



MINNESOTA

CAMPAIGN FINANCE BOARD

Date: May 28, 2024

Summary of 2024 changes to Chapter 10A

The changes to statutory provisions administered by the Campaign Finance and Public Disclosure Board are found in 2024 Minnesota Laws, Chapter 112, signed by the Governor on May 17, 2024, and in Chapter 127, signed by the Governor on May 24, 2024. The provisions of Chapters 112 and 127 are combined by subject area in this review.

Lobbying Provisions

The following is a review of the sections in Chapter 112, article 4, related to the lobbying program.

Section 3 provides a definition for the term “Employee of a political subdivision” using language from the proposed administrative rules on lobbying developed by the Board. In the definition of lobbyist, an “employee of a political subdivision” is not a lobbyist if the employee attempts to influence the official action of the political subdivision that hired or appointed the employee. This definition will expand “employee of a political subdivision” to include consultants, independent contractors, and individuals employed by a business hired by a political subdivision to provide legal counsel, professional services, or policy recommendations to the political subdivision. This section became effective on May 18, 2024.

Section 4 amends the definition of “lobbyist”. Previously, an individual compensated more than \$3,000 for urging the public to contact public or local officials on an issue was a lobbyist. This provision included individuals who worked as door-to-door canvassers if the canvasser asked the residents to contact officials on an issue. The section removes “urging others to communicate” from the definition of lobbyist for individuals who are compensated over \$3,000 and for individuals who spend more than \$3,000 of their own money on lobbying. Of note; while this change means that individuals no longer will register for what is commonly known as “grassroots lobbying,” a lobbyist principal will still need to report money spent urging the public to contact officials on an issue, and an association that is not represented by a lobbyist may still become a lobbyist principal if it spends \$50,000 or more on grassroots lobbying within a calendar year. This section became effective on May 18, 2024.

Section 5 updates the definition of “principal” in two ways. First, the threshold at which an association becomes a lobbyist principal as a result of compensating a lobbyist was raised from \$500 to \$3,000 in a calendar year. This matches the compensation level at which an individual will need to register as a lobbyist. Second, an association that does not pay \$3,000 for lobbyist representation is still a lobbyist principal if the association spends \$50,000 or more to influence official actions, including the official actions of political subdivisions. Previously the statute was limited to attempts to influence state-level action and the official actions of metropolitan governmental units, which did not reflect the scope of lobbying being expanded to include all

political subdivisions in 2023. This section became effective on May 18, 2024.

Section 6 makes two changes to the annual lobbyist principal report. First, it reduces the allowable rounding of the total amount spent for each of the four types of lobbying from the nearest \$9,000 to the nearest \$5,000. Second, the types of expenditures made by a principal that are included on the annual report was expanded to include “communications and staff costs used for the purpose of urging members of the public to contact public or local officials to influence official actions”. This language was included to clarify that expenditures on grassroots lobbying are still reportable by principals even though individuals are no longer required to register as a lobbyist based on grassroots lobbying. This section is effective August 1, 2024.

Section 27 has two related but separate provisions. First, the Board is directed to prepare a report that studies the definitions of “lobbyist”, “local official”, “public official”, and “official action of a political subdivision”. The report must consider whether there should be a distinction in Chapter 10A between what constitutes lobbying of public officials, and what constitutes lobbying of local officials. If the Board concludes that there should be separate standards for the lobbying of public officials and the lobbying of local officials, then the Board must recommend options to the legislature on how to achieve that outcome. The report is due no later than January 15, 2025.

