

2008 CAMPAIGN MANUAL



CAMPAIGN FINANCIAL REPORTING AND FAIR CAMPAIGN PRACTICES

Minnesota Statutes, Chapters 211A and 211B, including related laws and summary

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PREFACE

State law requires the Secretary of State to publish an easily understandable annotated digest of Chapters 211A and 211B of our statutes. This booklet contains the required digest, the text of Chapters 211A and 211B and annotations to these chapters and to former Chapter 210A, known as the Fair Campaign Practices Act, which had some provisions comparable to 211A and 211B.

Chapter 211A generally regulates campaign reporting requirements of candidates and committees supporting county, municipal, school district or other political subdivision candidates for office and questions. Candidates and committees supporting candidates for judicial office are not regulated by Chapter 211A.

Chapter 211B regulates a variety of campaign practices and applies to all federal, state and local candidates, except for President and Vice President, and committees supporting them. It also regulates the activities of committees formed to promote or oppose ballot questions and proposed constitutional amendments.

A complaint alleging a violation of chapter 211A or 211B must be filed with the Office of Administrative Hearings office. For further information, please contact the Office of Administrative Hearings, 600 North Robert Street, St Paul, MN 55101, (651) 361-7900, or use their website at: www.oah.state.mn.us.

Campaign finances and certain disclosures of candidates for state constitutional, state legislative, and judicial offices and committees formed to promote or oppose constitutional amendments are regulated by Chapter 10A of our statutes and administered by the Minnesota Campaign Finance and Public Disclosure Board, 190 Centennial Office Building, 658 Cedar St., St. Paul, Minnesota 55155, (651) 296-5148.

Campaign financing and certain disclosures of candidates for federal office (United States President and Vice President, United States Senator, and United States Representative) are regulated by state and federal law. Copies of federal disclosure reports, except for President and Vice President, are filed with the Secretary of State, and Minnesota accepts these reports instead of the reports required by Chapter 211A. The Federal Election Commission (FEC), 999 E Street N.W., Washington, D.C. 20463, administers the federal laws. The commission has a toll free information line: (800) 424-9530. The web site address is www.fec.gov, where you may look at reports that are filed at the FEC within 48 hours after the report has been filed. Reports filed by candidates for U.S. Representative can now be viewed and copied directly from the FEC web site at a terminal available to the public at the Secretary of State's Office, Elections Division. As a result, the FEC has waived the requirement that these candidates also file paper copies of these reports with the Secretary of State.

For Hennepin County offices, the cities of Bloomington and Minneapolis, and the Minneapolis schools, Minnesota Statutes, Section 383B.041-.058 regulates campaign finance reporting and disclosure. For further information, please contact the Hennepin County Election and Voter Registration Department, A-603 Government Center, 300 S. 6th St., Minneapolis, MN 55487, (612) 348-5151.

NOTES AND DECISIONS

The Notes and Decisions briefly summarize judicial decisions and Attorney General interpretations of Minnesota Election Law. However, the summaries are not intended to modify any statutory provision. Some of the Notes and Decisions summarize interpretations of prior versions of a statute that may not apply to the current version.

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* Indicates new or amended sections that were added or changed by the Legislature in 2006
If you have any questions, please contact the Secretary of State at the address and phone number below, or the following e-mail address: elections.dept@state.mn.us.

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SUMMARY AND ANNOTATIONS

INTRODUCTION

This section provides an easily understandable digest of Chapters 211A and 211B. As a digest, it should not be used as a substitute for the requirements imposed by the text of Chapters 211A and 211B, which are reproduced in this booklet.

CAMPAIGN FINANCIAL REPORTING CHAPTER 211A

Chapter 211A generally regulates campaign contribution limits and campaign finance reporting of candidates for county, municipal, school district or other political subdivision offices, excluding judicial offices. This chapter also applies to committees acting to influence the nomination, election or defeat of a candidate or to promote or defeat a proposition to be voted on in any political subdivision.

The maximum aggregate campaign finance contribution under *M.S. 211A.12* that can be accepted ranges, with certain exceptions, from \$100 to \$500, depending on whether made during an election year and the population of the territory in which the office is sought. However, contributions from certain political committees may not be accepted under *M.S. 211A.13*.

Candidates and committees must file according to *M.S. 211A.02* a financial report:

- (1) within 14 days after receiving contributions or making disbursements of more than \$750 in a calendar year and
- (2) by January 31 of each year following the year when the initial report was filed. In addition, in a year when the candidate's name or a ballot question appears on the ballot, a report must be filed:
 - a. ten days before the primary or special primary;
 - b. ten days before the general election or special election; and
 - c. thirty days after a general or special election.

A final report may be filed at any time after all debts have been settled and all assets in excess of \$100 in the aggregate are disposed of. Candidates and committees file reports with the filing officer. Committees organized to promote or defeat ballot questions not voted on by all voters of the state are required to file reports with the officer authorized by law to place a question on the ballot.

The financial reports must include the total amount of receipts and expenditures for the period from the last previous report to five days before the current report is due, the amount, date, and purpose for each expenditure and the name, address, and employer or occupation is self-employed of any individual or committee that during the year has made one or more contributions that are in the aggregate exceed \$100. Blank reporting forms are available from the county auditor.

For municipal elections, these reporting requirements are in addition to municipal charter reporting provisions and county special laws. The reporting requirements do not replace special laws providing reporting requirements for a municipality. *M.S. 211A.02, subd. 3*.

Federal laws set out reporting requirements for federal campaigns. The Federal Election Commission, not the Secretary of State, administers the federal laws. Reports on campaigns for the U.S. House and Senate must be submitted to the Secretary of State, and the reports required by federal laws may be used to satisfy the state requirement. *M.S. 211A.02, subd. 4*. (The Federal Election Commission has waived

the requirement that U.S. House candidates file a duplicate paper copy of reports with the Secretary of State.)

A candidate who intentionally fails to file a required report, a committee that fails to file a required report and an officer who issues a certificate of election to a candidate knowing that the candidate has not filed a financial statement are subject to a civil penalty of up to \$5,000 or a misdemeanor penalty. In addition, a winning candidate who violates Chapter 211A is subject to forfeiture of the nomination or office under certain circumstances. *M.S. 211A.09.*

If a candidate or committee fails to file a report on the date it is due, the filing officer shall immediately notify the candidate or committee of the failure to file. If a report is not filed within ten days after the notification is mailed, the filing officer shall file a complaint with the Office of Administrative Hearings.

A candidate whose election has been set aside because of a violation of Chapter 211A may not be appointed to fill the resulting vacancy during the term of the office sought. Any person convicted of a violation of Chapter 211A may not be appointed to fill a vacancy in the office during the term of the office for which the election was held and is not qualified to fill a vacancy in any office for which the legislature may establish qualifications under Article XII, Section 3, of the Minnesota Constitution. *M.S. 211A.10.*

Any person who receives money for a committee is subject to a civil penalty of up to \$5,000 or a misdemeanor penalty for failing to keep a correct account as required by law or mutilating, defacing or destroying an account record, if any of these acts are done with the intent to conceal certain information. *M.S. 211A.06.*

A person who has a bill, charge or claim against a committee must render it in writing to the committee within 60 days after the material or service is provided. Payment is prohibited on a bill, charge or claim presented after 60 days. *M.S. 211A.07.*

CAMPAIGN PRACTICES CHAPTER 211B

Chapter 211B regulates a variety of campaign practices and applies to all federal, state, and local candidates, except candidates for president and vice-president. Judicial and school district candidates are covered by Chapter 211B. It also regulates committees acting to influence the nomination, election or defeat of a covered candidate or to promote or defeat a ballot question.

SOLICITATION OF CONTRIBUTIONS

M.S. 211B.08 generally prohibits a religious, charitable or educational organization from soliciting a contribution from a candidate or committee. It does not apply to certain business advertisements, regular payments by a candidate to an organization to which he was a member or contributor for more than six months before candidacy or ordinary contributions at church services.

It is also illegal for a person to knowingly solicit, receive or accept any money, property or other thing of monetary value that is a disbursement prohibited by certain sections of *Chapter 211B. M.S. 211B.13, subd. 2.*

CORPORATE CONTRIBUTIONS

M.S. 211B.15 prohibits defined corporations from directly or indirectly contributing anything of monetary value to a major political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election or appointment to a political office.

Corporations may make contributions or expenditures to promote or defeat a ballot question, to place a question on the ballot or to express its views on issues of public concern.

Corporations may contribute to or conduct public media projects to encourage individuals to attend precinct caucuses, register or vote, providing the projects are not controlled by or operated for the advantage of any candidate, political party or committee. Corporations may provide meeting facilities for committees, political parties or candidates on a nondiscriminatory and nonpreferential basis.

Corporations selling products or services to the public may post notices on their public premises promoting participation in the precinct caucuses, voter registration or voting, provided these messages are not controlled or operated for the advantage of any candidate, political party or committee.

In connection with permitted media projects and posted notices, the total amount of any expenditure or contribution or any project which exceeds \$200 must be reported to the Secretary of State, together with the date, purpose and names and addresses of the persons receiving the contribution or expenditures.

The reports must be filed on a form provided by the Secretary of State on the dates required for committees to file financial reports.

REGULATION OF EXPENDITURES

Spending limitations amount. Chapter 211B does not limit the amount of campaign spending.

Spending limitations-purpose. The law limits the purpose for which candidates and committees may spend money.

The permitted purposes, which are set forth in *M.S. 211B.12*, include salaries, communications, campaign advertising, printing, office space and equipment, a limited amount of charitable contributions and other expenses related to the conduct of election campaigns.

To give or promise to give any thing of monetary value to any person for the purpose of inducing a voter to refrain from voting or to vote in a particular way is a felony. An exception is made for refreshments of food and nonalcoholic beverages of nominal value consumed on the premises at a private gathering or public meetings. *M.S. 211B.13, subd. 1*.

Whether an item constitutes a “thing of value” is discussed in an opinion of the Attorney General which states (Op. Atty. Gen. 627f-1, April 25, 1938):

“...(W)hether packets or books of matches are things of value ...involves a question of fact which this office has no authority to determine. We may say, however, that if such articles have any material value for any purpose other than simply as a medium for carrying advertising matter, they come under the ban of the statute.

This office has expressed the opinion that if a person distributes, in an election campaign, articles which may possibly have some value other than as an advertising medium, such as packets or books of matches, relying on the belief that their value is so slight that they will not be considered a “thing of value”, such person must take the chance of having the legality of so doing questioned in a criminal prosecution or an election contest.”

Here are some decisions and other opinions relating to a similar prior statute:

The purpose of influencing voters is the poison which the Fair Campaign Practice Act is aimed at, and in the absence of such purpose, a gift is not considered to be a violation of the act. (*Engelbert v. Tuttle*, 185 Minn. 608, 242 N.W. 425). Where a gift won at a church bazaar by a candidate’s wife was later returned to the church treasury and no publicity was given to the returning of this gift, the court said that no intent to influence voters could be found. (*Engelbert v. Tuttle*, supra). Where a candidate attended showers for friends and presented gifts that were similar with respect to the character and cost of those given by other invited guests, the court said that the giving of such gifts could not be considered as an act done with intent to influence voters. (*Engelbert v. Tuttle*, supra).

A candidate furnished drinks of liquor to voters and at the same time asked them to vote for him. The court said that a candidate for public office who, during his campaign, solicits the vote of an elector and at the same time gives him intoxicating liquor, brings himself clearly within the prohibition of the statute. A contention that such acts on the part of a candidate amounted to mere hospitality or that they were trivial and unimportant cannot be sustained. (*Miller v. Maier*, 136 Minn. 231, 161 N.W. 513). It is not legal for a candidate to give away cigars in the election room while the polls are open. (Op. Atty. Gen. 627f-1, March 20, 1917). The distribution by a candidate of free tickets to a county fair admitting children under 12 years of age free is a violation of this section. (Op. Atty. Gen. 627f-1, June 3, 1930).

ADVERTISING AND LITERATURE REQUIREMENTS

Certain printed material written or distributed by a candidate or committee is subject to the section on false political and campaign material. *M.S. 211B.06*. Under that section, a person who intentionally participates in the preparation, dissemination or broadcast of paid political advertising or campaign material with respect to the personal or political character or acts of a candidate which is designed or tends to elect, promote, defeat or injure any candidate is guilty of a gross misdemeanor if the person

knows it is false or communicates to others with reckless disregard of whether it is false. The provision also applies to literature, advertising or campaign material with respect to the effect of a ballot question. A person who intentionally participates in drafting a letter to the editor known to be false concerning the personal or political character of a candidate or acts of a candidate, if defamatory, or the effect of a ballot question may under certain circumstances be subject to a civil penalty of up to \$5,000 or a misdemeanor penalty. This statute does not apply to a person or organization whose sole act is, in the normal course of their business, to print, manufacture or disseminate false information.

Advertisements. *M.S. 211B.05* requires every advertisement in a newspaper, periodical or magazine to include the words “PAID ADVERTISEMENT.” Radio, television and cable systems have similar requirements. The amount charged for the advertisement must be the same as for any other political candidate and no greater than charges for comparable purposes. The name of the candidate and the committee that prepared and paid for the advertisement must be included at the beginning or end of the advertisement.

M.S. 211B.05, subd. 3, prohibits any employee of a newspaper, periodical, magazine or broadcaster from soliciting or receiving any payment or promise of payment for influencing or attempting to influence voting through printed or broadcast matter except as a paid advertisement.

Other printed literature. Printed matter other than newspaper advertisements are subject to similar requirements. *M.S. 211B.04* requires that the name and address of the person or committee causing the material to be prepared or disseminated appear prominently on the material. This provision does not apply to objects stating only the candidate’s name and the office sought, fundraising tickets, or personal letters that are clearly being sent by the candidate. In addition, it does not apply to individuals acting independently and spending less than \$300 of their own resources for campaign material produced or distributed at least 14 days before the election.

