

2/21/2017

Proposed technical amendments to be discussed at February 28th rule committee meeting
One revision to part 4503.1800, subpart 1 – page 4
Discussion topics: Are amendments actually technical?
Do amendments accomplish intended purpose?

CHAPTER 4501 – General Provisions

4501.0500 FILINGS, SUBMISSIONS, AND DISCLOSURES.

[For text of subparts 1 and 1a, see M.R.]

Subp. 2. **Filing by facsimile transmission or electronic filing system.** A document filed by facsimile transmission or electronic filing system has the same force and effect as filing an original paper document. Facsimile transmissions and the use of an electronic filing system are subject to items A to ~~EE~~.

~~A. A facsimile transmission or electronic file received after the close of a business day is considered received at the beginning of the next business day.~~

~~B. Use of an electronic filing system is optional. In order to provide a secure environment for the submission of electronic files, the board must require that a filer use a personal identification code when submitting an electronic file. The board ~~must~~ may also request the filer to provide a valid e-mail address in order to receive confirmation and verification messages from the board.~~

~~C. B.~~ After an electronic file is processed by the board, the information contained in the electronic file becomes the property of the state subject to the terms of the Data Practices Act under Minnesota Statutes, chapter 13.

~~D. C.~~ In the case of a filing by facsimile transmission, the filer must retain the original of the filed document and a record of the date and time of the transmission. If an electronic filing system is used to submit an electronic file to the board, the filer must retain as documentation the database and information on which the electronic submission of data is based. The database and records are subject to audit as provided in Minnesota Statutes, chapter 10A.

~~E. D.~~ Within five days of a request by the board, any person filing a document by facsimile transmission or electronic filing system shall refile the document by one of the other filing methods provided in subpart 1.

~~F. E.~~ Technical problems that prevent the successful submission of a facsimile transmission or electronic file do not relieve the filer of the responsibility of meeting the requirements of Minnesota Statutes, chapter 10A. An audit trail that demonstrates that the facsimile transmission or electronic file was successfully submitted in a timely fashion may be used by the board to waive late filing fees.

CHAPTER 4503 – Campaign Finance Provisions

4503.0200 ORGANIZATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS.

[For text of subparts 1 – 5, see M.R.]

Subp. 6. **Depositories.** The depositories of a political committee or political fund include any depository in which the committee or fund has a savings, checking, or similar account, or purchases a

Commented [JP1]: The rule requirement is more stringent than the statute which does not have a 4:30 p.m. deadline for electronic filing of reports.

Commented [JP2]: Electronic filing now is mandatory for campaign finance reports but remains optional for lobbyist and EIS reports. In addition, all registration provisions in Chapter 10A now require the Board to ask for an email address. This rule language therefore must be updated to conform it to the statutory provisions.

Commented [JP3]: This language repeats the requirements in section 10A.15, subdivision 3, regarding the use and names of bank accounts and the requirement in section 10A.14, subd. 2, requiring disclosure of all depositories on the registration form.

2/21/2017

money market certificate or certificate of deposit. ~~Before registering, a political committee or political fund which expects to receive money or negotiable instruments must establish a checking, savings, or similar account in the name of "Campaign Fund of (name of candidate, committee, or fund)."~~

4503.0300 TERMINATION OF POLITICAL COMMITTEE OR POLITICAL FUND.

[For text of subparts 1 – 3, see M.R.]

~~Subp. 4. **Payment plan pending dissolution of inactive political committee or political fund.** An inactive political committee or political fund that must dissolve according to Minnesota Statutes, section 10A.242, and that has liquidated its available assets to pay its debts may submit to the board a proposed payment schedule to settle any remaining debts. Upon approval of the schedule, the board may allow the committee or fund to defer dissolution until all debts are paid.~~

Commented [JP4]: Section 10A.42 was repealed in 2013. Committees now may terminate with outstanding debt.

