

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

.....

**November 7, 2012  
Room 225  
Minnesota Judicial Center**

.....

**MINUTES**

The meeting was called to order by Vice Chair Luger.

Members present: Beck, Luger, Peterson, Scanlon

Member McCullough informed Executive Director prior to the meeting that he would not be able to attend.

Member Wiener arrived during the Executive Director's discussion of the 2013 Legislative Recommendations.

Others present: Goldsmith, Sigurdson, Larson, White, Pope, staff; Hartshorn, counsel

**MINUTES** (October 2, 2012)

Member Beck's motion:	To approve the October 2, 2012, minutes as drafted.
-----------------------	---

Vote on motion:	Unanimously passed (Peterson abstained) (Member Wiener absent).
-----------------	--

**Staff Note:** Because the motion was approved by only three members, this item will be placed on the December 10, 2012, agenda for reconsideration.

**CHAIR'S REPORT**

**Board meeting schedule**

Staff asked members to reschedule the tentative December 4, 2012, meeting since Mr. Sigurdson and Mrs. Pope will be attending the COGEL conference. Executive Director Goldsmith proposed that the meeting be moved to the following week of December 10<sup>th</sup>.

Executive Director Goldsmith will poll members on the exact dates at a late time.

**EXECUTIVE DIRECTOR'S TOPICS**

Executive Director Goldsmith reported on recent Board office operations.

The 10 day Pre-general-report was due October 29, 2012. Staff is busy finishing up the filing process.

## **2014-15 Budget**

Mr. Goldsmith presented the Board with a set of spreadsheets which are attached to and made a part of these minutes. Mr. Goldsmith explained that the spreadsheets presented three scenarios for the Board's 2013-14 budget.

The first scenario assumes that the Board will receive the same level of funding as it had in Fiscal years 12-13, which was \$689.00 per year. Under this scenario, staff levels will decrease from 7.6 to 7.0 FTE. Non-essential operations will be reduced.

The second scenario assumes a budget reduction of 5% from prior year levels. This adjustment plan was requested from each agency by the Office of Management and Budget. Under this scenario non-essential operations would be significantly cut. Client services would be noticeably affected. Staff levels would be cut from 7.6 to 5.9 FTE in FY 14 and to 5.5 FTE in FY 15. Under this scenario it is likely that some enforcement activities would have to be discontinued.

The third scenario assumes a budget supplement of \$311,000 per fiscal year. This supplement could come from an increased general fund appropriation or from implementation of a system of registration fees. Mr. Goldsmith explained that staff is still reviewing the registration fees option and is researching what other states are doing. This matter will be on the Board's December agenda for further consideration.

Under the third scenario, board staff would increase to 9.0 FTE. A .4 FTE clerical position would relieve the Assistant Executive Director and other staff from routine tasks such as invoice processing, ordering supplies, and filing. A 1.0 FTE would be added at a higher level to perform investigations and audits and assist in more complex tasks. Regular Board operations would continue and improve. More resources would be available for outstate outreach and treasurer development. The Board could resume administrative rulemaking. The supplement would also provide money for investment in technology resources including a redesigned website, a client management system, and an electronic records management system.

Mr. Goldsmith said that he would update the Board in December.

## **Complaints not accepted**

Executive Director Goldsmith presented the Board with correspondence which is attached to and made a part of these minutes related to complaints received but not accepted.

## **2013 Legislative Recommendations**

Mr. Goldsmith presented a memorandum that included a list of possible legislative recommendations. The three sections were tailored to address three needs: (1) strengthening the constitutional footings of Chapter 10A, (2) making the job of treasurers easier, and (3) providing needed technical corrections to the chapter.

Mr. Goldsmith reviewed the possible recommendations and asked the Board for input on its what its approach to recommendations for the 2013 legislative session would be.

Member Wiener said that she expected that there would be a number of bills from members this session. Mr. Goldsmith informed the Board that staff makes itself available to members and legislative staff to assist in bill drafting and review regardless of whether the Board supports the bill.

