



MINNESOTA CAMPAIGN FINANCE BOARD

2021 Technical Legislative Recommendations

The Board has identified the following issues related to the administration of the economic interest and campaign finance programs that would benefit from statutory change or clarification. In the Board's view, these proposals are technical in nature because they do not raise new issues or dramatically affect the disclosure provided to the public. The suggested statutory language for the proposals is attached to this memorandum.

Economic interest statement program

- **Raising the dollar-level threshold for disclosure of honoraria.** Currently the annual EIS requires disclosure of each honorarium of over \$50 in the year covered by the statement. That amount has not been adjusted for inflation in decades (set in 1974), and could be increased to \$250 without affecting meaningful disclosure. A \$250 threshold for honoraria would conform to the threshold for disclosing other sources of compensation.
- **Ensure that Minnesota State Colleges and Universities trustees and its chancellor continue to file economic interest statements.** MNSCU trustees and the chancellor are currently filing EIS statements as public officials. However, it appears that a 2002 change in the definition of public official inadvertently excluded the MNSCU trustees and chancellor from the requirement to file the EIS statement, and from the gift prohibition. In other words, their disclosure is being provided voluntarily. Given that the MNSCU Board makes decisions regarding the expenditure of millions of dollars in public funds the Board believes that EIS disclosure should be required for these positions.
- **New - Ensure that local officials and candidates know that they must file EIS forms with their local units of government.** Minnesota Statutes section 10A.09, subdivision 6, specifies that local officials and candidates must file their EIS forms with their local units of government and that public officials must file with the Board. A few words in the subdivision specifying the time of filing, however, suggest that all statements must be filed with the Board. This has created confusion regarding where local officials and candidates must file their statements.
- **Eliminate requirement that local governments provide a notice of appointment for local officials to the Board.** Local governments in the metropolitan area are to notify the Board whenever they hire, or accept an affidavit of candidacy from, a local official who is required to file a statement of economic interest with that local entity. The Board, however, never uses this information because local officials do not file with the Board. Most local governments do not bother to file the notice, and even if they did the information would not have practical value.

- **Standardize economic interest statement reporting periods.** Minnesota Statutes section 10A.09, subdivision 6, clearly spells out the reporting period for the annual EIS. There is no such language defining the reporting period for an original statement. This creates confusion among filers and, in some cases, inconsistent disclosure between public officials. Additionally, EIS forms are divided into five disclosure schedules. For an original statement none of the schedules have the same reporting period. Standardization of the reporting period requirement would simplify completing the statement, and help staff's support of clients completing the statement.

Campaign finance program

- **Eliminate the contribution statement from Enterprise Minnesota, Inc. members.** Minnesota Statutes section 116O.03, subdivision 9, and section 116O.04, subdivision 3, require members of the Enterprise Minnesota, Inc. board of directors and its president to file statements with the Campaign Finance Board showing contributions to any public official, political committee or fund, or political party unit. These statements must cover the four years prior to the person's appointment and must be updated annually. The contributions that require itemization on these statements are already reported by the recipient committee to the Campaign Finance Board or, for county commissioners, to the county auditor. This disclosure therefore is at best repetitive. The Board is also not sure why this disclosure is required only of members of the Enterprise Minnesota, Inc. board of directors and its president, and for consistency, recommends eliminating the requirement.
- **New - Reporting third party reimbursements.** Minnesota Statutes section 10A.20, subdivision 13, describes how to report reimbursements to third parties. The cross reference to the provisions that govern how to report expenditures and noncampaign disbursements are incorrect. This change would correct the cross reference error.
- **Affidavit of contribution deadline.** Minnesota Statutes section 10A.323, provides that the affidavit of contributions required to qualify for a public subsidy payment must be submitted "by the deadline for reporting of receipts and expenditures before a primary under section 10A.20, subdivision 4." The cross reference to section 10A.20 subdivision 4, is incorrect as the deadline for submitting the pre-primary report is set in section 10A.20, subdivision 2. This change would correct the cross reference error.
- **Update acceptable multicandidate political party expenditures.** Political parties are provided five specific multicandidate expenditures that do not count either as a contribution to any candidate, or as an independent expenditure. One of the five multicandidate political party expenditures is funds spent operating a phone bank as long as the calls to potential voters include the name of three or more individuals who will appear on the ballot. The Board's recommendation is to update this expenditure to include direct text message services, direct voice mail services, and e-mails that meet the same standard of naming three or more individuals who will appear on the ballot.
- **Eliminate disclosure requirement for in-kind contributions between the federal and state committees of same political party.** Generally, an association not registered with the Board is required to provide underlying disclosure on the source of funds used for a contribution to a registered committee. Under current statute an exception to this requirement is made when the national committee of a political party (which is an unregistered association in Minnesota) contributes to the Minnesota state central committee of the same party. The Board recommends extending this exception

to include in-kind contributions made from a federal political party unit to a political party unit registered in Minnesota. The contributors to the federal party unit are already reported to the FEC, and federal contributions are more limited than contributions that may be accepted by the state party unit. Further the public is not gaining meaningful disclosure when, for example, the federal committee for the Republican Party of Minnesota is required to provide disclosure reports to the state central committee for the Republican Party of Minnesota for the in-kind donation of shared office space and staff costs.