4503.0400 DISTRICT COURT JUDICIAL CANDIDATES.

~~Subpart 1. **Donations in kind.** Donations in kind to a candidate for district court judge which in aggregate exceed \$100 must be disclosed in accordance with Minnesota Statutes, section 10A.20, subdivision 3, paragraph (b).~~

Commented [JP5]: This subpart repeats statutory requirements regarding in-kind contributions and includes an outdated reporting threshold and statutory citation.

4503.0500 CONTRIBUTIONS.

[For text of subparts 1 - 4, see M.R.]

~~Subp. 5. **Contributions from Hennepin County registered associations.** In lieu of registration with the board, an association registered with the Hennepin County filing officer under Minnesota Statutes, sections 383B.041 to 383B.058, that makes contributions of more than \$400 \$200 to a committee or fund in a calendar year may notify the recipient committee of its registration with Hennepin County, including its registration number, and instruct the recipient committee to include the notice when the recipient committee discloses receipt of the contribution.~~

Commented [JP6]: Necessary to conform rule to new itemization threshold in statute.

[For text of subparts 6, 7, see M.R.]

~~Subp. 8. **Value of contributions of automobile use.** Automobile use provided to a committee by an individual may be valued at the lowest rate used by the state to reimburse its employees for automobile use. Alternatively, the value of the automobile may be calculated as the actual cost of fuel, maintenance, repairs, and insurance directly related to the use of the automobile. ~~The use of an automobile that exceeds \$20 in value a day is either an expenditure that must be reimbursed or a donation in kind from the individual who provided the use of the automobile.~~ An automobile provided by an association must be valued at the fair market value for renting an equivalent automobile.~~

Commented [JP7]: The stricken language contradicts section 10A.01, subd. 11, which exempts personal automobile use from the definition of contribution.

4503.0700 CONTRIBUTION LIMITS.

[For text of subpart 1, see M.R.]

~~Subp. 2. **Special election contribution limits.** Election year segment contribution limits set forth in Minnesota Statutes, section 10A.27, apply to a special election cycle.~~

Commented [JP8]: The changes here and in subpart 3 conform the rule to the new election segment/non-election segment terminology.

~~Subp. 3. **Independent application of limits for special election.** Contribution limits apply independently for election segments, nonelection segments, years, other years, and special election cycles.~~

2/21/2017

4503.1300 GOVERNOR AND LIEUTENANT GOVERNOR.

[For text of subparts 1 – 4, see M.R.]

Subp. 5. **Return of contributions after merger.** Funds transferred to the joint committee which result in aggregate contributions in excess of the applicable limits may be returned to the contributor within ~~60~~ **90** days of the transfer of funds to the joint committee.

Commented [JP9]: This change conforms the rule to section 10A.15, subd. 3, which creates a 90-day period for returning contributions.

4503.1400 PUBLIC SUBSIDY AGREEMENTS.

[For text of subparts 1 – 7, see M.F.]

~~Subp. 8. **Affidavit of contributions for special elections.** For a special election for which the filing period does not coincide with a general election, the candidate must submit the affidavit of contributions not later than five days after filing an affidavit of candidacy or nominating petition for the office sought.~~

Commented [JP10]: This subpart is redundant because section 10A.323, paragraph (b), now includes this requirement.

Subp. 9. **Increase for first-time candidates.** Candidates who qualify for first-time candidate status receive a ten percent increase in the campaign expenditure limit in all years segments of the applicable election cycle.

Commented [JP11]: This change conforms the rule to the new election segment terminology.

4503.1450 DISTRIBUTION OF GENERAL ACCOUNT PUBLIC SUBSIDY FUNDS.

~~Subpart 1. **Agreement.** The general account public subsidy agreement required in Minnesota Statutes, section 10A.31, subdivision 7, may be provided to candidates on a separate form, or incorporated into the public subsidy agreement. The agreement must require that the candidate spend or be legally obligated to spend at least 50 percent of the general account public subsidy payment by the end of the reporting period prior to the general election. The agreement must also provide that if the candidate does not meet this requirement, the candidate must repay the board the difference between the candidates general account public subsidy payment and the candidates total campaign expenditures as of the end of the reporting period prior to the general election. The agreement must further provide that the candidate must reimburse the board for any reasonable collection costs incurred in securing the repayment of the unused general account public subsidy payment.~~

Commented [JP12]: Section 10A.31, subd. 7, no longer requires separate agreements for general account public subsidy payments. Instead, there is one agreement for all public subsidy payments. In addition, section 10A.31 now contemplates one public subsidy payment and no longer designates part of that payment as a general account public subsidy payment. Consequently, subpart 1 no longer has any effect.