This section also applies a stay to the registration and reporting requirements for lobbying a political subdivision that is not a metropolitan governmental unit. The stay is effective until June 1, 2025. In effect, this puts back in place the standard for lobbying local government that existed on December 31, 2023. A lobbyist who has or will be lobbying metropolitan governmental units, as defined in Chapter 10A, will still need to register and report with the Board. An individual who is lobbying only political subdivisions that are not metropolitan governmental units is not required to register and report with the Board while the stay is in place. An individual who has already registered with the Board based solely on lobbying political subdivisions that are not metropolitan governmental units will not need to report lobbying activity until the stay expires. A lobbyist principal will continue to report expenditures to influence metropolitan governmental units, but will not report expenditures to influence political subdivisions that are not metropolitan governmental units until the stay expires. This section became effective May 18, 2024.

Chapter 127, article 15, contains one provision related to the lobbying program.

Section 52 provides a temporary, limited exclusion, from the prohibition on paying a lobbyist a fee contingent on the success of the lobbying effort. The exclusion applies only to attorneys and financial advisors who lobby political subdivisions for an association on conduit financing. This section became effective on May 25, 2024, and expires June 1, 2025.

Campaign Finance

The following is a review of the sections in Chapter 112, article 4, related to the campaign finance provisions of Chapter 10A.

Section 1 expands the definition of “ballot question”. The definition was limited to constitutional amendments and questions placed on the ballot by Hennepin County, cities within Hennepin County with a population of at least 75,000, and School District 1 (Minneapolis). The definition has been expanded to include a question placed on the ballot by any county, city, school district, township, or special district in the state. This amendment, and the amendment provided

in section 2, shifts committees formed to support or oppose local ballot questions and local office candidates, other than committees formed by local candidates, to the registration and reporting requirements of Chapter 10A. This section is effective January 1, 2025.

Section 2 expands the definition of “local candidate”. The definition was limited to certain offices in Hennepin County. The definition now includes candidates seeking office in any county, city, school district, township, or special district in the state. Local candidates are still required to file campaign finance reports with local election administrators under the provisions of Chapter 211A. This section is effective January 1, 2025.

Section 7 clarifies the filing dates for committees, funds, and party units that are required to file reports of receipts and expenditures during an odd-numbered year (non-state election year) because of contributions or expenditures to support or oppose local ballot questions or local candidates. The reference to filing a “pre-primary” report is replaced with the requirement to file a report in July. The change reflects the fact that many political subdivisions do not hold primary elections. This section is effective January 1, 2025.

Section 8 increases the range of late filing fees and civil penalties available to the Board for a political committee, political fund, candidate committee, or party unit that files a report of receipts and expenditures or a pre-election large contribution notice past the deadline. The modified late filing fees and civil penalties are also available to fine an unregistered association for filing a report of electioneering communications late. The available late filing fees and civil penalties are increased in four ways. First, if a late pre-primary or pre-general report of receipts and expenditures, or a late report of electioneering communications, discloses total expenditures or disbursements that exceed \$25,000, then the Board may impose a late filing fee of up to 2% of the reported expenditures or disbursements for each day that the report is late up to 100% of the total amount. This is in addition to the \$50 per day late fee typically applied to late reports. Second, if the filer has previously been assessed a late filing fee or civil penalty during the prior four years, then the Board may double the late fee, civil penalty, or both, accrued for the second violation. Third, if the filer has previously been assessed a late filing fee more than two times during the last four years, then the Board may triple the late filing fee accrued for the latest violation. Fourth, the maximum civil penalty that may be imposed on a late filer is increased from \$1,000 to \$2,000. This section is effective July 1, 2024.

Section 9 is the first of five sections that expand the scope of electioneering communications required to be reported to the Board. Previously, a communication could not be an electioneering communication unless it could be received on radio or television by at least 10,000 individuals within the legislative or judicial district of the candidate referenced in the communication, or statewide if the communication referred to a candidate for an office that is voted on statewide. This section provides a new definition for the term “targeted to the relevant electorate” so that an electioneering communication may also be distributed by telephone, in a digital format online, or by other electronic means.