Attention: Minnesota Court of Appeals Decision Affecting Minnesota Statutes 211B.04

In April of 2006 the Minnesota Court of Appeals ruled, in *Riley v. Jankowski* (Minnesota Court of Appeals file #A05-1125), that at least in part Minnesota Statutes 211B.04, which relates to disclaimer requirements, is unconstitutional. The Office of Administrative Hearings (OAH) has jurisdiction over Minnesota Statutes Chapter 211B and their website contains information relating to this issue. The OAH web site address is www.oah.state.mn.us.

IMPROPERLY INFLUENCING VOTERS

Bribery, advancing money, and treating prohibited. As stated previously, there is a prohibition against giving any thing of monetary value to any person for the purpose of influencing that person’s vote. *M.S. 211B.13*.

Threats, force, undue influence. *M.S. 211B.07* makes, it illegal for any person to threaten, coerce or unduly influence another in order to compel another to vote for or against a candidate or ballot question.

Promise appointments. No person, in order to promote a candidate’s nomination or election, may directly or indirectly promise to appoint or employ another person. *M.S. 211B.13, subd. 1*. This statute does not prohibit a candidate from publicly expressing a preference for any other candidate to be voted on at the same primary or election.

Influencing others. A person may not make any direct or indirect threat of harm, economic reprisal or certain other threats against an individual to vote for or against a candidate or ballot question. *M.S. 211B.07.*

Transporting voters. *Under M.S. 211B.11, subd. 3,* it is illegal for a person transporting a voter to the polls to induce or persuade a voter to vote or refrain from voting for a candidate or ballot question.

Influencing a person's candidacy. *M.S. 211B.10, subd. 1,* forbids the use of any promise or reward to induce a person to become a candidate, refrain from being a candidate or cease being a candidate.

False claim of party support. No person shall knowingly falsely claim or imply that a candidate has the support or endorsement of a major political party or party unit of an organization. *M.S. 211B.02.*

Use of "reelect." A person may not, in the event of redistricting, use the term "reelect" in a campaign for elective office unless the candidate is the incumbent of that office and the office represents any part of the new district. *M.S. 211B.03.*

Campaigning in multiple-unit dwellings. Candidates with or without their workers may not be denied access to multiple-unit dwellings to campaign. A resident may deny admittance to his or her dwelling, identification may be required, visits to certain persons may be denied for health reasons, limits may be put on hours and numbers of campaigners, appointments may be required and campaigners may be denied admittance or expelled for good cause. A violation of this section is a petty misdemeanor. *M.S. 211B.20.*

ELECTION DAY ACTIVITIES

It is not illegal to campaign on Election Day, but it is illegal, on Election Day, to:

- Seek to induce or persuade any voter to vote in a certain way or refrain from voting within 100 feet of the building in which a polling place is situated, or anywhere on public property on which a polling place is situated. *M.S. 211B.11, subd. 1;*
- Wear any political badge, insignia or button at or about the polls or provide any such badge, insignia or button. *M.S. 211B.11, subd. 1.*

VIOLATIONS OF CHAPTER 211B

Violations of Chapter 211B may entail criminal penalties. A conviction on criminal charges for violating its provisions may forfeit a winner's nomination or election. In addition to these penalties, the violator, if that individual has won the election, is prohibited from being appointed to the office sought during the term of the office with respect to which the election was held.

M.S. 211B.32 provides that a complaint alleging a violation of Chapter 211A or 211B must be filed with the Office of Administrative Hearings. The complaint must be finally disposed of by the Office of Administrative Hearings before the alleged violation may be prosecuted by a county attorney.

Penalties. In its disposition of the complaint, the Office of Administrative Hearings may impose a civil penalty of up to \$5,000 for any violation of Chapter 211A or 211B. In addition, the complaint may be referred to the appropriate county attorney for criminal prosecution as a misdemeanor or felony, however the law provides.

Furthermore, the person convicted may forfeit the nomination or office. *M.S. 211B.17, subd. 1*. The convicted person may not be appointed to fill a vacancy in the office for which election was sought and is not qualified to fill a vacancy in any office for which the legislature may establish qualifications under *Minn. Const. art. XII, 3. M.S. 211B.17*.

The prohibition on holding office does not limit the ability of each house of the legislature to judge the election returns and eligibility of its own members.

Circumstances where nomination or election not forfeited. *M.S. 211B.17, subd. 2*, sets forth certain situations in which the nomination or election of the candidate shall not be set aside as a penalty for violating Chapter 211B.

CHAPTER 211A CAMPAIGN FINANCIAL REPORTING

211A.01 DEFINITIONS.

- Subd. 1. **Application.** The definitions in chapter 200 and this section apply to this chapter.
- Subd. 2. **Ballot question.** “Ballot question” means a proposition placed on the ballot to be voted on by the voters of one or more political subdivisions but not by all the voters of the state.
- Subd. 3. **Candidate.** “Candidate” means an individual who seeks nomination or election to a county, municipal, school district, or other political subdivision office. This definition does not include an individual seeking a judicial office. For purposes of sections 211A.01 to 211A.05 and 211A.07, “candidate” also includes a candidate for the United States Senate or House of Representatives.
- Subd. 4. **Committee.** “Committee” means a corporation or association or persons acting together to influence the nomination, election, or defeat of a candidate or to promote or defeat a ballot question. Promoting or defeating a ballot question includes efforts to qualify or prevent a proposition from qualifying for placement on the ballot.
- Subd. 5. **Contribution.** “Contribution” means anything of monetary value that is given or loaned to a candidate or committee for a political purpose. “Contribution” does not include a service provided without compensation by an individual.
- Subd. 6. **Disbursement.** “Disbursement” means money, property, office, position, or any other thing of value that passes or is directly or indirectly conveyed, given, promised, paid, expended, pledged, contributed, or lent. “Disbursement” does not include payment by a county, municipality, school district, or other political subdivision for election-related expenditures required or authorized by law.
- Subd. 7. **Filing officer.** “Filing officer” means the officer authorized by law to accept affidavits of candidacy or nominating petitions for an office or the officer authorized by law to place a ballot question on the ballot.
- Subd. 8. **Political purposes.** An act is done for “political purposes” if it is of a nature, done with the intent, or done in a way to influence or tend to influence, directly or indirectly, voting at a primary or an election or if it is done because a person is about to vote, has voted, or has refrained from voting at a primary or an election.

History: 1988 c 578 art 2 s 1; 1990 c 453 s 22

211A.02 FINANCIAL REPORT.

- Subd. 1. **When and where filed by committees.** (a) A committee or a candidate who receives contributions or makes disbursements of more than \$750 in a calendar year shall submit an initial report to the filing officer within 14 days after the candidate or committee receives or makes disbursements of more than \$750 and shall continue to make the reports listed in paragraph (b) until a final report is filed.
- (b) The committee or candidate must file a report by January 31 of each year following the year when the initial report was filed and in a year when the candidate’s name or a ballot question appears on the ballot, the candidate or committee shall file a report:
- (1) ten days before the primary or special primary;
 - (2) ten days before the general election or special election; and
 - (3) 30 days after a general or special election.
- Subd. 2. **Information required.** The report to be filed by a candidate or committee must include:

- (1) the name of the candidate or ballot question;
- (2) the printed name, address, telephone number, signature, and email address, if available, of the person responsible for filing the report;
- (3) the total amount of receipts and expenditures for the period from the last previous report to five days before the current report is due;
- (4) The amount, date, and purpose for each expenditure; and
- (5) the name, address, and employer, or occupation if self-employed, of any individual or committee that during the year has made one or more contributions that in the aggregate exceed \$100, and the amount and date of each contribution. The filing officer must restrict public access to the address of any individual who has made a contribution that exceeds \$100 and who has filed with the filing officer a written statement signed by the individual that withholding the individual's address from the financial report is required for the safety of the individual or the individual's family.

Subd. 3. **Municipal charter provisions and special laws saved.** The provisions of this section requiring the filing of reports are in addition to the provisions of any municipal charter requiring the filing of reports in connection with a municipal primary, general election, special primary, or special election, but they do not replace special laws providing filing requirements for a municipality.

Subd. 4. **Congressional candidates.** Candidates for election to the United States House of Representatives or Senate and any political committees raising money and making disbursements exclusively on behalf of any one of those candidates may file copies of their financial disclosures required by federal law in lieu of the financial statement required by this section. A candidate or committee whose report is published on the Federal Election Commission Web site has complied with the filing requirements of this section.

Subd. 5. **Electronic reporting.** The reports required by this section may be filed electronically, subject to the approval of the filing officer.

History: 1988 c 578 art 2 s 2; 1989 c 291 art 1 s 30; 1Sp2001 c 10 art 18 s 39; 2004 c 293 art 2 s 43

NOTES AND DECISIONS

211A.02

Administrative hearing process established to hear complaints alleging violations of statutes establishing financial-reporting requirements for political candidates and committees acting to influence elections and statutes regulating campaign practices did not violate the separation-of-powers doctrine and amount to an unconstitutional delegation of district court's original jurisdiction. *Riley v. Jankowski*, 713 N.W.2d 379 (Minn. App. 2006).

211A.03 FINAL REPORT.

A candidate or committee may file a final report when all debts have been settled and all assets in excess of \$100 in the aggregate are disposed of. The final report may be filed at any time and must include the kinds of information contained in the financial statements required by section 211A.02 for the period from the last previous report to the date of the final report.

History: 1988 c 578 art 2 s 3

211A.04 SECRETARY OF STATE'S DUTIES.

Subd. 1. **Report forms.** The secretary of state shall prepare blanks for reports required by section 211A.02. Copies must be furnished through the county auditor or otherwise, as the secretary of state finds expedient, to a committee upon request or to a candidate upon filing for office.

Subd. 2. Repealed, 1992 c 513 art 3 s 79

History: 1988 c 578 art 2 s 4

211A.05 FAILURE TO FILE STATEMENT.

Subd. 1. **Penalty.** A candidate who intentionally fails to file a report required by section 211A.02 or a certification required by this section is guilty of a misdemeanor. The treasurer of a committee formed to promote or defeat a ballot question who intentionally fails to file a report required by section 211A.02 or a certification required by this section is guilty of a misdemeanor. Each candidate or treasurer of a committee formed to promote or defeat a ballot question shall certify to the filing officer that all reports required by section 211A.02 have been submitted to the filing officer or that the candidate or committee has not received contributions or made disbursements exceeding \$750 in the calendar year. The certification shall be submitted to the filing officer no later than seven days after the general or special election. The secretary of state shall prepare blanks for this certification. An officer who issues a certificate of election to a candidate who has not certified that all reports required by section 211A.02 have been filed is guilty of a misdemeanor.

Subd. 2. **Notice of failure to file.** If a candidate or committee fails to file a report on the date it is due, the filing officer shall immediately notify the candidate or committee of the failure to file. If a report is not filed within ten days after the notification is mailed, the filing officer shall file a complaint under section 211B.32.

History: 1988 c 578 art 2 s 5; 1989 c 291 art 1 s 31; 2004 c 277 s 3

NOTES AND DECISIONS

211A.05

County auditor does not have authority to omit name of a nominee from general election ballot because affidavit of disbursements discloses disbursements in excess of amount allowed by law. Op. Atty. Gen. 627C-12, September 29, 1948.

211A.06 FAILURE TO KEEP ACCOUNT; PENALTY.

A treasurer or other individual who receives money for a committee is guilty of a misdemeanor if the individual:

- (1) fails to keep a correct account as required by law;
- (2) mutilates, defaces, or destroys an account record; or
- (3) in the case of a committee, refuses upon request to provide financial information to a candidate; and
- (4) does any of these things with the intent to conceal receipts or disbursements, the purpose of receipts or disbursements, or the existence or amount of an unpaid debt or the identity of the person to whom it is owed.

History: 1988 c 578 art 2 s 6

211A.07 BILLS WHEN RENDERED AND PAID.

A person who has a bill, charge, or claim against a candidate's committee shall render it in writing to the committee within 60 days after the material or service is provided. A bill, charge, or claim that is not presented within 60 days after the material or service is provided must not be paid.

History: 1988 c 578 art 2 s 7

211A.08 COUNTY ATTORNEY INQUIRY.

Subd. 1. **Repealed**, 2004 c 277 s 13

Subd. 2. **Repealed**, 2004 c 277 s 13

Subd. 3. **County attorney authority.** A county attorney may prosecute any violation of this chapter.

History: 1986 c 444; 1988 c 578 art 2 s 8; 2004 c 277 s 4

NOTES AND DECISIONS

211A.08

County attorney may proceed by complaint and information rather than impaneling grand jury. Op. Atty. Gen. 627B-1, August 18, 1966.

Attorney employed to assist county attorney is not required to conduct a private and independent investigation but may conduct same so as to enable attorney to present the county attorney relevant facts and names of witnesses capable giving competent testimony in proceeding. Op. Atty. Gen. 121A-1, September 26, 1952.

Duty of county attorney is to prosecute violations of Act, not to bring proceedings to annul election. Op. Atty. Gen. 121-B-9, April 5, 1940.

211A.09 FORFEITURE OF NOMINATION OR OFFICE.

Subd. 1. Forfeiture required. Except as provided in subdivision 2, if a candidate is convicted of violating a provision of this chapter or if an offense was committed by another individual with the knowledge, consent, or connivance of the candidate, the court, after entering the adjudication of guilty, shall enter a supplemental judgment declaring that the candidate has forfeited the nomination or office. If the court enters the supplemental judgment, it shall transmit to the filing officer a transcript of the supplemental judgment, the nomination or office becomes vacant, and the vacancy must be filled as provided by law.