Member Peterson recognized that Minnesota has been known as a model for campaign finance disclosure and believed that the Board should attempt to raise Minnesota to a higher standard so that it would once again be out front on campaign finance issues.

Vice Chair Luger suggested that a memo from staff that suggests areas that would be open for a proactive approach by the Board would be helpful.

Member Scanlon agreed that the Board could be out front on campaign finance issues, at least conceptually so that it could influence and guide legislation. However he wanted to maintain awareness of the budget pressures the Board faces and to recognize that it is not possible to take on additional work without additional resources.

Member Beck suggested that staff should put together ideas for important campaign finance reforms as a basis for Board discussion, even if staff didn't recommend moving forward on a particular topic.

Member Weiner believed that the Board should move forward with recommendations for that would result in the best disclosure system for Minnesota.

Vice Chair Luger asked if staff could develop an analysis of broader topics than those included in the memo presented today, although he also expressed concern about the Board's budget in relation to any new disclosure requirements.

Mr. Goldsmith told the Board that he would develop further materials for discussion in December.

## **ENFORCEMENT REPORT**

The Board considered the monthly enforcement report, presented by Assistant Executive Director Sigurdson. The Board took the following actions related to matters on the Enforcement Report:

### **Consent Items**

**Referral to the Attorney General's Office for failure to file the 2012 Pre-primary Report of Receipts and Expenditures:**

Steve Smith Volunteer Committee

Member Wiener's motion: To approve the consent items.

Vote on motion: Unanimously passed.

**Discussion Items**

**A. Waiver Requests**

<u>Name of Candidate or Committee</u>	<u>Reason for Fine</u>	<u>Late Fee Amount</u>	<u>Civil Penalty Amount</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
Neighbors for Life	15 day Report due July 30, 2012	\$400	\$0	Paid \$120 with the remaining committee funds and wishes to be terminated.			
Fathers Against Judge Galler	42 day Report due Sept. 25, 2012	\$400	\$0	Committee received no funds and made no expenditures. Filed a termination report.			
Defeat Discrimination MN	42 day Report due Sept. 25, 2012	\$400	\$0	Committee received no funds and made no expenditures. Filed a termination report.			
Paul Bolin for State Senate	15 day Report due July 30, 2012	\$150	\$0	Health issues around the time of filing.			
42 <sup>nd</sup> Senate District DFL	15 day Report due July 30, 2012	\$100	\$0	Activity log for electronic reports shows a download on 7/29 and a successful upload on 8/1. New committee, registered in April 2012.			
David Arvidson4 MN	15 day Report due July 30, 2012	\$50	\$0	Unfamiliar with filing with the software. Didn't upload the report.			
Southeast Metro Business PAC	28 day Report due July 17, 2012	\$50	\$0	Treasurer states she attempted to use the software to file the reports.			
Waiver requests by the Neighbors for Life through Southeast Metro Business PAC were considered as one motion. Member Scanlon's motion: To waive the late filing fees for each committee. Vote on motion: Unanimously passed.							
6 <sup>th</sup> CD IPMN	15 day Report due July 30, 2012	\$1000	\$600	Committee registered Sep 2011, treasurer filed one previous report. Two staff members contacted the treasurer by the reports.	No Motion		
William Wagner Volunteer Committee	15 day Report due July 30, 2012	\$150	\$0	Staff contacted him 8/2 when no report was filed. He misunderstood the reporting requirements.	Wiener	To reduce the late fee to \$75	4 Yeses 1 Nay*
Southeast Metro Business PAC	56 day Report due June 19, 2012	\$50	\$0	Filed a paper report with no changes from previous report.	No Motion		