Additionally, the numerical threshold for potential recipients of communication to qualify as electioneering communication will vary based on the distribution method. The standard remains 10,000 individuals within the relevant election district for communications distributed by radio or television. For a message distributed by telephone, online, or by other electronic means, the communication must generate 2,500 or more contacts within a district during an electioneering communication period as defined in Chapter 10A. The 2,500 or more contacts may be from a single communication, or the 2,500 contacts may be cumulative from multiple communications distributed by the same person if the communications refer to the same candidate and is

distributed in the same electioneering communication period. This section is effective January 1, 2025.

Section 10 expands the definition of “direct costs of producing or airing electioneering communications” to include all visual, as opposed to just video, media creation or recording, and the cost to disseminate messages, to access any platform used to disseminate messages, or to promote messages distributed by telephone, online, or by other electronic means. This section is effective January 1, 2025.

Section 11 amends the definition of “electioneering communication” in several ways. First, telephone and digital communications are included as a means to distribute electioneering communications. Second, this section clarifies the periods of time when a communication is subject to reporting as an electioneering communication. The definition continues to provide that an electioneering communication may occur in the 60 days before a general election, or the 30 days before a primary election, if the office sought by the candidate referenced in the communication will be on the ballot. In addition, this section clarifies that an electioneering communication may occur in the 30 days before a convention of a party unit that has the authority to endorse a candidate for the office sought by the candidate referred to in the communication.

This section provides that a communication is not an electioneering communication if the communication is a noncommercial opinion poll, survey, or form of data collection for the purpose of opinion research. This exception does not apply if the solicitation is designed to influence the respondents’ views on an issue. Additionally, a communication disseminated by telephone, or online, or by other electronic means is not an electioneering communication if the recipient has voluntarily and affirmatively consented to receive messages from the sender. This section is effective January 1, 2025.

Section 12 amends the definition of “publicly distributed” to include communications distributed by telephone, online, or by other electronic means. This section is effective January 1, 2025.

Section 13 clarifies that a political committee, political fund, or political party unit that makes a contribution that meets the definition of an electioneering communication will report the cost of the communication as a campaign expenditure or independent expenditure. Previously the text explicitly referred only to political committees. This section is effective July 1, 2024.

Section 14 provides that a candidate’s principal campaign committee may not accept a loan from the candidate if the terms of the loan require the committee to pay interest to the candidate. This section is effective January 1, 2025.

Section 15 provides a new range of penalties for unregistered associations that contribute to independent expenditure committees and funds, or to a ballot question committee or fund, without providing the required statement disclosing the source of funds used for the contribution; and for independent expenditure committees and funds that file a report without including the statement from the unregistered association. An unregistered association that fails to provide a required statement to the committee or fund that received the contribution by the deadline is subject to a late filing fee of \$100 a day not to exceed \$1,000, starting on the day after the statement was due. The Board must send a certified letter to the association that explains that failure to file the statement within seven days of when the certified letter was mailed will result in a civil penalty of up to four times the amount of the contribution, not to exceed \$25,000.

An independent expenditure committee or fund that fails to file the statement with the report of receipts and expenditures disclosing the contribution is subject to a late filing fee of \$100 a day, not to exceed \$1,000, starting on the day after the report was due. The Board must send a certified letter to the independent expenditure committee or fund that explains that failure to file the statement within seven days of when the certified letter was mailed will result in a civil penalty of up to four times the amount of the contribution, not to exceed \$25,000.

An independent expenditure committee or fund that has been previously assessed a late filing fee for failing to timely file the statement once within the prior four years may be fined twice the amount that otherwise would be authorized. An independent expenditure committee or fund that has been previously assessed a late filing fee for failing to timely file the statement more than two times during the prior four years may be fined three times the amount that otherwise would be authorized. This section is effective July 1, 2024.

Section 28 repeals Minnesota Statutes section 10A.201, subdivision 11. This subdivision contains the definition of “targeted to the relevant electorate” that will be replaced the definition in section 9. This section is effective for communications distributed after January 1, 2025.