Subd. 2. **Circumstances where nomination or office not forfeited.** In a trial for a violation of this chapter, the candidate's nomination or election is not void if the court finds that:

- (1) an offense, though committed by the candidate or with the candidate's knowledge, consent, or connivance, was trivial; or
- (2) an act or omission of a candidate arose from accidental miscalculation or other reasonable cause, but in any case not from a want of good faith, and that it would be unjust for the candidate to forfeit the nomination or election.

Neither of these findings is a defense to a conviction under this chapter.

History: 1988 c 578 art 2 s 9

NOTES AND DECISIONS

211A.09

To sustain charge under this section must show omissions were deliberate, serious, and material violations of election law. *Moulton v. Newton*, 274 Minn. 545, 144 N.W. 2d 706 (1966). As to whether acts complained of are trivial or unimportant, see *Bank v. Egan*, 240 Minn. 192, 60 N.W. 2d 257 (1953).

211A.10 DISQUALIFIED INDIVIDUALS NOT TO HOLD VARIOUS POSITIONS.

A candidate whose election to office has been set aside for a violation of this chapter may not be appointed, during the period fixed by law as the term of the office, to fill a vacancy that may occur in the office. A candidate or other individual who is convicted of a violation of this chapter may not be appointed, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy in the office. An appointment to an office made contrary to this section is void.

A candidate or other individual who is convicted of a violation of this chapter is not qualified, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy in an office for which the legislature may establish qualifications under article XII, section 3, of the Minnesota Constitution.

History: 1988 c 578 art 2 s 10

NOTES AND DECISIONS

211A.10

Legislature may regulate the exercise of the right to vote. This section held not to add to the constitutional qualifications for holding office. *Saari v. Gleason*, 126 Minn. 378, 148 N.W. 293 (1914).

211A.11 PENALTIES FOR VIOLATIONS.

A violation of this chapter for which no other penalty is provided is a misdemeanor.

History: 1988 c 578 art 2 s 11

211A.12 CONTRIBUTION LIMITS.

A candidate or a candidate's committee may not accept aggregate contributions made or delivered by an individual or committee in excess of \$300 in an election year for the office sought and \$100 in other years; except that a candidate or a candidate's committee for an office whose territory has a population over 100,000 may not accept aggregate contributions made or delivered by an individual or committee in excess of \$500 in an election year for the office sought and \$100 in other years.

The following deliveries are not subject to the bundling limitation in this section:

- (1) delivery of contributions collected by a member of the candidate's committee, such as a block worker or a volunteer who hosts a fundraising event, to the committee's treasurer; and
- (2) a delivery made by an individual on behalf of the individual's spouse.

Notwithstanding sections 211A.02, subdivision 3, and 410.21, this section supersedes any home rule charter.

History: 1993 c 318 art 2 s 46; 1997 c 224 s 1

211A.13 PROHIBITED TRANSFERS.

A candidate for political subdivision office must not accept contributions from the principal campaign committee of a candidate as defined in section 10A.01, subdivision 34. A candidate for political subdivision office must not make contributions to a principal campaign committee, unless the contribution is made from the personal funds of the candidate for political subdivision office.

History: 1993 c 318 art 2 s 47; 2003 c 2 art 1 s 21

NOTES AND DECISIONS

211A.13

Section prohibits transfers of funds between candidates and committees subject to Chapter 10A, but not transfers between candidates for local offices. Op. Atty. Gen. 627e, August 1, 1994.

211A.14 CONTRIBUTIONS AND SOLICITATIONS DURING LEGISLATIVE SESSION.

A legislator or state constitutional officer who is a candidate for a county, city, or town office, the candidate's principal campaign committee, and any other political committee with the candidate's name or title may not solicit or accept a contribution from a political fund or registered lobbyist during a regular session of the legislature.

History: 1997 c 224 s 2

CHAPTER 211B FAIR CAMPAIGN PRACTICES

211B.01 DEFINITIONS.

- Subd. 1. **Application.** The definitions in chapter 200 and this section apply to this chapter.
- Subd. 2. **Campaign material.** "Campaign material" means any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media.
- Subd. 3. **Candidate.** "Candidate" means an individual who seeks nomination or election to a federal, statewide, legislative, judicial, or local office including special districts, school districts, towns, home rule charter and statutory cities, and counties, except candidates for president and vice-president of the United States.
- Subd. 4. **Committee.** "Committee" means two or more persons acting together or a corporation or association acting to influence the nomination, election, or defeat of a candidate or to promote or defeat a ballot question. Promoting or defeating a ballot question includes efforts to qualify or prevent a proposition from qualifying for placement on the ballot.
- Subd. 5. **Disbursement.** "Disbursement" means an act through which money, property, office, or position or other thing of value is directly or indirectly promised, paid, spent, contributed, or lent, and any money, property, office, or position or other thing of value so promised or transferred.
- Subd. 6. **Political purposes.** An act is done for "political purposes" when the act is intended or done to influence, directly or indirectly, voting at a primary or other election. This does not include news items or editorial comments published or broadcast by the news media.

History: 1988 c 578 art 3 s 1; 2004 c 293 art 3 s 1

NOTES AND DECISIONS

211B.01

Previous provision of statute defining "campaign material" as any material that "tend[s] to influence voting at a primary or other election" was unconstitutionally vague under the First Amendment.

Minnesota Citizens Concerned for Life, Inc. v. Kelley, 291 F.Supp.2d 1052 (D. Minn. 2003), affirmed in part and reversed in part on other grounds, 427 F.3d 1106 (8th Cir. 2005)

Because of potential chilling effect on free speech rights of chambers of commerce that operated as nonprofit corporations, chambers satisfied injury-in-fact requirement for Article III standing in action challenging constitutionality of statutes; case was ripe for review; and chambers had reasonable fear of prosecution under statute. *St. Paul Area Chamber of Commerce v. Gaertner*, 439 F.3d 481 (8th Cir. 2006).

Fair Campaign Practices Act is directed to actions of candidate and persons for whom he is responsible; and where there is nothing to show that candidate sanctioned improper activities, that are not chargeable to him. *Munnell v. Rowlette*, 275 Minn. 94, 145 N.W. 2d 531 (1966).

Act applies to city charter election. Op. Atty. Gen. 627B-1, August 18, 1966.

Committee formed to support constitutional amendment must file statement of receipts and disbursements. Op. Atty. Gen. 627B-2, August 26, 1952.

The term "voluntary committee" is but another name for a political committee under this section. Such a committee may not be organized as a mere subterfuge to evade the Fair Campaign Practices Act. Op. Atty. Gen. 627C-7, August 30, 1946.

The Fair Campaign Practices Act applies to activities of which the purpose is to secure the adoption or defeat of a constitutional amendment. The act also applies to the activities of a committee formed for

purpose of bringing about or preventing the adoption of an ordinance. Op. Atty. Gen. 627B-1, October 14, 1942.

211B.02 FALSE CLAIM OF SUPPORT.

A person or candidate may not knowingly make, directly or indirectly, a false claim stating or implying that a candidate or ballot question has the support or endorsement of a major political party or party unit or of an organization. A person or candidate may not state in written campaign material that the candidate or ballot question has the support or endorsement of an individual without first getting written permission from the individual to do so.

History: 1988 c 578 art 3 s 2

NOTES AND DECISIONS

211B.02

Use of sample ballot falsely implied party endorsement. Matter of Contest of Election in DFL Primary, 344 N.W.2d 826 (Minn. 1983).

Prominent political leaders are not "units of political party." *Graves v. Meland*, 264 N.W.2d 401 (Minn. 1978).

211B.03 USE OF THE TERM REELECT

A person or candidate may not, in the event of redistricting, use the term "reelect" in a campaign for elective office unless the candidate is the incumbent of that office and the office represents any part of the new district.

History: 1988 c 578 art 3 s 3

211B.04 CAMPAIGN LITERATURE MUST INCLUDE DISCLAIMER.

- (a) A person who participates in the preparation or dissemination of campaign material other than as provided in section 211B.05, subdivision 1, that does not prominently include the name and address of the person or committee causing the material to be prepared or disseminated in a disclaimer substantially in the form provided in paragraph (b) or (c) is guilty of a misdemeanor.
- (b) Except in cases covered by paragraph (c), the required form of disclaimer is: "Prepared and paid for by the committee,(address)" for material prepared and paid for by a principal campaign committee, or "Prepared and paid for by the committee,(address), in support of(insert name of candidate or ballot question)" for material prepared and paid for by a person or committee other than a principal campaign committee.
- (c) In the case of broadcast media, the required form of disclaimer is: "Paid for by the committee."
- (d) Campaign material that is not circulated on behalf of a particular candidate or ballot question must also include in the disclaimer either that it is "in opposition to(insert name of candidate or ballot question.....)"; or that "this publication is not circulated on behalf of any candidate or ballot question."
- (e) This section does not apply to objects stating only the candidate's name and the office sought, fund raising tickets, or personal letters that are clearly being sent by the candidate.
- (f) This section does not apply to an individual or association who acts independently of any candidate, candidate's committee, political committee, or political fund and spends only from the individual's or association's own resources a sum that is less than \$500

in the aggregate to produce or distribute campaign material that is distributed at least seven days before the election to which the campaign material relates.

(g) This section does not modify or repeal section 211B.06.

History: 1988 c 578 art 3 s 4; 1991 c 227 s 24; 1998 c 376 s 2; 2004 c 293 art 3 s 2

NOTES AND DECISIONS

211B.04

Because disclaimer requirement in statute directly attacks core political speech unsupported by an interest in avoiding the appearance of corruption, statute violates the First Amendment. *Minnesota Citizens Concerned for Life, Inc. v. Kelley*, 291 F.Supp.2d 1052 (D. Minn. 2003), affirmed in part and reversed in part on other grounds, 427 F.3d 1106 (8th Cir. 2005).

Because disclaimer requirement in statute could be violated by completely truthful anonymous statements made by individuals acting independently from any candidate and using their own resources, and there were no overriding state interests that permitted statute to limit such political expression under the exacting scrutiny standard, disclaimer requirement was overbroad and unconstitutional, restricted pure speech in violation of the First Amendment. *Riley v. Jankowski*, 713 N.W.2d 379 (Minn. App. 2006).

Former sections (a) and (b) of this section were unconstitutional pursuant to *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 115 S. Ct. 1511 (1994). Op. Atty. Gen. 82t, August 27, 1997.

Absence of authorship clause on cards held trivial. *Miske v. Fisher*, 193 Minn. 514, 259 N.W. 18 (1935).

If open letter is circulated in interest of better government and not for particular candidate, then section does not require, in addition to author's name and address, name of any candidate. Op. Atty. Gen. 627J-3, October 6, 1948. See also Op. Atty. Gen. 627J-3, February 10, 1947 on the same issue.

Emery boards must bear name and address of author. Op. Atty. Gen. 627F-1, September 24, 1948.

Sticker with nothing more on it than the name of a person for whom votes are desired is not in effect a campaign card. Op. Atty. Gen. 627J-1, August 18, 1942.

Use of a patriotic poster with candidate's solicitation of votes thereon must bear the name and address of the author. Op. Atty. Gen. 627F-1, August 18, 1942.

Name of person or persons on committee who authorize insertion of advertisement must be stated. Op. Atty. Gen. 627C-5, October 1, 1938.

Candidate for office may include word "lawyer" on campaign card but such a card must contain address of author, while card containing a mere statement that a person is a candidate for office without anything in the way of an appeal or argument does not need to state its authorship. Op. Atty. Gen. 627J-1, March 16, 1936.

211B.045 NONCOMMERCIAL SIGNS EXEMPTION.

In any municipality, whether or not the municipality has an ordinance that regulates the size or number of noncommercial signs, all noncommercial signs of any size may be posted in any number from August 1 in a state general election year until ten days following the state general election.

Presented to the governor March 25, 2004

Signed by the governor March 26, 2004, 6:30 p.m.

History: 1990 c 585 s 30; 2004 c 142 s 1

211B.05 PAID ADVERTISEMENTS IN NEWS.

Subd. 1. **Acceptance of paid advertisements.** A newspaper, periodical, or magazine may not intentionally accept for insertion in the newspaper, magazine, or periodical a political advertisement unless the words "PAID ADVERTISEMENT," and the disclaimer required under section 211B.04 are included at the beginning or end of the

advertisement. The disclaimer must be in a legible text size and font. A radio station, television station, or cable system may not accept for broadcast a political advertisement unless the words “PAID ADVERTISEMENT” are included at the beginning or end of the advertisement.

Subd. 2. **Advertising rates.** Rates charged for advertising to support or oppose a candidate or ballot question must be the same as the charges made for any other political candidate and may be no greater than charges made for any other comparable purpose or use according to the seller’s rate schedule.

Subd. 3. **Compensation prohibited, except for paid advertisement.** An owner, publisher, editor, reporter, agent, broadcaster, or employee of a newspaper, periodical, magazine, radio or television broadcast station, or cable system may not directly or indirectly solicit, receive, or accept a payment, promise, or compensation, nor may a person pay or promise to pay or in any manner compensate an owner, publisher, editor, reporter, agent, broadcaster, or employee directly or indirectly for influencing or attempting to influence voting at an election or primary through printed material in the newspaper or periodical, or radio, television, or cable broadcast, except as a “PAID ADVERTISEMENT” as provided in this section.

Subd. 4. **Unpaid material identification.** Unpaid material published in a newspaper, magazine, or other publication that is: (1) in unique typeset or otherwise differentiated from other unpaid material, (2) designed to influence or attempt to influence the voting at any election or the passage or defeat of legislation, and (3) not placed on the editorial page must be clearly identified as an editorial opinion.

History: 1988 c 578 art 3 s 5; 2001 c 143 s 1

211B.06 FALSE POLITICAL AND CAMPAIGN MATERIAL; PENALTY; EXCEPTIONS.