~~Subp. 2. **Failure to repay.** A candidate who fails to repay money required by the agreement cannot be paid additional general account public subsidy funds during the current or future election cycles until the entirety of the unexpended general account funds, and any associated collection fees, are either repaid to the board or discharged by a court action.~~

Commented [JP13]: Because public subsidy payments no longer have a specific general account portion, the words "general account" need to be removed as modifiers here so that the Board is not required to pay future public subsidy payments to someone who did not comply with the program's requirements in the past.

~~Subp. 3. **Estimate of general account public subsidy payment.** For purposes of determining a candidate's fulfillment of the terms of the agreement, the board must use the September 1 certification of available funds from the commissioner of the Department of Revenue to estimate the general account public subsidy payment for the candidate's office. Using first class mail, the board must inform each candidate eligible for a general account payment of the minimum amount that must be spent to comply with the terms of the agreement.~~

Commented [JP14]: This subpart is obsolete because section 10A.321 now specifies how the Board must estimate public subsidy payments and notify candidates of those amounts.

4503.1600 CONTRIBUTIONS AND SOLICITATIONS DURING LEGISLATIVE SESSION.

If the board makes a public finding that there is probable cause to believe a violation of Minnesota Statutes, section 10A.273, has occurred, in lieu of pursuing or enforcing a judgment, the

Commented [JP15]: This language is unnecessary because section 10A.273 now establishes what actions the Board may take when there has been a violation of the sessional contribution prohibition.

2/21/2017

board may accept payment of any fine imposed and thereafter close the matter.

~~4503.1700 FILING OF 48 HOUR NOTICE.~~

~~The 48 hour notice required under Minnesota Statutes, section 10A.20, subdivision 5, may be filed by facsimile transmission in addition to the other methods permitted by law.~~

Commented [JP16]: This language is redundant due to section 10A.025 which permits electronic filing. In addition, section 10A.20, subd. 5, now requires these reports to be filed within 24 hours of receipt.

4503.1800 REPORTING REQUIREMENTS.

Subpart 1. **Contributions.** The itemization requirements in Minnesota Statutes section 10A.20, subdivision 3, paragraph (c) apply to contributions received by Legislative, statewide, and judicial candidates, party units, political committees and funds, and committees and funds to promote or defeat a ballot question ~~must itemize contributions that in aggregate exceed \$100 \$200 in a calendar year on reports submitted to the board.~~ The itemization must include the date on which the contribution was received, the individual or association that provided the contribution, and the address of the contributor. Additionally, the itemization for a donation in kind must provide a description of the item or service received. Contributions that are less than the itemization amount must be reported as an aggregate total.

Commented [JP17]: These changes conform the rule to the new itemization thresholds.

Commented [JP18]: This is a revision. When the itemization threshold was raised from \$100 to \$200, a separate \$500 threshold was created for contributions to ballot question committees. To ensure that committees are following the correct statutory itemization thresholds, this proposed provision was changed to refer to the location of those statutory thresholds.

Subp. 2. **Expenditures and noncampaign disbursements.** Legislative, statewide, and judicial candidates, party units, political committees and funds, and committees to promote or defeat a ballot question must itemize expenditures and noncampaign disbursements that in aggregate exceed ~~\$100 \$200~~ in a calendar year on reports submitted to the board. The itemization must include the date on which the committee made or became obligated to make the expenditure or disbursement, the name and address of the vendor that provided the service or item purchased, and a description of the service or item purchased. Expenditures and noncampaign disbursements must be listed on the report alphabetically by vendor.

