier billing (for example, donations through a text message). A mobile payment service must list the name of the registered committee, and not the name of an individual as the recipient of the contribution. The funds received through a website, mobile payment service, or direct carrier billing must be deposited

in the bank account of the recipient before the funds are used to purchase goods or services. This section is effective August 1, 2023.

Sections 30 and 31 further clarify that a political committee, political fund, party unit, or principal campaign committee may only make expenditures or disbursements with petty cash or from the committee's depository. A person who violates this requirement is subject to a civil penalty of up to \$1,000. This section is effective August 1, 2023.

Section 32 provides that a political committee, political fund, or party unit that makes independent expenditures regarding, or contributions to, local candidates (as defined in Minnesota Statutes section 10A.01, subdivision 22), or expenditures or contributions regarding a local ballot question (as defined in Minnesota Statutes section 10A.01 subdivision 7) in a non-state election year, must file a pre-primary report regardless of whether the ballot issue or candidate is on the primary ballot, or the city holds a primary election. This was a Board recommendation and is effective August 1, 2023.

Section 33 changes the requirement to file a report of a large contribution from within 24 hours of receipt to by the end of the next business day after its receipt. This section is effective August 1, 2023.

Section 34 provides new late fee penalties for committees and associations that do not timely file reports required in Minnesota Statutes section 10A.20, or the reports required for associations that make electioneering communications under the newly codified Minnesota Statutes section 10A.202. For any report other than a year-end report the Board may impose a \$50 late fee per day, not to exceed \$1,000. However, if a report discloses total receipts received during the reporting period that exceed \$25,000, then the Board may impose a late fee of up to two percent of the total receipts that should have been reported, per day, not to exceed 100 percent of the amount that should have been reported. A late report of electioneering communications that discloses expenditures of over \$25,000 during the reporting period may also be subject to a late fee of up to two percent of the total expenditures for the period, per day, not to exceed 100 percent of the amount that should have been reported.

This section also provides that if an individual or association is a repeat offender, and has been assessed a late filing fee within the prior four years, then the Board may impose a late fee up to twice the amount otherwise authorized for late campaign finance reports. This section is effective August 1, 2023.

Section 35 provides definitions for electioneering communications that must be reported to the Board. An electioneering communication is defined as a communication that:

- is publicly distributed by a television station, radio station, cable television system, or satellite system;
- can be received by 10,000 or more individuals within the relevant district;
- refers to a clearly identified candidate for state office;
- is distributed within 60 days of the state general election or within 30 days of a state primary election, or a convention or caucus of a political party that has authority to nominate the candidate referenced in the communication;
- is targeted to the relevant electorate; and
- is not an independent expenditure, a campaign expenditure, a candidate debate or forum, or paid for by a candidate.

This section is effective January 1, 2024.

Section 36 provides the procedure and requirements for reporting electioneering communications to the Board. A report is required if electioneering communications in aggregate exceed \$10,000 during a year, and must be filed no later than midnight of the day following the day on which the electioneering communication is publicly distributed. Subsequent reports are required every time the individual or association spends in excess of \$10,000 on electioneering communications since the more recent report during the calendar year.

The report must disclose

- the identification of the person who made the disbursement for the electioneering communication;
- the identification of any person who exercised control or direction of the persons who made the disbursement;
- the identification of the custodian of the accounts from which the disbursement was made;
- the amount of each disbursement made or obligation incurred of more than \$200 during the period covered by the report;
- identification of all candidates referred to in the electioneering communications;
- the date the communication was made public;
- if the disbursements were made from a segregated account, then the report must disclose the name and address of each donor who contributed \$1,000 or more to the segregated account aggregated from January 1 of the preceding calendar year;
- if the disbursement was not made from a segregated account, then the report must disclose the name and address of each donor who contributed \$1,000 or more to the person making the disbursement, aggregated from January 1 of the preceding calendar year; and
- if the disbursement was made by a corporation or labor organization, and was not made from a segregated account, the name of each individual who contributed \$1,000 or more in aggregate for the purpose of making electioneering communications.

The section also provides that electioneering communications must provide the campaign disclaimer required in Minnesota Statutes section 211B.04. This section is effective January 1, 2024.

Section 37 provides that the existing provisions regarding a political fund seeking voluntary inactive status includes disbursements for electioneering communications. This section is effective January 1, 2024.

Section 38 provides that the principal campaign committee of a candidate who has signed a public subsidy agreement may not use committee funds to make electioneering communications. This section is effective January 1, 2024.

Section 39 clarifies that the notice required of political committees, political funds, party units, and principal campaign committees that sell goods and services to raise funds must be provided to potential customers either verbally or on a sign placed within three feet of the point of sale. The notice must also be provided on a website used to sell the goods or services on the page used to make a purchase or enter payment information. This is a Board recommendation, and is effective August 1, 2023.

Section 40 expands the prohibition on contributions during the legislative session from lobbyists, political committees and funds, and unregistered associations, to include contributions made before the legislative session begins to attend an event held by a principal campaign committee

or a party unit organized within a body of the legislature.

Additionally, regardless of when made, a contribution from a lobbyist, political committee, or political fund for access to, or membership in, a facility operated during the legislative session by a principal campaign committee or party unit organized within a body of the legislature, is prohibited. This section was effective the day after enactment.

Section 41 expands the list of multicandidate political party expenditures that do not count as contributions to candidates to include the costs for a party unit's booth at a community event, county fair, or state fair that benefits three or more individuals who will appear on the ballot. This is a Board recommendation, and is effective August 1, 2023.

Section 42 provides a civil penalty of up to \$1,000 for candidates who do not comply with the closed captioning requirements for campaign advertisements placed on broadcast or cable television, or the transcription requirements for radio advertisements. This was a Board recommendation, and is effective August 1, 2023.

Section 44 repeals Minnesota Rules parts 4511.0100, subpart 1a, which provides the definition of designated lobbyist that has been moved to statute, and 4511.0600, subpart 5, which provides reporting requirements for the lobbying program that will not be used effective January 1, 2024. The repeal is in response to a Board request, and is effective January 1, 2024.