- **Allow unregistered associations to provide disclosure statements on paper or through a government web address.** Currently, an unregistered association that makes a contribution of over \$200 to a candidate committee, political committee or fund, or political party unit, must provide a written disclosure statement with the contribution. The disclosure statement provides information on the finances of the unregistered association in detail that is equivalent to a campaign finance report filed under Chapter 10A. The committee that receives the contribution then forwards the statement from the unregistered association to the Board with the committee's next financial report. In practice, the majority of "unregistered associations" are in fact registered with either the Federal Election Commission (FEC) or in another state with an agency similar to the Board. The FEC and other state campaign finance agencies post reports filed by their registered committees to a government website. This proposal would allow an unregistered association to provide the written disclosure statement currently required by statute, or provide a link to a government website where the disclosure statement is available. The disclosure would still need to be equivalent to Chapter 10A, for example, it must have itemization of contributions and expenditures that are over \$200. If the reporting requirements for the state are not similar to Chapter 10A then a written report will still be required.

Campaign Finance and Public Disclosure Board Technical Legislative Proposals

Economic interest program

10A.01 DEFINITIONS

* * * *

Subd. 35. **Public official.** "Public official" means any:

(1) member of the legislature;

* * * *

(28) member of the Greater Minnesota Regional Parks and Trails Commission; or

(29) member of the Destination Medical Center Corporation established in section 469.41; or

(30) chancellor or member of the board of trustees of the Minnesota State Colleges and Universities.

10A.09 STATEMENTS OF ECONOMIC INTEREST

New - Subdivision 1. Time for filing. An individual must file a statement of economic interest ~~with the board~~:

(1) within 60 days of accepting employment as a public official or a local official in a metropolitan governmental unit;

(2) within 60 days of assuming office as a district court judge, appeals court judge, supreme court justice, or county commissioner;

(3) within 14 days after filing an affidavit of candidacy or petition to appear on the ballot for an elective state constitutional or legislative office or an elective local office in a metropolitan governmental unit other than county commissioner;

(4) in the case of a public official requiring the advice and consent of the senate, within 14 days after undertaking the duties of office; or

(5) in the case of members of the Minnesota Racing Commission, the director of the Minnesota Racing Commission, chief of security, medical officer, inspector of pari-mutuels, and stewards employed or approved by the commission or persons who fulfill those duties under contract, within 60 days of accepting or assuming duties.

* * * *

Subd. 2. **Notice to board.** The secretary of state or the appropriate county auditor, upon receiving an affidavit of candidacy or petition to appear on the ballot from an individual required by this section to file a statement of economic interest, and any official who nominates or employs a public ~~or local~~ official required by this section to file a statement of economic interest, must notify the board of the name of the individual required to file a statement and the date of the affidavit, petition, or nomination.

* * * *

Subd. 5. **Form; general requirements.** (a) A statement of economic interest required by this section must be on a form prescribed by the board. The individual filing must provide the following information:

(1) name, address, occupation, and principal place of business;

* * * *

(6) a listing of the principal business or professional activity category of each business from which the individual receives more than \$250 in any month during the reporting period as an employee, if the individual has an ownership interest of 25 percent or more in the business;

* * * *

~~(c) 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.~~

~~(d)~~ 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.

~~(e)~~ (d) For the purpose of determining the value of an individual's interest in real property, the value of the property is the market value shown on the property tax statement.

~~(f) 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.~~

~~(g)~~ (e) For the purpose of this section, "date of appointment" means the effective date of appointment to a position.

~~(h)~~ (f) For the purpose of this section, "accepting employment as a public official" means the effective date of the appointment to the position, as stated in the appointing authority's notice to the board.

Subd. 5a. Original statement; reporting period. (a) An original statement of economic interest required under subdivision 1, clause (1), must cover the calendar month before the month in which the individual accepted employment as a public official or a local official in a metropolitan governmental unit.

(b) An original statement of economic interest required under subdivision 1, clauses (2), (4), and (5), must cover the calendar month before the month in which the individual assumed, or undertook the duties of, office.

(c) An original statement of economic interest required under subdivision 1, clause (3), must cover the calendar month before the month in which the candidate filed the affidavit of candidacy.

Subd. 6. **Annual statement.** (a) Each individual who is required to file a statement of economic interest must also file an annual statement by the last Monday in January of each year that the individual remains in office. The annual statement must cover the period through December 31 of the year prior to the year when the statement is due. The annual statement must include the amount of each honorarium in excess of ~~\$50~~ \$250 received since the previous statement and the name and address of the source of the honorarium. The board must maintain each annual statement of economic interest submitted by an officeholder in the same file with the statement submitted as a candidate.