Subd. 1. **Gross misdemeanor.** A person is guilty of a gross misdemeanor who intentionally participates in the preparation, dissemination, or broadcast of paid political advertising or campaign material with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat a candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

A person is guilty of a misdemeanor who intentionally participates in the drafting of a letter to the editor with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat any candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

Subd. 2. **Exception.** Subdivision 1 does not apply to any person or organization whose sole act is, in the normal course of their business, the printing, manufacturing, or dissemination of the false information.

History: 1988 c 578 art 3 s 6; 1998 c 376 s 3

NOTES AND DECISIONS

211B.06

Violation of the statutory prohibition of false campaign material requires a finding of both a false statement and actual malice of reckless disregard. Statements criticizing official conduct do not lose constitutional protection merely because they are criticisms and effectively diminish an official's reputation. Statements in candidate's campaign flyer held to be false contentions of fact, rather than statements of opinion protected under the First Amendment. Penalty of \$800 for candidate's violation of statutory prohibition on false campaign material, based on candidate's willfulness and on gravity of violations, held valid. *Fine v. Bernstein*, 726 N. W. 2d 137 (Minn. App. 2007).

Rights to jury trial of successful candidates in city council election were not violated by administrative hearing process that heard allegations by their opponents that they violated statutes establishing financial-reporting requirements for political candidates and committees acting to influence elections and statutes regulating campaign practices. *Riley v. Jankowski*, 713 N.W.2d 379 (Minn. App. 2006).

As-applied constitutional challenge to election statute prohibiting false statements that hinged on party-endorsed candidate's being prosecuted for allegedly falsely claiming to be only party member who was candidate in county commissioner race was mooted when charges against candidate were dismissed with prejudice. Republican Party of Minn., *Third Congressional Dist. v. Klobuchar*, 381 F.3d 785 (8th Cir. 2004)

Extreme and illogical inferences drawn from accurate fact statement was not "false information." *Kennedy v. Voss*, 304 N.W.2d 299 (Minn. 1981).

Campaign circular containing earlier laudatory statements about a candidate is not defamatory and, therefore, does not violate this section. *Graves v. Meland*, 264 N.W. 2d 401 (Minn. 1978).

False representation regarding source of information is not violation of election laws as long as information is true. *Grotjohn v. McCollar*, 291 Minn. 344, 191 N.W. 2d 396 (1971).

Candidate who denied prior knowledge of the details and method of publishing alleged falsehood did not violate Fair Campaign Practices Act. In re County Commissioner for Wright County, 289 Minn. 523, 185 N.W. 2d 277 (1971).

Although defamatory of supporters of a candidate, a campaign document held not defamatory of candidate himself and so no violation of Corrupt Practices Act. *Dart v. Erickson*, 188 Minn. 344, 191 N.W. 2d 396 (1971).

This section is not preempted by the Federal Election Campaign Act. However, it is unconstitutionally overbroad because it extends to statements not made with "actual malice." *State v. Jude*, 554 N.W.2d 750 (Minn. Ct. App. 1996).

211B.07 UNDUE INFLUENCE ON VOTERS PROHIBITED.

A person may not directly or indirectly use or threaten force, coercion, violence, restraint, damage, harm, loss, including loss of employment or economic reprisal, undue influence, or temporal or spiritual injury against an individual to compel the individual to vote for or against a candidate or ballot question. Abduction, duress, or fraud may not be used to obstruct or prevent the free exercise of the right to vote of a voter at a primary or election, or compel a voter to vote at a primary or election. Violation of this section is a gross misdemeanor.

History: 1988 c 578 art 3 s 7

NOTES AND DECISIONS

211B.07

In absence of showing that incumbent municipal judge by his presence in courtroom on court business for some 1-1/2 hours during morning of election had interfered with conduct of election in adjacent polling place or had sought to influence voters or that he was aware that sticker campaign was being conducted for another candidate for his office, election of incumbent was not invalid on ground that he had violated election statutes. *Munnell v. Rowlette*, 275 Minn. 92, 145 N.W. 2d 531 (1966).

While action of police officer in interfering with campaign worker for sticker candidate for municipal judge was unwarranted where action was not that of opposing candidate and there was nothing to show that opponent had sanctioned such action, any violation of Corrupt Practices Act would be chargeable to opponent. Id.

Where it is customary for incumbent judge to release prisoners convicted of misdemeanors before Christmas each year so as to permit them to earn money for Christmas shopping, and there was no showing that prisoners released pursuant to that practice shortly before election in which incumbent was candidate where voters in village where election was to be held or had been directed or solicited to vote for incumbent in exchange for their freedom, there was nothing in such conduct to justify any invalidation of incumbent's reelection. Id.

Corrupt Practices Act is directed to actions of candidates for office and to persons for who he is responsible. Id.

Judgment that contestee's attempted coercion of voters on public relief by threats that he, as chairman of emergency relief board, would have them removed from relief if they did not support him in his campaign for county commissioner, was limited in character and that his election was free from offensive and illegal acts is reversed and judgment directed that contestee's election be annulled and set aside. *Fritz v. Hanfler*, 195 Minn. 640 263 N.W. 10 (1935).

Standing in line by nonvoters and the abuse of the right to challenge voters constitute gross misdemeanors under Minnesota law. Op. Atty. Gen. 182, October 26, 1964.

211B.08 SOLICITATION OF CONTRIBUTIONS PROHIBITED.

A religious, charitable, or educational organization may not request a candidate or committee to contribute to the organization, to subscribe for the support of a club or organization, to buy tickets to entertainment, or to pay for space in a publication. This section does not apply to:

- (1) the solicitation of a business advertisement in periodicals in which the candidate was a regular contributor, before candidacy;
- (2) ordinary business advertisements;
- (3) regular payments to a religious, charitable, or educational organization, of which the candidate was a member, or to which the candidate was a contributor for more than six months before candidacy; or
- (4) ordinary contributions at church services.

History: 1988 c 578 art 3 s 8

NOTES AND DECISIONS

211B.08

Provision prohibiting religious, charitable, or educational organizations from requesting donations from candidates or committees was not narrowly tailored to serve state interest in prohibiting organizations from soliciting money from candidates in exchange for votes, and thus violated those organizations' First Amendment right to solicit contributions. *Minnesota Citizens Concerned for Life, Inc. v. Kelley*, 427 F.3d 1106 (8th Cir. 2005), reversing 291 F.Supp.2d 1052 (D. Minn. 2003).

211B.09 PROHIBITED PUBLIC EMPLOYEE ACTIVITIES.

An employee or official of the state or of a political subdivision may not use official authority or influence to compel a person to apply for membership in or become a member of a political organization, to pay or promise to pay a political contribution, or to take part in political activity. A political subdivision may not impose or enforce additional limitations on the political activities of its employees.

History: 1988 c 578 art 3 s 9

NOTES AND DECISIONS

211B.09

Display of campaign literature at courthouse not within meaning of “compel”. *Burns v. Valen*, 400 N.W. 2d 123 (Minn. Ct. App. 1987).

211B.10 INDUCING OR REFRAINING CANDIDACY; TIME OFF FOR PUBLIC OFFICE MEETINGS.

- Subd. 1. **Inducing or refraining from candidacy.** A person may not reward or promise to reward another in any manner to induce the person to be or refrain from or cease being a candidate. A person may not solicit or receive a payment, promise, or reward from another for this purpose.
- Subd. 2. **Time off for public office meetings.** A person elected to a public office must be permitted time off from regular employment to attend meetings required by reason of the public office. The time off may be without pay, with pay, or made up with other hours, as agreed between the employee and employer. When an employee takes time off without pay, the employer shall make an effort to allow the employee to make up the time with other hours when the employee is available. No retaliatory action may be taken by the employer for absences to attend meetings necessitated by reason of the employee’s public office.

History: 1988 c 578 art 3 s 10

211B.11 ELECTION DAY PROHIBITIONS.

- Subd. 1. **Soliciting near polling places.** A person may not display campaign material, post signs, ask, solicit, or in any manner try to induce or persuade a voter within a polling place or within 100 feet of the building in which a polling place is situated, or anywhere on the public property on which a polling place is situated, on primary or election day to vote for or refrain from voting for a candidate or ballot question. A person may not provide political badges, political buttons, or other political insignia to be worn at or about the polling place on the day of a primary or election. A political badge, political button, or other political insignia may not be worn at or about the polling place on primary or election day. This section applies to areas established by the county auditor or municipal clerk for absentee voting as provided in chapter 203B.
- The secretary of state, county auditor, municipal clerk, or school district clerk may provide stickers which contain the words “I VOTED” and nothing more. Election judges may offer a sticker of this type to each voter who has signed the polling place roster.
- Subd. 2. **Repealed**, 1997 c 147 s 79
- Subd. 3. **Transportation of voters to polling place; penalty.** A person transporting a voter to or from the polling place may not ask, solicit, or in any manner try to induce or persuade a voter on primary or election day to vote or refrain from voting for a candidate or ballot question.
- Subd. 4. **Penalty.** Violation of this section is a petty misdemeanor.

History: 1988 c 578 art 3 s 11; 1989 c 291 art 1 s 32; 1993 c 223 s 25

NOTES AND DECISIONS

211B.11

This section forbids erection of campaign sign before election day for display on election day within 100 feet of polling place. *State v. Zimmer*, Findings of Fact, Conclusions of Law and Order, No. T3-94-3002 (Mille Lacs Co. Dist. Ct., May 5, 1995).

Former subdivision 2 prohibiting election day campaigning was unconstitutional. Op. Atty. Gen. 627-h, August 28, 1989.

There is no provision of the Minnesota election law prohibiting the posting of signs within one hundred feet of a polling place except such posting may not be done on Election Day. Op. Atty. Gen. 627H, May 31, 1966.

Stickers may not be distributed at or within the polling place or within one hundred feet thereof on Election Day. Op. Atty. Gen. 627B-8, March 9, 1945.

Stickers may not be left in an election polling place on election day. Op. Atty. Gen. 28A-8, August 7, 1942.

211B.12 LEGAL EXPENDITURES.

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a non-campaign disbursement as defined in section 10A.01, subdivision 26. The following are permitted expenditures when made for political purposes:

- (1) salaries, wages, and fees;
- (2) communications, mailing, transportation, and travel;
- (3) campaign advertising;
- (4) printing;
- (5) office and other space and necessary equipment, furnishings, and incidental supplies;
- (6) charitable contributions of not more than \$100 to any charity organized under section 5019(c)(3) of the Internal Revenue Code annually, except that the amount contributed by a principal campaign committee that dissolves within one year after the contribution is made is not limited by this clause; and
- (7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.

History: 1988 c 578 art 3 s 12; 1993 c 318 art 2 s 48

NOTES AND DECISIONS

211B.12

The word “salary” is construed in an election contest as being used in broad sense of compensation embracing both “salary” and “fees”. *Spokely v. Haaven*, 183 Minn. 467, 237 N.W. 11 (1931).

211B.13 BRIBERY, TREATING, AND SOLICITATION.

- Subd. 1. **Bribery, advancing money, and treating prohibited.** A person who willfully, directly or indirectly, advances, pays, gives, promises, or lends any money, food, liquor, clothing, entertainment, or other thing of monetary value, or who offers, promises, or endeavors to obtain any money, position, appointment, employment, or other valuable consideration, to or for a person, in order to induce a voter to refrain

from voting, or to vote in a particular way, at an election, is guilty of a felony. This section does not prevent a candidate from stating publicly preference for or support of another candidate to be voted for at the same primary or election. Refreshments of food or nonalcoholic beverages of nominal value consumed on the premises at a private gathering or public meeting are not prohibited under this section.

Subd. 2. **Certain solicitations prohibited.** A person may not knowingly solicit, receive, or accept any money, property, or other thing of monetary value, or a promise or pledge of these that is a disbursement prohibited by this section or section 211B.15.

History: 1988 c 578 art 3 s 13

NOTES AND DECISIONS

211B.13

Giving of drink of liquor as act of mere hospitality is not violation of Corrupt Practices Act. *Engelbret v. Tuttle*, 185 Minn. 608, 242 N.W. 425 (1932).

Giving shower gifts to friends similar in value to gifts given by other guests was not a violation. *Id.*

Giving voter a drink of liquor while actively soliciting vote is a violation. *Miller v. Maier*, 136 Minn. 231, 161 N.W. 513 (1917).

The making in good faith by a group of citizens to an entire county of an offer of site and money for a new court house is not a felony under this section. *Op. Atty. Gen. 627B-3*, May 6, 1954. *Accord Op. Atty. Gen. 106-e*, April 10, 1955.

Whether the distribution of objects such as matchbooks, pencils, emery boards, etc. is a violation of this section is a question of fact upon which the attorney general cannot pass judgment. *Op. Atty. Gen. 627F-1*, March 7, 1950.

Acceptance of cut in salary pursuant to resolution of county board would not be violation of Corrupt Practices Act. *Op. Atty. Gen.*, July 27, 1933. For other opinions treating this issue see also *Op. Atty. Gen. 359A-22*, March 22, 1933; *Op. Atty. Gen. 627B-3*, March 20, 1933; *Op. Atty. Gen. 359A-22*, July 11, 1932 and January 27, 1932.

211B.14 DIGEST OF LAWS.

The secretary of state, with the approval of the attorney general, shall prepare and print an easily understandable digest of this chapter and annotations of it. The digest may include other related laws and annotations at the discretion of the secretary of state.

The secretary of state shall distribute the digest to candidates and committees through the county auditor or otherwise as the secretary of state considers expedient. A copy of the digest and, if appropriate, a financial reporting form and a certification of filing form must be distributed to each candidate by the filing officer at the time that the candidate's affidavit of candidacy is filed.

History: 1988 c 578 art 3 s 14; 1993 c 223 s 26; 1997 c 147 s 73

211B.15 CORPORATE POLITICAL CONTRIBUTIONS.