Action4Liberty	42 day Report due Sept. 25, 2012	\$100	\$0	Treasurer uses the software, forgot the "upload" step. Has filed electronically the first 3 reports on time.	No Motion		
Wayde Brooks	Economic Interest	\$100	\$1000	No registered committee. Did not open the Board's mailing	Luger	To eliminate the \$1000 civil penalty	Unanimous
Food PAC of MN	42 day Report due Sept. 25, 2012	\$50	\$0	The log of electronic reports shows activity on 9/25 but no upload. Successfully filed June and July reports.	No Motion		
Mpls Regional Labor Fed	24-hr notice	\$400	\$0	The fund is also the supporting association for Citizens for Smith independent expenditure committee. A 24-hr notice was submitted for the Citizens for Smith committee on time. The Mpls Regional Labor Fed amended the notice to show it was received by the political fund instead of the independent expenditure committee.	No Motion		
Pennington Cty RPM	15 day Report due July 30, 2012	\$100	\$0	\$100 pd. Request for reconsideration/reimbursement. No motion made at 9/13 mtg. Filed using the software, had some difficulty.	Luger	To refund the \$100 late fee.	Unanimous
Norman Cty RPM	15 day Report due July 30, 2012	Reduced from \$750 to \$100	\$0	Request for reconsideration. Reduced at the 9/13 mtg. Treasurer misunderstood and thought the waiver of electronic filing that was granted meant no report was required.	No Motion		

\* Member Peterson

**B. Authorization to Administratively terminate the following committees:**

**David McNutt for MN House.** The candidate registered a committee in July 2008 and ran in the 2008 election. The 2008 pre-election reports and the year-end reports for 2008 and 2009 were timely filed. The committee received public subsidy in the amount of \$4,369.43 and returned \$1,717.87 in unspent public subsidy in 2009. Mail addressed to both the treasurer and candidate is returned by the post office as undeliverable. The committee owes a \$1,000 late fee and a \$1,000 civil penalty for the 2010 report. Staff will cease efforts to obtain future reports. The termination will be effective December 31, 2010.

Member Peterson's motion: To administratively terminate the David McNutt for MN House committee.

Vote on motion: Unanimously passed.

**Informational Items**

**A. Payment of a late filing fee for July 17, 2012 28-day pre-primary-election report**

Minn Truck PAC, \$50  
Vote No 2012, \$100

**B. Payment of a late filing fee for July 30, 2012, 15-day pre-primary-election report:**

Neighbors for Jim Davnie, \$50  
Lyle Koenen for Senate Campaign, \$100  
Warren Limmer for Senate, \$50  
Cory Pylkka MN 11A, \$50  
Tom Saxhaug for Senate, \$50

56<sup>th</sup> SD RPM, \$100  
66A HD DFL, \$100  
Carlton County RPM, \$100  
Clay County GPM, \$125  
Lyon County RPM, \$50  
Sibley County RPM, \$50  
Watonwan County RPM, \$300

6<sup>th</sup> Judicial District Committee, \$100  
AFSCME Local 8 People Committee, \$50  
Bowling PAC, \$100  
Iron Range Building Trades PAC, \$50  
Minn Architects PAC, \$450  
Minn Women's Political Caucus, \$50  
Neighbors for Life, \$120  
Padilla Speer Beardsley, \$250  
St Paul Firefighters Local 21, \$50

**C. Payment of a late filing fee for September 25, 2012, 42-day pre-general-election report:**

Rural Minn Preservation, \$50

**D. Payment of a late filing fee for 24-hour pre-election notice:**

Joe Blum Volunteer Committee, \$200  
Cunniff (Robert) for State House, \$200  
Sawatzky (Mary) for State Representative, \$250  
Bruce Schwichtenberg Volunteer Committee, \$100

**E. Payment of a late filing fee for a Candidate Economic Interest Statement:**

Tom Huntley Volunteer Committee, \$10  
Paul Tuschy for MN House, \$70

**F. Payment of a late filing fee for the June 15 Lobbyist Disbursement Report:**

David Anderson, All Parks Alliance for Change, \$25

**G. Payment of a civil penalty for exceeding the special source aggregate limit:**

Joe Hoppe Volunteer Committee, \$1,700. During 2012, the Committee accepted \$8,600 in contributions from special sources. The total amount of these contributions exceeded by \$1,700 the applicable limit on aggregate contributions from special sources, which for a state representative candidate is \$6,900. Representative Hoppe entered into a conciliation agreement on October 15, 2012.