~~(b) For the purpose of annual statements of economic interest to be filed, "compensation in any month" includes compensation and honoraria 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.~~

~~(c) An individual must file the annual statement of economic interest required by this subdivision to cover the period for which the individual served as a public official even though at the time the statement was filed, the individual is no longer holding that office as a public official.~~

~~(d) For the purpose of 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 the individual is no longer a public official.~~

Campaign finance program

10A.20 CAMPAIGN REPORTS

* * * *

New - Subd. 13. Third-party reimbursement. An individual or association filing a report disclosing an expenditure or noncampaign disbursement that must be reported and itemized under subdivision 3, paragraph ~~(g)~~ (h) or ~~(l)~~ (m), that is a reimbursement to a third party must report the purpose of each expenditure or disbursement for which the third party is being reimbursed. In the alternative, the reporting individual or association may report individually each of the underlying expenditures being reimbursed. An expenditure or disbursement is a reimbursement to a third party if it is for goods or services that were not directly provided by the individual or association to whom the expenditure or disbursement is made. Third-party reimbursements include payments to credit card companies and reimbursement of individuals for expenses they have incurred.

10A.27 CONTRIBUTION LIMITS.

* * * *

Subd. 13. **Unregistered association limit; statement; penalty.** (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$200 from an association not registered under this chapter unless the contribution is accompanied by a ~~written~~ statement that meets the disclosure and reporting period requirements imposed by section 10A.20. The statement may be a written statement or a government web address where the disclosure report for the unregistered association may be viewed. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy

of the written statement or web address with the report that discloses the contribution to the board.

(b) An unregistered association may provide the ~~written~~ statement required by this subdivision to no more than three committees, funds, or party units in a calendar year. Each statement must cover at least the 30 days immediately preceding and including the date on which the contribution was made. An unregistered association or an officer of it is subject to a civil penalty imposed by the board of up to \$1,000, if the association or its officer:

(1) fails to provide a ~~written~~ statement as required by this subdivision; or

(2) fails to register after giving the ~~written~~ statement required by this subdivision to more than three committees, funds, or party units in a calendar year.

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of \$200 from an unregistered association without the required ~~written~~ disclosure statement is subject to a civil penalty up to four times the amount in excess of \$200.

(d) This subdivision does not apply:

(1) when a national political party contributes money to its state committee; ~~or~~

(2) when the federal committee of a major or minor political party registered with the Board gives an in kind contribution to its state central committee, or a party organization within a house of the state legislature; or

(3) to purchases by candidates for federal office of tickets to events or space rental at events held by party units in this state (i) if the geographical area represented by the party unit includes any part of the geographical area of the office that the federal candidate is seeking and (ii) the purchase price is not more than that paid by other attendees or renters of similar spaces.

10A.275 MULTICANDIDATE POLITICAL PARTY EXPENDITURES.

Subdivision 1. **Exceptions.** Notwithstanding other provisions of this chapter, the following expenditures by a party unit, or two or more party units acting together, with at least one party unit being either: the state committee or the party organization within a congressional district, county, or legislative district, are not considered contributions to or expenditures on behalf of a candidate for the purposes of section 10A.25 or 10A.27 and must not be allocated to candidates under section 10A.20, subdivision 3, paragraph ~~(g)~~(h):

(1) expenditures on behalf of candidates of that party generally without referring to any of them specifically in a published, posted, or broadcast advertisement;

(2) expenditures for the preparation, display, mailing, or other distribution of an official party sample ballot listing the names of three or more individuals whose names are to appear on the ballot;

(3) expenditures for a telephone ~~conversation including~~ call, voice mail, text message, multimedia message, internet chat message, or e-mail when the communication includes the names of three or more individuals whose names are to appear on the ballot;

(4) expenditures for a political party fund-raising effort on behalf of three or more candidates; or

(5) expenditures for party committee staff services that benefit three or more candidates.

10A.323 AFFIDAVIT OF CONTRIBUTIONS.

(a) in addition to the requirements of section 10A.322, to be eligible to receive a public subsidy under section 10A.31 a candidate or the candidate's treasurer must:

* * * *

(3) submit the affidavit required by this section to the board in writing by the deadline for reporting of receipts and expenditures before a primary under section 10A.20, ~~subdivision 4~~ subdivision 2.

1160.03 CORPORATION; BOARD OF DIRECTORS; POWERS.

~~Subd. 9. **Contributions to public officials; disclosure.** Each director shall file a statement with the Campaign Finance and Public Disclosure Board disclosing the nature, amount, date, and recipient of any contribution made to a public official, political committee, political fund, or political party, as defined in chapter 10A, that:~~

~~(1) was made within the four years preceding appointment to the Enterprise Minnesota, Inc. board; and~~

~~(2) was subject to the reporting requirements of chapter 10A.~~

~~The statement must be updated annually during the director's term to reflect contributions made to public officials during the appointed director's tenure.~~

1160.04 CORPORATE PERSONNEL.

~~Subd. 3. **Contributions to public officials; disclosure.** The president shall file a statement with the Campaign Finance and Public Disclosure Board disclosing the nature, amount, date, and recipient of any contribution made to a public official which:~~

~~(1) was made within the four years preceding employment with the Enterprise Minnesota, Inc. board; and~~

~~(2) was subject to the reporting requirements of chapter 10A.~~

~~The statement must be updated annually during the president's employment to reflect contributions made to public officials during the president's tenure.~~