Subd. 1. **Definitions.** For purposes of this section, "corporation" means:

- (1) a corporation organized for profit that does business in this state;
- (2) a nonprofit corporation that carries out activities in this state; or
- (3) a limited liability company formed under chapter 322B, or under similar laws of another state, that does business in this state.

Subd. 2. **Prohibited contributions.** A corporation may not make a contribution or offer or agree to make a contribution, directly or indirectly, of any money, property, free

- service of its officers, employees, or members, or thing of monetary value to a major political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. For the purpose of this subdivision, “contribution” includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate.
- Subd. 3. **Independent expenditures.** A corporation may not make an independent expenditure or offer or agree to make an independent expenditure to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. For the purpose of this subdivision, “independent expenditure” means an expenditure that is not made with the authorization or expressed or implied consent of, or in cooperation or concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate.
- Subd. 4. **Ballot question.** A corporation may make contributions or expenditures to promote or defeat a ballot question, to qualify a question for placement on the ballot unless otherwise prohibited by law, or to express its views on issues of public concern. A corporation may not make a contribution to a candidate for nomination, election, or appointment to a political office or to a committee organized wholly or partly to promote or defeat a candidate.
- Subd. 5. **News media.** This section does not prohibit publication or broadcasting of news items or editorial comments by the news media.
- Subd. 6. **Penalty for individuals.** An officer, manager, stockholder, member, agent, employee, attorney, or other representative of a corporation acting in behalf of the corporation who violates this section may be fined not more than \$20,000 or be imprisoned for not more than five years, or both.
- Subd. 7. **Penalty for corporations.** A corporation convicted of violating this section is subject to a fine not greater than \$40,000. A convicted domestic corporation may be dissolved as well as fined. If a foreign or nonresident corporation is convicted, in addition to being fined, its right to do business in this state may be declared forfeited.
- Subd. 8. **Permitted activity; political party.** It is not a violation of this section for a political party, as defined in section 200.02, subdivision 7, to form a nonprofit corporation for the sole purpose of holding real property to be used exclusively as the party’s headquarters.
- Subd. 9. **Media projects.** It is not a violation of this section for a corporation to contribute to or conduct public media projects to encourage individuals to attend precinct caucuses, register, or vote if the projects are not controlled by or operated for the advantage of a candidate, political party, or committee.
- Subd. 10. **Meeting facilities.** It is not a violation of this section for a corporation to provide meeting facilities to a committee, political party, or candidate on a nondiscriminatory and nonpreferential basis.
- Subd. 11. **Messages on premises.** It is not a violation of this section for a corporation selling products or services to the public to post on its public premises messages that promote participation in precinct caucuses, voter registration, or elections if the messages are not controlled by or operated for the advantage of a candidate, political party, or committee.
- Subd. 12. **Reports required.** The total amount of an expenditure or contribution for any one project permitted by subdivisions 9 and 11 that is more than \$200, together with the date, purpose, and the names and addresses of the persons receiving the contribution or expenditures, must be reported to the secretary of state. The reports must be filed

on forms provided by the secretary of state on the dates required for committees under section 211A.02. Failure to file is a misdemeanor.

- Subd. 13. **Aiding violation; penalty.** An individual who aids, abets, or advises a violation of this section is guilty of a gross misdemeanor.
- Subd. 14. **Prosecutions; venue.** Violations of this section may be prosecuted in the county where the payment or contribution was made, where services were rendered, or where money was paid or distributed.
- Subd. 15. **Nonprofit corporation exemption.** The prohibitions in this section do not apply to a nonprofit corporation that:
- (1) is not organized or operating for the principal purpose of conducting a business;
 - (2) has no shareholders or other persons affiliated so as to have a claim on its assets or earnings; and
 - (3) was not established by a business corporation or a labor union and has a policy not to accept significant contributions from those entities.
- Subd. 16. **Employee political fund solicitation.** Any solicitation of political contributions by an employee must be in writing, informational and nonpartisan in nature, and not promotional for any particular candidate or group of candidates. The solicitation must consist only of a general request on behalf of an independent political committee (conduit fund) and must state that there is no minimum contribution, that a contribution or lack thereof will in no way impact the employee's employment, that the employee must direct the contribution to candidates of the employee's choice, and that any response by the employee shall remain confidential and shall not be directed to the employee's supervisors or managers. Questions from an employee regarding a solicitation may be answered orally or in writing consistent with the above requirements. Nothing in this subdivision authorizes a corporate donation of an employee's time prohibited under subdivision 2.
- Subd. 17. **Nonprofit corporation political activity.** It is not a violation of this section for a nonprofit corporation to provide administrative assistance to one political committee or political fund that is associated with the nonprofit corporation and registered with the campaign finance and public disclosure board under section 10A.14. Such assistance must be limited to accounting, clerical or legal services, bank charges, utilities, office space, and supplies. The records of the political committee or political fund may be kept on the premises of the nonprofit corporation. The administrative assistance provided by the nonprofit corporation to the political committee or political fund is limited annually to the lesser of \$5,000 or 7-1/2 percent of the expenditures of the political committee or political fund.
- History:** 1988 c 578 art 3 s 15; 1989 c 209 art 2 s 26; 1992 c 517 art 1 s 1-9; 1993 c 318 art 2 s 49; 1996 c 459 s 3,4; 1997 c 202 art 2 s 63

NOTES AND DECISIONS

211B.15

Because of potential chilling effect on free speech rights of chambers of commerce that operated as nonprofit corporations, chambers satisfied injury-in-fact, requirement for Article III standing in action challenging constitutionality of statutes; case was ripe for review; and chambers had reasonable fear of prosecution under statute. *St Paul Area Chamber of Commerce v. Gaertner*, 439 F.3d 481 (8th Cir. 2006).

See M.S. 72A.12, subd. 5 (1988), pertaining to insurance companies.

Statute prohibiting corporate independent expenditures was unconstitutional as applied to certain nonprofit organizations. *Day v. Holohan*, 34 F.3d 1356 (8th Cir. 1994).

This section does not prohibit sponsorship of “conduit” or “nonpartisan” political action committees by a corporation. *Minnesota Association of Commerce and Industry v. Foley*, 316 N.W. 2d 524 (Minn. 1982).

211B.16 COUNTY ATTORNEY INQUIRY; ASSOCIATE COUNSEL.

Subd. 1. **Repealed**, 2004 c 277 s 13

Subd. 2. **Repealed**, 2004 c 277 s 13

Subd. 3. **County attorney authority.** A county attorney may prosecute any violation of this chapter.

History: 1988 c 578 art 3 s 16; 2004 c 277 s 5

NOTES AND DECISIONS

211B.16

County attorney may proceed by complaint and information rather than impaneling grand jury. Op. Atty. Gen. 627B-1, August 18, 1966.

Attorney employed to assist county attorney is not required to conduct a private and independent investigation but may conduct same so as to enable attorney to present the county attorney relevant facts and names of witnesses capable of giving competent testimony in proceeding. Op. Atty. Gen. 121A-1, September 29, 1952.

211B.17 FORFEITURE OF NOMINATION OR OFFICE; CIRCUMSTANCES WHERE NOT FORFEITED.

Subd. 1. **Forfeiture of nomination or office.** Except as provided in subdivision 2, if a candidate is found guilty of violating this chapter or an offense was committed by another individual with the knowledge, consent, or connivance of the candidate, the court, after entering the adjudication of guilty, shall enter a supplemental judgment declaring that the candidate has forfeited the nomination or office. If the court enters the supplemental judgment, it shall transmit to the filing officer a transcript of the supplemental judgment, the nomination or office becomes vacant, and the vacancy must be filled as provided by law.

Subd. 2. **Circumstances where nomination or office not forfeited.** In a trial for a violation of this chapter, the candidate’s nomination or election is not void if the court finds that:

- (1) an offense, though committed by the candidate or with the candidate’s knowledge, consent, or connivance, was trivial; or
- (2) an act or omission of a candidate arose from accidental miscalculation or other reasonable cause, but in any case not from a want of good faith; and the court also finds that it would be unjust for a candidate to forfeit the nomination or election. None of these findings is a defense to a conviction under this chapter.

History: 1988 c 578 art 3 s 17

NOTES AND DECISIONS

211B.17

Alleged violations of Fair Campaign Practices Act by newspaper stated no justiciable issue for election contest. *Derus v. Higgins*, 555 N.W.2d 515 (Minn. 1996).

211B.18 DISQUALIFIED CANDIDATE NOT TO HOLD VARIOUS POSITIONS.

A candidate whose election to office has been set aside for a violation of this chapter may not be appointed, during the period fixed by law as the term of the office, to fill a vacancy in that office. A candidate or other individual who is convicted of a violation of this chapter may not be appointed, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy that may occur in the office. An appointment to an office made contrary to the provisions of this section is void.

A candidate or other individual who is convicted of a violation of this chapter is not qualified, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy in an office for which the legislature may establish qualifications under article XII, section 3, of the Minnesota Constitution.

History: 1988 c 578 art 3 s 18

NOTES AND DECISIONS

211B.18

Legislator excluded from office due to violation of Fair Campaign Practices Act could not be precluded from running in special election solely on account of that prior violation. *Pavlak v. Growe*, 284 N.W.2d 174 (Minn. 1979).

211B.19 PENALTIES FOR VIOLATION.

A violation of this chapter for which no other penalty is provided is a misdemeanor.

History: 1988 c 578 art 3 s 19

211B.20 DENIAL OF ACCESS BY POLITICAL CANDIDATES TO MULTIPLE UNIT DWELLINGS.

Subd. 1. **Prohibition.** It is unlawful for a person, either directly or indirectly, to deny access to an apartment house, dormitory, nursing home, manufactured home park, other multiple unit facility used as a residence, or an area in which two or more single-family dwellings are located on private roadways to a candidate who has filed for election to public office or to campaign workers accompanied by the candidate, if the candidate and workers seeking admittance to the facility do so solely for the purpose of campaigning. A violation of this section is a petty misdemeanor.

Subd. 2. **Exceptions.** Subdivision 1 does not prohibit:

- (1) denial of admittance into a particular apartment, room, manufactured home, or personal residential unit;
- (2) requiring reasonable and proper identification as a necessary prerequisite to admission to a multiple unit dwelling;
- (3) in the case of a nursing home, denial of permission to visit certain persons for valid health reasons;
- (4) limiting visits by candidates or workers accompanied by the candidate to a reasonable number of persons or reasonable hours;
- (5) requiring a prior appointment to gain access to the facility; or
- (6) denial of admittance to or expulsion from a multiple unit dwelling for good cause.

History: 1988 c 578 art 3 s 20

211B.205 PARTICIPATION IN PUBLIC PARADES.

If a public parade allows candidates, a candidate must be allowed to participate for a fee that is not greater than the amount that is charged to other units participating in the parade.

History: 1Sp2001 c 10 art 18 s 40

211B.21 APPLICABILITY.

Nothing in section 211B.17 or 211B.18 may be construed to limit the ability of each house of the legislature to act as judge of the election returns and eligibility of its own members.

History: 1988 c 578 art 3 s 21

211B.31 DEFINITION.

As used in sections 211B.32 to 211B.36, "office" means the Office of Administrative Hearings.

History: 2004 c 277 s 6

211B.32 COMPLAINTS OF UNFAIR CAMPAIGN PRACTICES.

Subd. 1. **Administrative remedy; exhaustion.** A complaint alleging a violation of chapter 211A or 211B must be filed with the office. The complaint must be finally disposed of by the office before the alleged violation may be prosecuted by a county attorney.

Subd. 2. **Limitation on filing.** The complaint must be filed with the office within one year after the occurrence of the act or failure to act that is the subject of the complaint, except that if the act or failure to act involves fraud, concealment, or misrepresentation that could not be discovered during that one year period, the complaint may be filed with the office within one year after the fraud, concealment, or misrepresentation was discovered.

Subd. 3. **Form of complaint.** The complaint must be in writing, submitted under oath, and detail the factual basis for the claim that a violation of law has occurred. The office may prescribe the form of a complaint.

Subd. 4. **Proof of claim.** The burden of proving the allegations in the complaint is on the complainant. The standard of proof of a violation of section 211B.06, relating to false statements in paid political advertising or campaign material, is clear and convincing evidence. The standard of proof of any other violation of chapter 211A or 211B is a preponderance of the evidence.

Subd. 5. **Filing fee; waiver; refund.**

(a) The complaint must be accompanied by a filing fee of \$50, unless filed by a filing officer under section 211A.05, subdivision 2.

(b) The office may waive the payment of the filing fee, if the individual seeking a waiver of the fee files with the office an affidavit stating that the individual is financially unable to pay the fee.

(c) The office may refund the filing fee of a complainant who prevails on the merits.

Subd. 6. **Service on respondent.** Upon receipt of the filed complaint, the office must immediately notify the respondent and provide the respondent with a copy of the complaint by the most expeditious means available.

History: 2004 c 277 s 7

NOTES AND DECISIONS

211B.32

Statutes that established administrative hearing process, which heard allegations filed by opponents of successful candidates in city council election that candidates violated statutes establishing financial-reporting requirements and statutes regulating campaign practices, did not unconstitutionally intrude on First Amendment rights of successful candidates, as statutes merely established a process to consider violations of election statutes and did not establish substantive law. *Riley v. Jankowski*, 713 N.W.2d 379 (Minn. App. 2006).

211B.33 PRIMA FACIE REVIEW.

