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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 913

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The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform,
Technology and Elections

1.1 A bill for an act
1.2 relating to elections; removing certain unconstitutional provisions governing
1.3 independent expenditures in political campaigns; changing timing and method
1.4 of filing certain items with the Campaign Finance and Public Disclosure Board;
1.5 amending Minnesota Statutes 2008, sections 10A.01, subdivision 18; 10A.04,
1.6 subdivision 5; 10A.071, subdivision 3; 10A.08; 10A.09, subdivision 7; 10A.14,
1.7 subdivisions 2, 4, by adding a subdivision; 10A.20, subdivisions 1, 12; 10A.31,
1.8 subdivision 6, by adding a subdivision; 10A.322, subdivision 1; 10A.323;
1.9 10A.35; repealing Minnesota Statutes 2008, section 10A.20, subdivision 6b.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2008, section 10A.01, subdivision 18, is amended to
1.12 read:

1.13 Subd. 18. **Independent expenditure.** "Independent expenditure" means an
1.14 expenditure expressly advocating the election or defeat of a clearly identified candidate,
1.15 if the expenditure is made without the express or implied consent, authorization, or
1.16 cooperation of, and not in concert with or at the request or suggestion of, any candidate or
1.17 any candidate's principal campaign committee or agent. An independent expenditure is
1.18 not a contribution to that candidate. ~~An expenditure by a political party or political party~~
1.19 ~~unit in a race where the political party has a candidate on the ballot is not an independent~~
1.20 ~~expenditure.~~

1.21 Sec. 2. Minnesota Statutes 2008, section 10A.04, subdivision 5, is amended to read:

1.22 Subd. 5. **Late filing.** ~~The board must send a notice by certified mail to any lobbyist~~
1.23 ~~or principal who fails after seven days after a filing date imposed by this section to file a~~
1.24 ~~report or statement or to pay a fee required by this section.~~ If a lobbyist or principal fails to
1.25 file a report ~~or pay a fee~~ required by this section within ten business days after the ~~notice~~

2.1 ~~was sent~~ report was due, the board may impose a late filing fee of \$5 per day, not to exceed
 2.2 \$100, commencing with the 11th day after the ~~notice was sent~~ report was due. The board
 2.3 must send ~~an additional~~ notice by certified mail to any lobbyist or principal who fails to file
 2.4 a report or pay a fee within ~~14 days after the first notice was sent by the board~~ ten business
 2.5 days after the report was due that the lobbyist or principal may be subject to a civil penalty
 2.6 for failure to file the report or pay the fee. A lobbyist or principal who fails to file a report
 2.7 or statement or pay a fee within seven days after the ~~second~~ certified mail notice was sent
 2.8 by the board is subject to a civil penalty imposed by the board of up to \$1,000.

2.9 Sec. 3. Minnesota Statutes 2008, section 10A.071, subdivision 3, is amended to read:

2.10 Subd. 3. **Exceptions.** (a) The prohibitions in this section do not apply if the gift is:

2.11 (1) a contribution as defined in section 10A.01, subdivision 11;

2.12 (2) services to assist an official in the performance of official duties, including
 2.13 but not limited to providing advice, consultation, information, and communication in
 2.14 connection with legislation, and services to constituents;

2.15 (3) services of insignificant monetary value;

2.16 (4) a plaque with a resale value of \$5 or less;

2.17 (5) a trinket or memento costing \$5 or less;

2.18 (6) informational material ~~of unexceptional value~~ with a resale value of \$5 or less; or

2.19 (7) food or a beverage given at a reception, meal, or meeting away from the
 2.20 recipient's place of work by an organization before whom the recipient appears to make a
 2.21 speech or answer questions as part of a program.

2.22 (b) The prohibitions in this section do not apply if the gift is given:

2.23 (1) because of the recipient's membership in a group, a majority of whose members
 2.24 are not officials, and an equivalent gift is given to the other members of the group; or

2.25 (2) by a lobbyist or principal who is a member of the family of the recipient, unless
 2.26 the gift is given on behalf of someone who is not a member of that family.