**H. Deposit to the General Fund, State Elections Campaign Fund:**

Minnesota for Marriage, \$100 (anonymous)  
Winona County DFL, \$100 (anonymous)

**ADVISORY OPINION REQUESTS**

**Advisory Opinion #429 – Scope of expenditures that should be reported as lobbying disbursements or included in the calculation of the Annual Report of Lobbyist Principal**

The request that will result in Advisory Opinion 429 is non-public data and was received by the Board on June 8, 2012. Staff asks that the Board lay the matter over until the next meeting.

After discussion, the following motion was made:

Member Luger's motion:	To lay Advisory Opinion #429 over until the next Board meeting.
------------------------	---

Vote on motion:	Unanimously passed.
-----------------	---------------------

**Advisory Opinion #430 – Payroll deduction plan**

Advisory Opinion was withdrawn by the requestor. Previous Advisory Opinions issued addressed the concerns of the requestor.

**Advisory Opinion #431 – Metropolitan governmental unit conflict of interest**

Executive Director Goldsmith presented the Board with a memorandum which is attached to and made a part of these minutes.

The request was received by the Board October 29, 2012. Advisory Opinion #431 has been made public by release of consent from the requestor.

Susan Trammel, attorney in the Minneapolis Ethics Office was joined by the Minneapolis Park Board and the Minneapolis School District #1 as requestors.

Since the identities of the requesters changed over time, there is no single statement of facts from one requester. Staff worked with the three requesters to develop assumed facts on which they all agreed and on the basis of which the Board could provide an answer.

The request relates to conflicts of interest under Minnesota Statutes section 10A.07. Officials must take certain measures to avoid conflicts of interest. A conflict of interest arises when an official takes a vote on a matter that would affect the official's own financial interest or financial

interest of an associated business differently than it would affect other similarly situated businesses.

The advisory opinion takes the position that an "associated business" must, in fact, be a "business." Because we commonly understand government and businesses to be two different things, the opinion concludes that governmental entities are not associated businesses that will trigger application of the Minnesota Statutes section 10A.07 requirements.

Staff reached the conclusions in the draft by applying the accepted rules of statutory construction rather than by trying to reach a particular result. This process led to the conclusion that, as written, Minnesota Statutes section 10A.07 does not result in a conflict of interest when the entity benefiting from an official's vote is another governmental entity.

After discussion, the following motion was made:

Member Beck's motion: To approve Advisory Opinion #431.

Vote on motion: Unanimously passed.

### **LEGAL COUNSEL'S REPORT**

Board members reviewed a memo from Counsel Hartshorn outlining the status of cases that have been turned over to the Attorney General's office. The Legal Counsel's Report is made a part of these minutes by reference.

Mr. Goldsmith reported that the contested case hearing in the Office of Administrative Hearings was conducted by Administrative Law Judge Eric Lipman on October 29 and that ALJ Lipman issued his recommendation on November 1, 2012. ALJ Lipman recommends that the Board grant Mr. Hartshorn's motion for summary disposition of the matter and affirm the earlier grant of the exemption.

Mr. Goldsmith explained that an attorney in the Attorney General's office who has had no contact with this matter will represent the Board as it moves forward with the contested case. Mr. Hartshorn and staff will advocate in support of affirming the Board's prior order and Ms. Graham will advocate in support of her objection. The assigned attorney will provide further notice to both parties regarding the procedures and deadlines.

### **EXECUTIVE SESSION**

The Chair recessed the regular session of the meeting and called to order the Executive Session. Upon completion of the Executive Session, the regular session of the meeting was called back to order and the following items were reported from the Executive Session:

#### **Findings and Order in the Matter of the acceptance of a contribution from an unregistered association without the required disclosure**

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.



**Findings and Order in the Matter of the acceptance of a contribution from a lobbyist during legislative session**

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

**Findings and Order in the Matter of a Complaint of Michael Krause regarding Minneapolis Democrats for Truth**

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

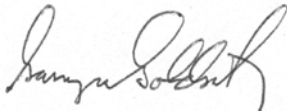
**Findings and Order in the Matter of a Complaint of James Carson regarding Peter Fisher for Representative and Charles Wiger for Senate**

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

**OTHER BUSINESS**

There being no other business, the meeting was adjourned by the Chair.