- Subd. 1. **Time for review.** The chief administrative law judge must randomly assign an administrative law judge to review the complaint. Within one business day after the complaint was filed with the office, when practicable, but never longer than three business days, the administrative law judge must make a preliminary determination for its disposition.
- Subd. 2. **Recommendation.**
- (a) If the administrative law judge determines that the complaint does not set forth a prima facie violation of chapter 211A or 211B, the administrative law judge must dismiss the complaint.
 - (b) If the administrative law judge determines that the complaint sets forth a prima facie violation of section 211B.06 and was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates, the administrative law judge must conduct an expedited probable cause hearing under section 211B.34.
 - (c) If the administrative law judge determines that the complaint sets forth a prima facie violation of a provision of chapter 211A or 211B, other than section 211B.06, and that the complaint was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates, the administrative law judge, on request of any party, must conduct an expedited probable cause hearing under section 211B.34.
 - (d) If the administrative law judge determines that the complaint sets forth a prima facie violation of chapter 211A or 211B, and was filed more than 60 days before the primary or special election or more than 90 days before the general election to which the complaint relates, the administrative law judge must schedule an evidentiary hearing under section 211B.35.
- Subd. 3. **Notice to parties.** The office must notify all parties of the determination made under subdivision 2. If the complaint is scheduled for hearing, the notice must identify the time and place of the hearing and inform all parties that they may submit evidence, affidavits, documentation, and argument for consideration by the administrative law judge.
- Subd. 4. **Joinder and separation of complaints.** The chief administrative law judge may direct that two or more complaints be joined for disposition if the chief administrative law judge determines that the allegations in each complaint are of the same or similar character, are based on the same act or failure to act, or are based on two or more acts or failures to act constituting parts of a common scheme or plan. If one complaint contains two or more allegations, the chief administrative law judge may separate the allegations, if they are not of the same or similar character, if they are not based on the same act or failure to act, or if they are not based on two or more acts or failures to act constituting parts of a common scheme or plan. If the chief administrative law

judge separates the allegations in a complaint, the assigned administrative law judge or judges may make separate recommendations under subdivision 2 for each allegation.

History: 2004 c 277 s 8

211B.34 PROBABLE CAUSE HEARING.

Subd. 1. **Time for review.** The assigned administrative law judge must hold a probable cause hearing on the complaint no later than three business days after receiving the assignment if an expedited hearing is required by section 211B.33, except that for good cause the administrative law judge may hold the hearing no later than seven days after receiving the assignment. If an expedited hearing is not required by section 211B.33, the administrative law judge must hold the hearing not later than 30 days after receiving the assignment.

Subd. 2. **Disposition.** At the probable cause hearing, the administrative law judge must make one of the following determinations:

- (a) The complaint is frivolous, or there is no probable cause to believe that the violation of law alleged in the complaint has occurred. If the administrative law judge makes either determination, the administrative law judge must dismiss the complaint.
- (b) There is probable cause to believe that the violation of law alleged in the complaint has occurred. If the administrative law judge so determines, the chief administrative law judge must schedule the complaint for an evidentiary hearing under section 211B.35.

Subd. 3. **Reconsideration by chief administrative law judge.**

- (a) If the administrative law judge dismisses the complaint, the administrative law judge shall provide to the complainant written notice of the right to seek reconsideration of the decision on the record by the chief administrative law judge.
- (b) A petition for reconsideration must be filed within two business days after the dismissal. The chief administrative law judge must make a decision on the petition within three business days after receiving the petition. If the chief administrative law judge determines that the assigned administrative law judge made a clear error of law and grants the petition, within five business days after granting the petition, the chief administrative law judge shall schedule the complaint for an evidentiary hearing under section 211B.35.

History: 2004 c 277 s 9

211B.35 EVIDENTIARY HEARING BY PANEL.

Subd. 1. **Deadline for hearing.** When required by section 211B.34, subdivision 2 or 3, the chief administrative law judge must assign the complaint to a panel of three administrative law judges for an evidentiary hearing. The hearing must be held within the following times:

- (1) ten days after the complaint was assigned, if an expedited probable cause hearing was requested or required under section 211B.33;
- (2) 30 days after the complaint was filed, if it was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates; or
- (3) 90 days after the complaint was filed, if it was filed at any other time.

For good cause shown, the panel may extend the deadline set forth in clause (2) or (3) by 60 days.

- Subd. 2. **Disposition of complaint.** The panel must determine whether the violation alleged in the complaint occurred and must make at least one of the following dispositions:
- (a) The panel may dismiss the complaint.
 - (b) The panel may issue a reprimand.
 - (c) The panel may find that a statement made in a paid advertisement or campaign material violated section 211B.06.
 - (d) The panel may impose a civil penalty of up to \$5,000 for any violation of chapter 211A or 211B.
 - (e) The panel may refer the complaint to the appropriate county attorney.
- Subd. 3. **Time for disposition.** The panel must dispose of the complaint:
- (1) within three days after the hearing record closes, if an expedited probable cause hearing was required by section 211B.33; and
 - (2) within 14 days after the hearing record closes, if an expedited probable cause hearing was not required by section 211B.33.

History: 2004 c 277 s 10

NOTES AND DECISIONS

211B.35

Statutes that established administrative hearing process, which heard allegations filed by opponents of successful candidates in city council election that candidates violated statutes establishing financial-reporting requirements and statutes regulating campaign practices, did not unconstitutionally intrude on First Amendment rights of successful candidates, as statutes merely established a process to consider violations of election statutes and did not establish substantive law. *Riley v. Jankowski*, 713 N.W.2d 379 (Minn. App. 2006).

211B.36 PROCEDURES.

- Subd. 1. **Evidence and argument.** The administrative law judge or panel may consider any evidence and argument submitted until a hearing record is closed, including affidavits and documentation, or may continue a hearing to enable the parties to submit additional testimony.
- Subd. 2. **Withdrawal of complaint.** At any time before an evidentiary hearing under section 211B.35 begins, a complainant may withdraw a complaint filed under section 211B.32. After the evidentiary hearing begins, a complaint filed under section 211B.32 may only be withdrawn with the permission of the panel.
- Subd. 3. **Costs.** If the assigned administrative law judge or panel determines the complaint is frivolous, they may order the complainant to pay the respondent's reasonable attorney fees and to pay the costs of the office in the proceeding in which the complaint was dismissed.
- Subd. 4. **Hearings public.** A hearing under section 211B.34 or 211B.35 may be conducted by conference telephone call or by interactive television. All hearings must be open to the public.
- Subd. 5. **Judicial review.** A party aggrieved by a final decision on a complaint filed under section 211B.32 is entitled to judicial review of the decision as provided in sections 14.63 to 14.69; however, proceedings on a complaint filed under section 211B.32 are not a contested case within the meaning of chapter 14 and are not otherwise governed by chapter 14.

History: 2004 c 277 s 11

NOTES AND DECISIONS

211B.36

Statutes regulating campaign practices did not violate the separation-of-powers doctrine or amount to an unconstitutional delegation of district court's original jurisdiction. *Riley v. Jankowski*, 713 N.W.2d 379 (Minn. App. 2006).

211B.37 COSTS ASSESSED.

Except as otherwise provided in section 211B.36, subdivision 3, the chief administrative law judge shall assess the cost of considering complaints filed under section 211B.32 as provided in this section. Costs of complaints relating to a statewide ballot question or an election for a statewide or legislative office must be assessed against the appropriation from the general fund to the general account of the state elections campaign fund in section 10A.31, subdivision 4. Costs of complaints relating to any other ballot question or elective office must be assessed against the county or counties in which the election is held. Where the election is held in more than one county, the chief administrative law judge shall apportion the assessment among the counties in proportion to their respective populations within the election district to which the complaint relates according to the most recent decennial federal census.

History: 2004 c 277 s 12

RELATED LAWS - SELECTED PROVISIONS

Note: The following are selected provisions of laws related to the conduct of election campaigns in Minnesota and are provided for informational purposes only. Please refer to Minnesota Statutes for the full text of these sections.

10A.01 Non-campaign disbursement

Subd. 26. **Non-campaign disbursement.** “Non-campaign disbursement” means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

- (1) payment for accounting and legal services;
- (2) return of a contribution to the source;
- (3) repayment of a loan made to the principal campaign committee by that committee;
- (4) return of a public subsidy;
- (5) payment for food, beverages, entertainment, and facility rental for a fund-raising event;
- (6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;
- (7) payment for food and beverages consumed by a candidate or volunteers while they are engaged in campaign activities;
- (8) payment for food or a beverage consumed while attending a reception or meeting directly related to legislative duties;
- (9) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;
- (10) payment by a principal campaign committee of the candidate’s expenses for serving in public office, other than for personal uses;
- (11) costs of child care for the candidate’s children when campaigning;
- (12) fees paid to attend a campaign school;
- (13) costs of a post-election party during the election year when a candidate’s name will no longer appear on a ballot or the general election is concluded, whichever occurs first;
- (14) interest on loans paid by a principal campaign committee on outstanding loans;
- (15) filing fees;
- (16) post-general election thank-you notes or advertisements in the news media;
- (17) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;

- (18) contributions to a party unit;
- (19) payments for funeral gifts or memorials;
- (20) the cost of a magnet less than six inches in diameter containing legislator contact information and distributed to constituents; and
- (21) costs associated with a candidate attending a political party state or national convention; and
- (22) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question.

The board must determine whether an activity involves a non-campaign disbursement within the meaning of this subdivision.

A non-campaign disbursement is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

NOTES AND DECISIONS

10A.01

In order to avoid invalidation of statute on grounds that it is vague, overbroad, and regulated political speech in violation of the First Amendment, phrase “to influence the nomination or election of a candidate” in subds. 27 and 28 must be construed so as to mean that “political committee” is organization whose major purpose is nomination or election of a candidate and that “political fund” is fund used for express advocacy. *Minnesota Citizens Concerned for Life, Inc. v. Kelley*, 291 F.Supp.2d 1052 (D. Minn. 2003)

10A.20 CAMPAIGN REPORTS.

Subd 1. **First filing; duration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit shall begin to file the reports required by this section in the first year it receives contributions or makes expenditures in excess of \$100 and shall continue to file until the committee, fund, or party unit is terminated.

Subd. 2. **Time for filing.**

- (a) The reports must be filed with the board on or before January 31 of each year and additional reports must be filed as required and in accordance with paragraphs (b) and (c).
- (b) In each year in which the name of the candidate is on the ballot, the report of the principal campaign committee must be filed 15 days before a primary and ten days before a general election, seven days before a special primary and a special election, and ten days after a special election cycle.
- (c) In each general election year, a political committee, political fund, or party unit shall file reports 15 days before a primary and ten days before a general election.

Subd. 3. **Contents of report.**

- (a) The report must disclose the amount of liquid assets on hand at the beginning of the reporting period.
- (b) The report must disclose the name, address and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund raising effort, that in aggregate within the year exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation

in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must be listed on the report.

- (c) The report must disclose the sum of contributions to the reporting entity during the reporting period.
- (d) The report must disclose each loan made or received by the reporting entity within the year in aggregate in excess of \$100, continuously reported until repaid or forgiven, together with the name, address, occupation, and principal place of business, if any, of the lender and any endorser and the date and amount of the loan. If a loan made to the principal campaign committee of a candidate is forgiven or is repaid by an entity other than that principal campaign committee, it must be reported as a contribution for the year in which the loan was made.
- (e) The report must disclose each receipt over \$100 during the reporting period not otherwise listed under paragraphs (b) to (d).
- (f) The report must disclose the sum of all receipts of the reporting entity during the reporting period.
- (g) The report must disclose the name and address of each individual or association to whom aggregate expenditures, including approved expenditures, have been made by or on behalf of the reporting entity within the year in excess of \$100, together with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made, identification of the ballot question that the expenditure was intended to promote or defeat, and in the case of independent expenditures made in opposition to a candidate, the candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate for state or legislative office shall allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.
- (h) The report must disclose the sum of all expenditures made by or on behalf of the reporting entity during the reporting period.
- (i) The report must disclose the amount and nature of an advance of credit incurred by the reporting entity, continuously reported until paid or forgiven. If an advance of credit incurred by the principal campaign committee of a candidate is forgiven by the creditor or paid by an entity other than that principal campaign committee, it must be reported as a donation in kind for the year in which the advance of credit was made.
- (j) The report must disclose the name and address of each political committee, political fund, principal campaign committee, or party unit to which contributions have been made that aggregate in excess of \$100 within the year and the amount and date of each contribution.
- (k) The report must disclose the sum of all contributions made by the reporting entity during the reporting period.
- (l) The report must disclose the name and address of each individual or association to whom noncampaign disbursements have been made that aggregate in excess of \$100 within the year by or on behalf of the reporting entity and the amount, date, and purpose of each noncampaign disbursement.
- (m) The report must disclose the sum of all noncampaign disbursements made within the year by or on behalf of the reporting entity.

- (n) The report must disclose the name and address of a nonprofit corporation that provides administrative assistance to a political committee or political fund as authorized by section 211B.15, subdivision 17, the type of administrative assistance provided, and the aggregate fair market value of each type of assistance provided to the political committee or political fund during the reporting period.
- Subd. 4. **Period of Report.** A report must cover the period from the last day covered by the previous report to seven days before the filing date, except that the report due on January 31 must cover the period from the last day covered by the previous report to December 31.
- Subd. 5. **Pre-election reports.** In a statewide election any loan, contribution, or contributions from any one source totaling \$2,000 or more, or in any judicial district or legislative election totaling more than \$400, received between the last day covered in the last report before an election and the election must be reported to the board in one of the following ways:
- (1) in person within 48 hours after its receipt;
 - (2) by telegram or mailgram within 48 hours after its receipt;
 - (3) by certified mail sent within 48 hours after its receipt; or
 - (4) by electronic means sent within 48 hours after its receipt.
- These loans and contributions must also be reported in the next required report. The 48-hour notice requirement does not apply with respect to a primary in which the statewide or legislative candidate is unopposed.
- Subd. 6. **Report when no Committee.** A candidate who does not designate and cause to be formed a principal campaign committee, and an individual who makes independent expenditures or expenditures expressly advocating the approval or defeat of a ballot question in aggregate in excess of \$100 a year shall file with the board a report containing the information required by subdivision 3. Reports required by this subdivision must be filed on the dates on which reports by committees, funds, and party units are filed.
- Subd. 6a. **Statement of Independence.** An individual, political committee, political fund, or party unit filing a report or statement disclosing an independent expenditure under subdivision 3 or 6 shall file with the report a sworn statement that the disclosed expenditures were not made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of any candidate or any candidate's principal campaign committee or agent.
- Subd. 15. **Equitable Relief.** A candidate whose opponent does not timely file the report due 15 days before the primary, the report due ten days before the general election, or the notice required under section 10A.25, subdivision 10, may petition the district court for immediate equitable relief to enforce the filing requirement. A prevailing party under this subdivision may be awarded attorney fees and costs by the court.