2.27 Sec. 4. Minnesota Statutes 2008, section 10A.08, is amended to read:

2.28 **10A.08 REPRESENTATION DISCLOSURE.**

2.29 A public official who represents a client for a fee before an individual, board,
 2.30 commission, or agency that has rulemaking authority in a hearing conducted under chapter
 2.31 14, must disclose the official's participation in the action to the board within 14 days after
 2.32 the appearance. ~~The board must send a notice by certified mail to any public official~~
 2.33 ~~who fails to disclose the participation within 14 days after the appearance.~~ If the public
 2.34 official fails to disclose the participation within ten business days after the ~~notice was sent~~

3.1 disclosure required by this section was due, the board may impose a late filing fee of \$5
 3.2 per day, not to exceed \$100, starting on the 11th day after the ~~notice was sent~~ disclosure
 3.3 was due. The board must send ~~an additional~~ notice by certified mail to a public official
 3.4 who fails to disclose the participation within ~~14~~ ten days after the ~~first notice was sent by~~
 3.5 ~~the board~~ disclosure was due that the public official may be subject to a civil penalty for
 3.6 failure to disclose the participation. A public official who fails to disclose the participation
 3.7 within seven days after the ~~second~~ certified mail notice was sent by the board is subject
 3.8 to a civil penalty imposed by the board of up to \$1,000.

3.9 Sec. 5. Minnesota Statutes 2008, section 10A.09, subdivision 7, is amended to read:

3.10 Subd. 7. **Late filing.** ~~The board must send a notice by certified mail to any~~
 3.11 ~~individual who fails within the prescribed time to file a statement of economic interest~~
 3.12 ~~required by this section.~~ If an individual fails to file a statement of economic interest
 3.13 required by this section within ten business days after the notice was sent, the board may
 3.14 impose a late filing fee of \$5 per day, not to exceed \$100, commencing on the 11th day
 3.15 after the ~~notice was sent~~ statement was due. The board must send ~~an additional~~ notice by
 3.16 certified mail to any individual who fails to file a statement within ~~14~~ ten days after the
 3.17 ~~first notice was sent by the board~~ statement was due that the individual may be subject to
 3.18 a civil penalty for failure to file a statement. An individual who fails to file a statement
 3.19 within seven days after the ~~second~~ certified mail notice was sent by the board is subject to
 3.20 a civil penalty imposed by the board up to \$1,000.

3.21 Sec. 6. Minnesota Statutes 2008, section 10A.14, subdivision 2, is amended to read:

3.22 Subd. 2. **Form.** The statement of organization must include:
 3.23 (1) the name and address of the committee, fund, or party unit;
 3.24 (2) the name ~~and~~ address, and e-mail address of the chair of a political committee,
 3.25 principal campaign committee, or party unit;
 3.26 (3) the name and address of any supporting association of a political fund;
 3.27 (4) the name ~~and~~ address, and e-mail address of the treasurer and any deputy
 3.28 treasurers;
 3.29 (5) the name, address, and e-mail address of the candidate of a principal campaign
 3.30 committee;
 3.31 (6) a listing of all depositories or safety deposit boxes used; and
 3.32 ~~(6)~~ (7) for the state committee of a political party only, a list of its party units.

3.33 Sec. 7. Minnesota Statutes 2008, section 10A.14, subdivision 4, is amended to read:

4.1 Subd. 4. **Failure to file; penalty.** ~~The board must send a notice by certified mail to~~
4.2 ~~any individual who fails to file a statement required by this section.~~ If the individual fails
4.3 to file a statement required by this section within ten business days after the ~~notice was~~
4.4 ~~sent~~ statement was due, the board may impose a late filing fee of \$5 per day, not to exceed
4.5 \$100, commencing with the 11th day after the ~~notice was sent~~ statement was due.

4.6 The board must send ~~an additional~~ notice by certified mail to any individual who
4.7 fails to file a statement within ~~14~~ ten days after the ~~first notice was sent by the board~~
4.8 statement was due that the individual may be subject to a civil penalty for failure to file
4.9 the ~~report~~ statement. An individual who fails to file the statement within seven days
4.10 after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty
4.11 imposed by the board of up to \$1,000.

4.12 Sec. 8. Minnesota Statutes 2008, section 10A.14, is amended by adding a subdivision
4.13 to read:

4.14 Subd. 5. Exemptions. For good cause shown, the board may grant exemptions to
4.15 the requirement that e-mail addresses be provided.