CHAPTER 4505 – Economic Interest Provisions

4505.0100 DEFINITIONS.

Subp. 3. **Compensation in any month.** For the purpose of an original statement of economic interest, "compensation in any month" includes only compensation received in the calendar month immediately preceding the date of appointment as a public official or filing as a candidate.

For the purpose of ~~supplementary~~ **annual** statements of economic interest to be filed, "compensation in any month" includes compensation and honorariums received in any month between the end of the period covered in the preceding statement of economic interest and the end of the current period.

Commented [JP19]: Changing "supplementary to "annual" in this chapter conforms the rule to the new annual requirement in section 10A.09, subd. 6.

For the purpose of calculating the amount of compensation received from any single source in a single month, the amount shall include the total amount received from the source during the month, whether or not the amount covers compensation for more than one month.

4505.0700 REAL PROPERTY.

~~For~~ the purpose of determining the value of an individual's interest in real property, the value of the property shall be the market value shown on the property tax statement. For the purpose of an original statement of economic interest, the individual shall disclose only those real properties owned on the date of appointment as a public official or filing as a candidate. For the purpose of a

Commented [JP20]: Changing "supplementary to "annual" conforms the rule to the new annual requirement in section 10A.09, subd. 6.

2/21/2017

~~supplementary an annual~~ statement of economic interest, the individual shall disclose any real property owned at any time between the end of the period covered by the preceding statement of economic interest and through the last day of the month preceding the current filing or the last day of employment, if no longer a public official.

4505.0900 FILING.

Subpart 1. [Repealed, 20 SR 2504]

~~Subp. 2. **Filing of more than one statement in any year.** An individual who has filed a statement of economic interest within the calendar year shall file a supplementary statement within 14 days after filing an affidavit of candidacy or accepting employment or appointment to an office requiring the advice and consent of the senate.~~

Subp. 3. **Statement after period when no statement required.** A public official or candidate, who previously filed a statement of economic interest and who is required to file a new statement of economic interest following a period when no statement was required, shall file an original statement.

Subp. 4. **Termination as a public official.** An individual shall file a the annual statement of economic interest required by section 10A.09, subdivision 6, to cover the period for which the individual served as a public official even though at the time the statement is filed, the individual is no longer holding that office as a public official. ~~The statement of economic interest does not need to be filed if there have been no changes from the most recent statement of economic interest filed with the board.~~

Subp. 5. **Option.** An individual whose term as a public official has ended after April 1 and before March 31 shall file either a supplementary statement on the next following April 15 through the last date of service or file a statement of termination as a public official through the last date of service. ~~The latter statement may be filed at any time after the term ends and before the next following April 15.~~

Subp. 6. **Change of public official position.** A public official who leaves one public official position and is appointed to another public official position within the year between the time when the individual filed either an original statement or a supplementary statement and April 15 of the following year shall file a termination statement for the former office within ten days after leaving that office. ~~The individual shall file an original statement relative to the new office within the time imposed by Minnesota Statutes, section 10A.09, subdivision 1.~~

Subp. 7. **Reporting of securities.** A public official must list the full name of each security with a value of more than \$2,500 or more owned in part or in full by the public official at any time during the reporting period.

CHAPTER 4511 – Lobbyist Provisions

4511.0500 LOBBYIST REPORTING REQUIREMENTS.

Subp. 2. **Reporting by multiple lobbyists representing the same entity.** Items A to F apply if a single individual, association, political subdivision, or public higher education system is represented by more than one lobbyist.

A. The entity must appoint one designated lobbyist to report lobbyist disbursements made by the entity. The designated lobbyist must indicate that status on the periodic reports of lobbyist disbursements.

Commented [JP21]: Section 10A.09, subd. 1, now specifies the deadline by which officials filing for or taking office must file statements of economic interest. Section 10A.09, subd. 6, now requires public officials to review and recertify those statements annually even if nothing on them has changed. The annual statement covers the time served during the previous year.

Subparts 2, 5, and 6, must be repealed because they are unnecessary in light of the filing requirements in section 10A.09, subd. 1, and they do not conform to the new annual EIS requirement in section 10A.09, subd. 6.