10A.31 DESIGNATION OF INCOME TAX PAYMENTS.

Subd. 3a. **Qualification of political parties.**

- (a) A major political party qualifies for inclusion on the income tax form and property tax refund return as provided in subdivision 3 if it qualifies as a major political party by July 1 of the taxable year.
- (b) A minor political party qualifies for inclusion on the income tax form and property tax refund return as provided in subdivision 3 if it qualifies as a minor party statewide by July 1 of the taxable year. Of this appropriation, \$65,000 each fiscal year must be set aside to pay assessments made by the Office of Administrative

Hearings under section 211B.37. Amounts remaining after all assessments have been paid must be canceled to the general account.

- (c) The secretary of state shall notify each major and minor political party by the first Monday in January of each odd-numbered year of the conditions necessary for the party to participate in income tax form and property tax refund return programs.
- (d) The secretary of state shall notify each political party, the commissioner of revenue, and the campaign finance and public disclosure board by July 1 of each year and following certification of the results of each general election of the political parties that qualify for inclusion on the income tax form and property tax refund return as provided in subdivision 3.

160.27 PARTICULAR USES OF RIGHT-OF-WAY; MISDEMEANORS

- Subd. 1. **Public notices.** With the approval of the proper road authority, billboards for the use and purpose of displaying public notices only may be erected within the limits of any public highway, including city streets.
- Subd. 5. **Misdemeanors.** Except for the actions of the road authorities, their agents, employees, contractors, and utilities in carrying out their duties imposed by law or contract, and except as herein provided, it shall be unlawful to:
 - (1) obstruct any highway or deposit snow or ice thereon;
 - (8) place or maintain any advertisement within the limits of any highway;
 - (9) paint, print, place, or affix any advertisement or any object within the limits of any highway;
 - (10) deface, mar, damage, or tamper with any structure, work, material, equipment, tools signs, markers signals, paving, guardrails, drains, or any other highway appurtenance on or along any highway;Any violation of this subdivision is a misdemeanor.
- Subd. 6. **Removal of unauthorized advertisements, buildings, or structures in or on a public highway.** The road authorities may take down, remove, or destroy an advertisement, building or structure in or upon any highway in violation of this section.

200.02 DEFINITIONS.

- Subd. 7. **Major political party.**
 - (a) “Major political party” means a political party that maintains a party organization in the state, political division or precinct in question and that has presented at least one candidate for election to the office of:
 - (1) governor and lieutenant governor, secretary of state, state auditor, or attorney general at the last preceding state general election for those offices; or
 - (2) presidential elector or U.S. senator at the last preceding state general election for presidential electors; and whose candidate received votes in each county in that election and received votes from not less than five percent of the total number of individuals who voted in that election.

- (b) “Major political party” also means a political party that maintains a party organization in the state, political subdivision, or precinct in question and that has presented at least 45 candidates for election to the office of state representative, 23 candidates for election to the office of state senator, four candidates for election to the office of representative in Congress, and one candidate for election to each of the following offices: governor, and lieutenant governor, attorney general, secretary of state, and state auditor, at the last preceding state general election for those offices.
- (c) “Major political party” also means a political party that maintains a party organization in the state, political subdivision, or precinct in question and whose members present to the secretary of state at any time before the close of filing for the state partisan primary ballot a petition for a place on the state partisan primary ballot, which petition contains signatures of a number of the party members equal to at least five percent of the total number of individuals who voted in the preceding state general election.
- (d) A political party whose candidate receives a sufficient number of votes at a state general election described in paragraph (a) or a political party that presents candidates at an election as required by paragraph (b) becomes a major political party as of January 1 following that election and retains its major party status for at least two state general elections even if the party fails to present a candidate who receives the number and percentage of votes required under paragraph (a) or fails to present candidates as required by paragraph (b) at subsequent state general elections.
- (e) A major political party whose candidates fail to receive the number and percentage of votes required under paragraph (a) and that fails to present candidates as required by paragraph (b) at each of two consecutive state general elections described by paragraph (a) or (b), respectively, loses major party status as of December 31 following the later of the two consecutive state general elections.

Subd. 23. **Minor political party.**

- (a) “Minor political party” means a political party that has adopted a state constitution, designated a state party chair, held a state convention in the last two years, filed with the secretary of state no later than December 31 following the most recent state general election a certification that the party has met the foregoing requirements, and met the requirements of paragraph (b) or (e), as applicable.
- (b) To be considered a minor party in all elections statewide, the political party must have presented at least one candidate for election to the office of:
 - (1) governor and lieutenant governor, secretary of state, state auditor, or attorney general, at the last preceding state general election for those offices; or
 - (2) presidential elector or U.S. senator at the preceding state general election for presidential electors; and who received votes in each county that in the aggregate equal at least one percent of the total number of individuals who voted in the election, or its members must have presented to the secretary of state at any time before the close of filing for the state partisan primary ballot a nominating petition in a form prescribed by the secretary of state containing the signatures of party members in a number equal to at least one percent of the total number of individuals who voted in the preceding state general election.

- (c) A political party whose candidate receives a sufficient number of votes at a state general election described in paragraph (b) becomes a minor political party as of January 1 following that election and retains its minor party status for at least two state general elections even if the party fails to present a candidate who receives the number and percentage of votes required under paragraph (b) at subsequent state general elections.
- (d) A minor political party whose candidates fail to receive the number and percentage of votes required under paragraph (b) at each of two consecutive state general elections described by paragraph (b) loses minor party status as of December 31 following the later of the two consecutive state general elections.
- (e) A minor party that qualifies to be a major party loses its status as a minor party at the time it becomes a major party. Votes received by the candidates of a major party must be counted in determining whether the party received sufficient votes to qualify as a minor party, notwithstanding that the party does not receive sufficient votes to retain its major party status. To be considered a minor party in an election in a legislative district, the political party must have presented at least one candidate for a legislative office in that district who received votes from at least ten percent of the total number of individuals who voted for that office, or its members must have presented to the secretary of state a nominating petition in a form prescribed by the secretary of state containing the signatures of party members in a number equal to at least ten percent of the total number of individuals who voted in the preceding state general election for that legislative office.

204C.035 DECEPTIVE PRACTICES IN ELECTIONS

Subdivision 1. **Criminal penalty.** No person shall knowingly deceive another person regarding the time, place, or manner of conducting an election or the qualifications for or restrictions on voter eligibility for an election, with the intent to prevent the individual from voting in the election. A violation of this section is a gross misdemeanor.

Subdivision 2. **Reporting false election information.** Any person may report to the county auditor or municipal clerk an act of deception regarding the time, place, or manner of conducting an election or the qualifications for or restrictions on voter eligibility for an election. The election official to whom the report was made shall provide accurate information to the person who reported the incorrect information in a timely manner, and may provide information about the act of deception and accurate information to mass media outlets in any affected area. The county attorney may subsequently proceed under subdivision 1.

204C.06 CONDUCT IN AND NEAR POLLING PLACES.

Subd. 1. **Lingering near polling place.** An individual shall be allowed to go to and from the polling place for the purpose of voting without unlawful interference. No one except an election official or an individual who is waiting to register or to vote shall stand within 100 feet of the building in which a polling place is located.

Subd. 2. **Individuals allowed in polling place.**

- (a) Representatives of the secretary of state's office, the county auditor's office, and the municipal or school district clerk's office may be present at the polling place to observe election procedures. Except for these representatives, election judges, sergeants-at-arms, and challengers, an individual may remain

inside the polling place during voting hours only while voting or registering to vote, providing proof of residence for an individual who is registering to vote, or assisting a handicapped voter or a voter who is unable to read English. During voting hours no one except individuals receiving, marking, or depositing ballots shall approach within six feet of a voting booth, unless lawfully authorized to do so by an election judge.

- (b) Teachers and elementary or secondary school students participating in an educational activity authorized by section 204B.27, subdivision 7, may be present at the polling place during voting hours.

Subd. 3. **Damaging or removing election materials; gross misdemeanor.** No individual shall intentionally:

- (a) Tear down, mutilate, deface or otherwise damage during the hours of voting any voter instruction poster placed inside or outside of a polling place by an election judge or other election official; or
- (b) Remove from the polling place before the time for voting ends any ballots prepared for use at the election or any supplies or conveniences placed in voting booths for use by the voters, except as authorized by law.

A violation of this subdivision is a gross misdemeanor.

Subd. 4. **Damaging or removing election materials; felony.** No individual shall intentionally:

- (a) Remove from a polling place any election file or election register, except as authorized by law;
- (b) Damage, deface, or mutilate any ballot, election file or election register or any item of information contained on it, except as authorized by law; or
- (c) Add anything to a ballot, election file or election register, except as authorized by law.

A violation of this subdivision is a felony.

Subd. 7. **Use of intoxicating liquor; prohibition; penalty.** During the time an election is being held it is a misdemeanor to bring intoxicating liquor or non-intoxicating malt liquor into in a polling place, to drink intoxicating liquor or non-intoxicating malt liquor in a polling place, or to be intoxicated in a polling place. The election judges shall not permit an obviously intoxicated individual to vote or remain in the polling place for any purpose.

History: 1981 c 29 art 5 s 6; 1984 c 471 s 10; 1984 c 515 s 1; 1986 c 444; 1987 c 266 art 1 s 35; 1989 c 291 art 1 s 12; 1991 c 237 s 5; 1993 c 223 s 12

NOTES AND DECISIONS

204C.06

Standing in line by non-voters constitutes a gross misdemeanor. Op. Atty. Gen. 182, October 26, 1964. When polling place is held in town garage building, coffee socials may not be held within same building. Op. Atty. Gen. 672M, may 10, 1954.

Standing in line by non-voters and the abuse of the right to challenge voters constitute gross misdemeanors under Minnesota law. Op. Atty. Gen. 182, October 26, 1964.

Former section 204A.37 limited who may be in a polling place while the polls are open. Former section 204A.40 applies after the polls close. Op. Atty. Gen. 182A-5, November 20, 1964. See sections M.S. 204C.07, 204C.19 and 204C.21.

Statutory violations in the conduct of elections do not of themselves invalidate an election. *Munnell v. Rowlette*, 275 Minn. 92, 145 N.W. 2d (1966).

It was not permissible for one of the judges of election on election day to take ballot from polling place to home of sick or disabled person, permit such person to mark it and then return to polling place and cast it in name of such person. Op. Atty. Gen. 28C-1, November 27, 1935.

204C.35 FEDERAL, STATE, AND JUDICIAL RACES.

Subd. 1. Automatic recounts.

- (a) In a state primary when the difference between the votes cast for the candidates for nomination to a statewide federal office, state constitutional office, statewide judicial office, congressional office, state legislative office, or district judicial office:
 - (1) is less than one half of one percent of the total number of votes counted for that nomination; or
 - (2) is ten votes or less and the total number of votes cast for the nomination is 400 votes or less; and the difference determines the nomination, the canvassing board with responsibility for declaring the results for that office shall recount the vote.
- (b) In a state general election when the difference between the votes of a candidate who would otherwise be declared elected to a statewide federal office, state constitutional office, statewide judicial office, congressional office, state legislative office, or district judicial office and the votes of any other candidate for that office:
 - (1) is less than one half of one percent of the total number of votes counted for that office; or
 - (2) is ten votes or less if the total number of votes cast for the office is 400 votes or less, the canvassing board shall recount the votes.
- (c) A recount must not delay any other part of the canvass. The results of the recount must be certified by the canvassing board as soon as possible.
- (d) Time for notice of a contest for an office which is recounted pursuant to this section shall begin to run upon certification of the results of the recount by the canvassing board.
- (e) A losing candidate may waive a recount required pursuant to this section by filing a written notice of waiver with the canvassing board.

Subd. 2. Discretionary candidate recount.

- (a) A losing candidate whose name was on the ballot for nomination or election to a statewide federal office, state constitutional office, statewide judicial office, congressional office, state legislative office, or district judicial office may request a recount in a manner provided in this section at the candidate's own expense when the vote difference is greater than the difference required by this section. The votes shall be manually recounted as provided in this section if the candidate files a request during the time for filing notice of contest of the primary or election for which a recount is sought.
- (b) The requesting candidate shall file with the filing officer a bond, cash, or surety in an amount set by the filing officer for the payment of the recount expenses. The requesting candidate is responsible for the following expenses: the compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; the costs of computer operation, preparation of ballot counting equipment, necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount.

- (c) The requesting candidate may provide the filing officer with a list of up to three precincts that are to be recounted first and may waive the balance of the recount after these precincts have been counted. If the candidate provides a list, the recount official must determine the expenses for those precincts in the manner provided by paragraph (b).
- (d) If the winner of the race is changed by the optional recount, the cost of the recount must be paid by the jurisdiction conducting the recount.
- (e) If a result of the vote counting in the manual recount is different from the result of the vote counting reported on election day by a margin greater than the standard for acceptable performance of voting systems provided in section 206.89, subdivision 4, the cost of the recount must be paid by the jurisdiction conducting the recount.