4.16 Sec. 9. Minnesota Statutes 2008, section 10A.20, subdivision 1, is amended to read:

4.17 Subdivision 1. **First filing; duration.** The treasurer of a political committee,
4.18 political fund, principal campaign committee, or party unit must begin to file the reports
4.19 required by this section in the first year it receives contributions or makes expenditures
4.20 in excess of \$100 and must continue to file until the committee, fund, or party unit is
4.21 terminated. The reports must be filed electronically in a format specified by the board.
4.22 For good cause shown, the board may grant exemptions to the requirement that reports be
4.23 filed electronically.

4.24 Sec. 10. Minnesota Statutes 2008, section 10A.20, subdivision 12, is amended to read:

4.25 Subd. 12. **Failure to file; penalty.** ~~The board must send a notice by certified mail~~
4.26 ~~to any individual who fails to file a statement required by this section.~~ If an individual
4.27 fails to file a ~~statement~~ report required by this section that is due January 31 within ten
4.28 business days after the ~~notice was sent~~ report was due, the board may impose a late filing
4.29 fee of \$5 per day, not to exceed \$100, commencing with the 11th day after the ~~notice~~
4.30 ~~was sent~~ report was due.

4.31 If an individual fails to file a ~~statement~~ report required by this section that is due
4.32 before a primary or election within three days after the date due, regardless of whether the

5.1 individual has received any notice, the board may impose a late filing fee of \$50 per day,
 5.2 not to exceed \$500, commencing on the fourth day after the date the statement was due.

5.3 The board must send ~~an additional~~ notice by certified mail to an individual who fails
 5.4 to file a statement report within 14 days after the ~~first notice was sent by the board~~ report
 5.5 was due that the individual may be subject to a civil penalty for failure to file ~~a statement~~
 5.6 the report. An individual who fails to file the statement report within seven days after the
 5.7 ~~second certified mail~~ notice was sent by the board is subject to a civil penalty imposed by
 5.8 the board of up to \$1,000.

5.9 Sec. 11. Minnesota Statutes 2008, section 10A.31, subdivision 6, is amended to read:

5.10 Subd. 6. **Distribution of party accounts.** As soon as the board has obtained from
 5.11 the secretary of state the results of the primary election, but no later than one week after
 5.12 certification by the State Canvassing Board of the results of the primary, the board must
 5.13 distribute the available money in each party account, as certified by the commissioner of
 5.14 revenue on September 1, to the candidates of that party who have signed a spending
 5.15 limit agreement under section 10A.322 and filed the affidavit of contributions required
 5.16 by section 10A.323, who were opposed in either the primary election or the general
 5.17 election, and whose names are to appear on the ballot in the general election, according
 5.18 to the allocations set forth in subdivisions 5 and 5a. The public subsidy from the party
 5.19 account may not be paid in an amount greater than the expenditure limit of the candidate
 5.20 or the expenditure limit that would have applied to the candidate if the candidate had not
 5.21 been freed from expenditure limits under section 10A.25, subdivision 10. ~~If a candidate~~
 5.22 ~~files the affidavit required by section 10A.323 after September 1 of the general election~~
 5.23 ~~year, the board must pay the candidate's allocation to the candidate at the next regular~~
 5.24 ~~payment date for public subsidies for that election cycle that occurs at least 15 days after~~
 5.25 ~~the candidate files the affidavit.~~

5.26 Sec. 12. Minnesota Statutes 2008, section 10A.31, is amended by adding a subdivision
 5.27 to read:

5.28 Subd. 7a. **Withholding of public subsidy.** If a candidate who is eligible for
 5.29 payment of public subsidy under this section has not filed the report of receipts and
 5.30 expenditures required under section 10A.20 before a primary election, any public subsidy
 5.31 for which that candidate is eligible must be withheld by the board until the candidate
 5.32 complies with the filing requirements of section 10A.20 and the board has sufficient time
 5.33 to review or audit the report. If a candidate who is eligible for public subsidy does not file
 5.34 the report due before the primary election under section 10A.20 by the date that the report

6.1 of receipts and expenditures filed before the general election is due, that candidate shall
6.2 not be paid public subsidy for that election.

6.3 Sec. 13. Minnesota Statutes 2008, section 10A.322, subdivision 1, is amended to read:

6.4 Subdivision 1. **Agreement by candidate.** (a) As a condition of receiving a public
6.5 subsidy, a candidate must sign and file with the board a written agreement in which the
6.6 candidate agrees that the candidate will comply with sections 10A.25; 10A.27, subdivision
6.7 10; 10A.31, subdivision 7, paragraph (c); 10A.324; and 10A.38.