Subpart 3 needs to be amended to reflect the filing requirements in section 10A.09, subd. 1, and the fact that the annual now is mandatory.

Subpart 4 needs to be amended to clarify that when an official leaves office during the year, the annual recertification requirement applies but only to those months during which the person served as a public official.

Commented [JP22]: This conforms the rule with the threshold language in section 10A.01, subd. 5.

2/21/2017

B. A reporting lobbyist may consent to report on behalf of one or more other lobbyists for the same entity, in which case, the other lobbyists are persons about whose activities the reporting lobbyist must disclose and are subject to the disclosure requirements of Minnesota Statutes, section 10A.04, subdivision 3. Lobbyist disbursement reports filed by a reporting lobbyist must include the names and registration numbers of the other lobbyists whose activities are included in the report.

C. Lobbyists whose activities are accounted for by a reporting lobbyist are not required to file lobbyist disbursement reports.

D. A lobbyist whose lobbying disbursements are provided to the board through a reporting lobbyist must supply all relevant information on disbursements to the reporting lobbyist no later than five days before the prescribed filing date.

E. The reporting periods and due dates for a reporting lobbyist are those provided in Minnesota Statutes, section 10A.04, subdivision 3. ~~The board must notify by certified mail or personal service each reporting lobbyist that fails to file a required report within seven days of a statutory filing date. Additionally, the board must notify by certified mail or personal service each lobbyist listed on the registration of the reporting lobbyist of the failure of the reporting lobbyist to file in a timely manner. Within ten business days of the date on which the notice was sent, each lobbyist must report disbursements to the board. If a lobbyist fails to file a report within ten business days of the date on which the notice was sent by the board, the board may impose a late filing fee of \$5 per day, not to exceed a maximum of \$100, commencing with the 11th day after the notice was sent.~~

Commented [JP23]: The changes here and in item F conform this subpart to the late fee and civil penalty provisions that now are in section 10A.04.

F. The reporting lobbyist must indicate the names and registration numbers of any lobbyists who did not provide their lobbying disbursements for inclusion in a report. The board must send notice by certified mail or personal service to a lobbyist who failed to provide the required disbursement information to the reporting lobbyist. The notice must require that the lobbyist file an individual lobbyist disbursement report within ten business days of the mailing of the notice. If a lobbyist fails to file a report within ten business days of the mailing of the notice, the board may impose a late filing fee of ~~\$5~~ \$25 per day, not to exceed a maximum of ~~\$400~~ \$1,000, commencing ~~the day after the report was due~~ with the 11th day after receiving notice.

CHAPTER 4512 – Gift Ban Provisions

4512.0100 DEFINITIONS.

[For text of subpart 1, see M.R.]

~~Subp. 2. **Field of specialty.** "Field of specialty" means a vocation, profession, trade, craft, or avocation of the individual.~~

[For text of subpart 3, see M.R.]

~~Subp. 4. **Individual services.** "Individual services" means services performed by an official outside of official duties.~~

[For text of subpart 5, see M.R.]

Commented [JP24]: Subparts 2 and 4 must be deleted because these terms were removed from the gift ban statute, section 10A.071, in 2008.

2/21/2017

CHAPTER 4525 – Hearings, Audits, and Investigation Provisions

4525.0210 DETERMINATIONS PRIOR TO FORMAL INVESTIGATION.

Subpart 1. **Preparation for prima facie determination.** After a complaint is filed, the executive director must follow the notice provisions in Minnesota Statutes, section 10A.022, subdivision 3, with regard to the respondent's right to submit written arguments addressing the prima facie determination.

Upon the expiration of the time provided for the respondent to submit written argument, the executive director must submit the matter to the board member who will make the determination or to all board members if the full board will make the determination. The submission must include the complaint, any response submitted by the respondent, and an analysis of the allegations of the complaint and the violations that it alleges.

Commented [JP25]: This change conforms the rule to statutory amendments to section 10A.022, subd. 3, that allow a prima facie determination to be made immediately after receipt of a complaint.

DRAFT