Subd. 3. **Discretionary ballot question recounts.** A recount may be conducted for a ballot question when the difference between the votes for and the votes against the question is less than or equal to the difference provided in subdivision 1, clauses (a) to (e). A recount may be requested by any person eligible to vote on the ballot question. A written request for a recount must be filed with the filing officer of the county, municipality, or school district placing the question on the ballot and must be accompanied by a petition containing the signatures of 25 voters eligible to vote on the question. If the difference between the votes for and the votes against the question is greater than the difference provided in subdivision 1, clauses (a) to (e), the person requesting the recount shall also file with the filing officer of the county, municipality, or school district a bond, cash, or surety in an amount set by the appropriate governing body for the payment of recount expenses. The written request, petition, and any bond, cash, or surety required must be filed during the time for notice of contest for the election for which the recount is requested.

Subd. 4. **Expenses.** In the case of a question, a person, or a candidate requesting a discretionary recount, is responsible for the following expenses: the compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; the costs of computer operation, preparation of ballot counting equipment, necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount.

Subd. 5. **Notice of contest.** Time for notice of contest of a nomination or election to a county office which is recounted pursuant to this section shall begin to run upon certification of the results of the recount by the county canvassing board. Time for notice of contest of a nomination or election to a municipal office which is recounted pursuant to this section shall begin to run upon certification of the results by the governing body of the municipality. Time for notice of contest of a school district election that is recounted under this subdivision begins to run on certification of the results of the recount by the school board.

History: 1981 c 29 art 5 s 35; 1981 c 187 s 1; 1983 c 253 s 17; 1989 c 291 art 1 s 14; 1990 c 486 s 1; 1993 c 68 s 1; 1998 c 254 art 2 s 24; 1Sp2001 c 10 art 18 s 28

204C.36 RECOUNTS IN COUNTY, SCHOOL DISTRICT, AND MUNICIPAL ELECTIONS.

Subd. 1. Required recounts.

- (a) Except as provided in paragraph (b), a losing candidate for nomination or election to a county, municipal, or school district office may request a recount of the votes cast for the nomination or election to that office if the difference between the vote cast for that candidate and for a winning candidate for nomination or election is less than one half of one percent of the total votes counted for that office. In case of offices where two or more seats are being filled from among all the candidates for the office, the one half of one percent difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected.
- (b) A losing candidate for nomination or election to a county, municipal, or school district office may request a recount of the votes cast for nomination or election to that office if the difference between the vote cast for that candidate and for a winning candidate for nomination or election is ten votes or less, and the total number of votes cast for the nomination or election of all candidates is no more than 400. In cases of offices where two or more seats are being filled from among all the candidates for the office, the ten vote difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected.
- (c) Candidates for county offices shall file a written request for the recount with the county auditor. Candidates for municipal or school district offices shall file a written request with the municipal or school district clerk as appropriate. All requests shall be filed during the time for notice of contest of the primary or election for which a recount is sought.
- (d) Upon receipt of a request made pursuant to this section, the county auditor shall recount the votes for a county office at the expense of the county, the governing body of the municipality shall recount the votes for a municipal office at the expense of the municipality, and the school board of the school district shall recount the votes for a school district office at the expense of the school district.

Subd. 2. Discretionary candidate recounts.

- (a) A losing candidate for nomination or election to a county, municipal, or school district office may request a recount in the manner provided in this section at the candidate's own expense when the vote difference is greater than the difference required by subdivision 1, clauses (a) to (e). The votes shall be manually recounted as provided in this section if the requesting candidate files with the county auditor, municipal clerk, or school district clerk a bond, cash, or surety in an amount set by the governing body of the jurisdiction or the school board of the school district for the payment of the recount expenses.
- (b) The requesting candidate may provide the filing officer with a list of up to three precincts that are to be recounted first and may waive the balance of the recount after these precincts have been counted. If the candidate provides a list the recount official must determine the expenses for those precincts in the manner provided by paragraph (b).
- (c) If the winner of the race is changed by the optional recount, the cost of the recount must be paid by the jurisdiction conducting the recount.
- (d) If a result of the vote counting in the manual recount is different from the result of the vote counting reported on election day by a margin greater than the standard for acceptable performance of voting systems provided in section 206.89,

subdivision 4, the cost of the recount must be paid by the jurisdiction conducting the recount

- Subd. 3. **Discretionary ballot question recounts.** A recount may be conducted for a ballot question when the difference between the votes for and the votes against the question is less than or equal to the difference provided in subdivision 1. A recount may be requested by any person eligible to vote on the ballot question. A written request for a recount must be filed with the filing officer of the county, municipality, or school district placing the question on the ballot and must be accompanied by a petition containing the signatures of 25 voters eligible to vote on the question. If the difference between the votes for and the votes against the question is greater than the difference provided in subdivision 1, the person requesting the recount shall also file with the filing officer of the county, municipality, or school district a bond, cash, or surety in an amount set by the appropriate governing body for the payment of recount expenses. The written request, petition, and any bond, cash, or surety required must be filed during the time for notice of contest for the election for which the recount is requested.
- Subd. 4. **Expenses.** In the case of a question, a person, or a candidate requesting a discretionary recount, is responsible for the following expenses: the compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; the costs of computer operation, preparation of ballot counting equipment, necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount.
- Subd. 5. **Notice of contest.** Time for notice of contest of a nomination or election to a county office which is recounted pursuant to this section shall begin to run upon certification of the results of the recount by the county canvassing board. Time for notice of contest of a nomination or election to a municipal office which is recounted pursuant to this section shall begin to run upon certification of the results by the governing body of the municipality. Time for notice of contest of a school district election that is recounted under this subdivision begins to run on certification of the results of the recount by the school board.

209.02 CONTESTANT; GROUNDS.

- Subd. 1. Any eligible voter, including a candidate, may contest in the manner provided in this chapter:
- (1) the nomination or election of any person for whom the voter had the right to vote if that person is declared nominated or elected to the senate or the house of representatives of the United States, or to a statewide, county, legislative, municipal, school, or district court office; or
 - (2) the declared result of a constitutional amendment or other question voted upon at an election. The contest may be brought over an irregularity in the conduct of an election or canvass of votes, over the question of who received the largest number of votes legally cast, over the number of votes legally cast in favor of or against a question, or on the grounds of deliberate, serious, and material violations of the Minnesota election law.

History: 1959 c 675 art 10 s 2; 1961 c 607 s 1; 1963 c 682 s 1; 1965 c 81 s 4-6; 1971 c 733 s 3,4; 1974 c 312 s 1; 1978 c 674 s 60; 1981 c 29 art 7 s 38; 1983 c 303 s 23; 1986 c 408 s 2; 1987 c 266 art 1 s 64; 1990 c 453 s 18

NOTES AND DECISIONS

209.02

Judicial election could not be set aside solely on basis of judicial code violations. *Burns v. Valen*, 400 N.W. 2d 123 (Minn. Ct. App. 1987).

209.021 NOTICE OF CONTEST.

Subd. 1. **Manner; time; contents.** Service of a notice of contest must be made in the same manner as the service of summons in civil actions. The notice of contest must specify the grounds on which the contest will be made. The contestant shall serve notice of the contest on the parties enumerated in this section. Notice must be served and filed within five days after the canvass is completed in the case of a primary or special primary or within seven days after the canvass is completed in the case of a special or general election; except that if a contest is based on a deliberate, serious, and material violation of the election laws which was discovered from the statements of receipts and disbursements required to be filed by candidates and committees, the action may be commenced and the notice served and filed within ten days after the filing of the statements in the case of a general or special election or within five days after the filing of the statements in the case of a primary or special primary. If a notice of contest questions only which party received the highest number of votes legally cast at the election, a contestee who loses may serve and file a notice of contest on any other ground during the three days following expiration of the time for appealing the decision on the vote count.

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CAMPAIGN FINANCIAL REPORT
(All of the information in this report is public information)

Name of candidate, committee, or corporation _____

Office sought or ballot question _____ District _____

Type of report _____ Candidate report
 _____ Campaign committee report
 _____ Association or corporation report
 _____ Final report

Period of time covered by report:
 from _____ to _____

CONTRIBUTIONS RECEIVED

Give the total for all contributions received during the period of time covered by this report. Contributions should be listed by type (money or in-kind) rather than contributor. See note on contribution limits on the back of this form. Use a separate sheet to itemize all contributions from a single source that exceeded \$100 during the calendar year. This itemization must include name, address, employer or occupation if self-employed, amount, and date for these contributions.

CASH \$ _____
 +
 IN-KIND \$ _____
 =
 TOTAL AMOUNT RECEIVED \$ _____

EXPENDITURES

Include every disbursement made for a political purpose during period of time covered by report. Attach additional sheets if necessary.

<i>Date</i>	<i>Purpose</i>	<i>Amount</i>
	TOTAL	

CORPORATE PROJECT EXPENDITURES

Corporations must list any media project or corporate message project for which contribution(s) or expenditure(s) total more than \$200. Submit a separate report for each project. Attach additional sheets if necessary.

Project title or description _____

<i>Date</i>	<i>Purpose</i>	<i>Name and Address of Recipient</i>	<i>Expenditure or Contribution Amount</i>
		Total	

I certify that this is a full and true statement. _____

Printed Name _____ Telephone _____ Email (if available) _____
 Signature _____ Date _____

Address _____

Report

Office

Name

For Office Use Only:

INSTRUCTIONS

(Reference: Minnesota Statutes, Chapters 211A and 211B)

This CAMPAIGN FINANCIAL REPORT is for use by candidates and committees for county, municipal, school district and special district office who receive contributions or make disbursements of more than \$750 in a calendar year; committees or corporations spending more than \$750 for or against a ballot question in a calendar year; and corporations spending more than \$200 on activities to encourage participation in precinct caucuses, voter registration, or voting.

Where to file this report: for county offices, with the county auditor; for municipal offices, with the municipal clerk; and for school district offices, with the school district clerk.

Candidate or committee report: the initial report must be filed within 14 days after the candidate or committee receives contributions or makes disbursements of more than \$750 in a calendar year. Subsequent reports must be filed:

1. During an Election Year - An election year is any year in which the candidate's name appears on the ballot. In such a year a report will be filed:

- (a) 10 days before the primary or special primary
- (b) 10 days before the general election or special election
- (c) 30 days after a general election or special election
- (d) by January 31 of each year following the year when the initial report was filed.

2. During a non election year - By January 31 of each year following the year when the initial report was filed.

CONTRIBUTIONS: Means anything of monetary value that is given or loaned to a candidate or committee for a political purpose. "Contribution" does not include a service provided without compensation by an individual.

CONTRIBUTION LIMITS: Candidates or candidate's committees for county, municipal, school district offices may not accept aggregate contributions in excess of \$300 in an election year or in excess of \$100 in a non election year made or delivered by an individual or committee. However, candidates seeking election from districts with a population in excess of 100,000 may not accept aggregate contributions in excess of \$500 in an election year and \$100 in a non election year.

BALLOT QUESTIONS: Any political committee, association or corporation that makes a contribution or expenditure to promote or defeat a ballot question as defined in Minnesota Statutes, section 211A.01 shall file reports with the filing officer responsible for placing the question on the ballot. Reports must be filed within 14 days of receiving contributions or making disbursements of more than \$750 in one calendar year, using the same schedule as above.

CONGRESSIONAL CANDIDATES: Candidates for election to the United States House of Representatives and Senate and any committee raising funds exclusively on behalf of any one of those candidates may file copies of the reports required by federal law in lieu of those required by Minnesota Statutes 211A.

CORPORATE ACTIVITIES TO ENCOURAGE PARTICIPATION: Corporations may contribute to or conduct public media projects to encourage individuals to attend precinct caucuses, register or vote if the projects are not controlled by or operated for the advantage of a candidate, political party, or committee. The total amount of expenditures or contributions for any one project greater than \$200, together with the date, purpose and the names and addresses of the persons receiving the contribution or expenditures must be reported. Reports must be filed with the Secretary of State, 180 State Office Building, St. Paul, MN 55155-1299, using the same schedule as above.

FINAL REPORT: A final report may be filed any time after the candidate, committee or corporation has settled all debts and disposed of all assets in excess of \$100 in the aggregate. Check final report under "type of report".

PROHIBITED TRANSFERS: Candidates for county, municipal, school district or special district offices may not accept contributions from the principal campaign committees of any candidate for legislative, judicial or state constitutional office. In addition, a candidate may not make contributions to the principal campaign committee of any candidate for legislative, judicial or state constitutional office unless the contributions are made from the candidate's personal funds.

STATE CANDIDATES: Candidates and committees for state constitutional offices, the state legislature, supreme court, court of appeals, district court, and committees for state constitutional amendments are governed by Minnesota Statutes 10A. Contact the State Campaign Finance and Public Disclosure Board for further information at (651) 296-5148.

Note: The filing officer must restrict public access to the address of any individual who has made a contribution that exceeds \$100 and who has filed with the filing officer a written statement signed by the individual that withholding the individual's address from the financial report is required for the safety of the individual or the individual's family.

CAMPAIGN FINANCIAL REPORT CERTIFICATION OF FILING

Each county, municipal or school district candidate or treasurer of a committee formed to promote or defeat a ballot question shall certify to the filing officer that all reports required by *Minnesota Statutes 211A.02* have been submitted to the filing officer or that the candidate or committee has not received contributions or made disbursements exceeding \$750 in the calendar year. The certification shall be submitted to the filing officer not later than seven days after the general or special election. (*Minnesota Statutes 211A.05, subdivision 1*)

Name of candidate or committee _____

Office sought by candidate _____
(if applicable)

or

Identification of ballot question _____

Check the appropriate box below:

I do swear (or affirm) that all campaign financial reports required by Minnesota Statutes 211A.02 have been submitted to the filing officer.

I do swear (or affirm) that campaign contributions or disbursements did not exceed \$750 in the calendar year.

(Signature of candidate or committee treasurer)

(Date)