6.8 (b) Before the first day of filing for office, the board must forward agreement forms to
6.9 all filing officers. The board must also provide agreement forms to candidates on request at
6.10 any time. The candidate must file the agreement with the board by September 1 preceding
6.11 the candidate's general election or a special election held at the general election. An
6.12 agreement may not be filed after that date. An agreement once filed may not be rescinded.

6.13 (c) The board must notify the commissioner of revenue of any agreement signed
6.14 under this subdivision.

6.15 (d) Notwithstanding paragraph (b), if a vacancy occurs that will be filled by means
6.16 of a special election and the filing period does not coincide with the filing period for the
6.17 general election, a candidate may sign and submit a spending limit agreement not later
6.18 than the day after the ~~candidate files the affidavit of candidacy or nominating petition for~~
6.19 ~~the office~~ close of the filing period for the special election for which the candidate filed.

6.20 Sec. 14. Minnesota Statutes 2008, section 10A.323, is amended to read:

6.21 **10A.323 AFFIDAVIT OF CONTRIBUTIONS.**

6.22 In addition to the requirements of section 10A.322, to be eligible to receive a public
6.23 subsidy under section 10A.31 a candidate or the candidate's treasurer must file an affidavit
6.24 with the board stating that during that calendar year the candidate has accumulated
6.25 contributions from persons eligible to vote in this state in at least the amount indicated for
6.26 the office sought, counting only the first \$50 received from each contributor:

6.27 (1) candidates for governor and lieutenant governor running together, \$35,000;

6.28 (2) candidates for attorney general, \$15,000;

6.29 (3) candidates for secretary of state and state auditor, separately, \$6,000;

6.30 (4) candidates for the senate, \$3,000; and

6.31 (5) candidates for the house of representatives, \$1,500.

6.32 The affidavit must state the total amount of contributions that have been received
6.33 from persons eligible to vote in this state, disregarding the portion of any contribution in
6.34 excess of \$50.

7.1 The candidate or the candidate's treasurer must submit the affidavit required by this
7.2 section to the board in writing by the cutoff date for reporting of receipts and expenditures
7.3 before a primary under section 10A.20, subdivision 4.

7.4 A candidate for a vacancy to be filled at a special election for which the filing period
7.5 does not coincide with the filing period for the general election must submit the affidavit
7.6 required by this section to the board within five days after ~~filing the affidavit of candidacy~~
7.7 the close of the filing period for the special election for which the candidate filed.

7.8 Sec. 15. Minnesota Statutes 2008, section 10A.35, is amended to read:

7.9 **10A.35 COMMERCIAL USE OF INFORMATION PROHIBITED.**

7.10 Information copied from reports and statements filed with the board, other than
7.11 reports and statements filed by lobbyists and lobbyist principals, may not be sold or used
7.12 by an individual or association for a commercial purpose. Purposes related to elections,
7.13 political activities, or law enforcement are not commercial purposes. An individual or
7.14 association who violates this section is subject to a civil penalty of up to \$1,000. An
7.15 individual who knowingly violates this section is guilty of a misdemeanor.

7.16 Sec. 16. **REPEALER.**

7.17 Minnesota Statutes 2008, section 10A.20, subdivision 6b, is repealed.

10A.20 CAMPAIGN REPORTS.

Subd. 6b. **Independent expenditures; notice.** (a) Within 24 hours after an individual, political committee, or political fund makes or becomes obligated by oral or written agreement to make an independent expenditure in excess of \$100, other than an expenditure by an association targeted to inform solely its own dues-paying members of the association's position on a candidate, the individual, political committee, or political fund must file with the board an affidavit notifying the board of the intent to make the independent expenditure and serve a copy of the affidavit on each candidate in the affected race and on the treasurer of the candidate's principal campaign committee. The affidavit must contain the information with respect to the expenditure that is required to be reported under subdivision 3, paragraph (g); except that if an expenditure is reported before it is made, the notice must include a reasonable estimate of the anticipated amount. Each new expenditure requires a new notice.

(b) An individual or the treasurer of a political committee or political fund who fails to give notice as required by this subdivision, or who files a false affidavit of notice, is guilty of a gross misdemeanor and is subject to a civil fine of up to four times the amount of the independent expenditure stated in the notice or of which notice was required, whichever is greater.