Respectfully submitted,



Gary Goldsmith  
Executive Director

Attachments:

2014-15 Operating Budget spreadsheets

Correspondence for the complaint of John Rouleau regarding Impact Printing

Correspondence for the complaint of Lucky Rosenbloom regarding Secretary of State Mark Ritchie

Correspondence for the complaint of James Sandborn regarding the Schwichtenberg Volunteer Committee

Correspondence for the complaint of Senators Newman and Parry regarding Secretary of State Mark Ritchie

2013 Legislative Recommendations Draft

November 1, 2012, memorandum regarding Advisory Opinion #431

Advisory Opinion #431

Findings and Order in the Matter of the acceptance of a contribution from an unregistered association without the required disclosure

Findings and Order in the Matter of the acceptance of a contribution from a lobbyist during legislative session

Findings and Order in the Matter of a Complaint of Michael Krause regarding Minneapolis Democrats for Truth

Findings and Order in the Matter of a Complaint of James Carson regarding Peter Fisher for Representative and Charles Wiger for Senate


**Operating Budget**  
**With salary reductions to stay within appropriation**

Acct	FTE		FTE		FTE		FY16	FY17	
		FY 13		FY 14		FY 15			
41000	Full time salaries	7.0	557.0	6.4	561.8	6.4	582.4	571.9	571.9
41030	Part time salaries	0.6	30.0	0.6	39.6	0.6	41.6	41.6	41.6
	Student worker - 500 hours @\$14 / hr		7.0		0.0		0.0	0.0	0.0
41070	<b>Other Benefits</b>		5.0		12.5		5.0	5.0	5.0
41100	<b>Space Rental</b>		40.0		40.0		40.0	40.0	40.0
41500	<b>Repairs, Maint</b>		0.5		0.0		0.0	0.0	0.0
41110	<b>Printing and advertising</b>		3.0		0.2		0.6	0.6	0.6
41130	Prof Technical Services		15.0		1.0		5.0	5.0	5.0
41145	<b>IT Prof Technical Services</b>		37.1		0.0		0.0	0.0	0.0
41150	<b>Computer systems and services</b>		11.0		6.3		3.6	3.6	3.6
41155	<b>Communications</b>		9.7		7.6		9.4	9.4	9.4
41160	<b>Travel - in state</b>		1.4		1.4		1.4	1.4	1.4
41170	<b>Travel - Out of state</b>		4.5		0.0		0.0	0.0	0.0
41300	<b>Supplies</b>		12.9		4.0		4.0	4.0	4.0
41400	<b>Equip. rental</b>		3.0		2.8		2.7	2.7	2.7
41500	<b>Maintenance contracts)</b>		1.2		1.0		1.0	1.0	1.0
47160	<b>Equipment - non-capital</b>		6.0		0.0		0.0	0.0	0.0
41180	<b>Employee development</b>		1.7		0.0		0.0	0.0	0.0
41190	<b>OAH Rule services</b>		4.0		0.0		0.0	0.0	0.0
43000	<b>Other operating costs</b>		6.0		0.3		2.8	2.8	2.8
	Expense total		756.0		678.5		699.5	689.0	689.0
	Appropriation		689.0		689.0		689.0	689.0	689.0
	<b>Carry Forward</b>		67.0		-10.5		10.5		
	Total Available		756.0		678.5		699.5	689.0	689.0
	<b>Surplus (Shortage)</b>		0.0		0.0		0.0	0.0	0.0

**Operating Budget**

**With salary reductions to stay within appropriate**

Acct	FTE								Adj					FY16	FY17
	FTE	Base	FTE	Reduction	New Amt	FTE	Base	FTE	Reduction	New Amt					
		<b>FY 13</b>			<b>FY 14</b>					<b>FY 15</b>					
41000	Full time salaries	7.0	557.0	6.4	561.9	-1.1	29.0	532.9	6.4	582.4	-1.5	49.9	532.5	532.5	
41030	Part time salaries	0.6	30.0	0.6	39.6				0.6	41.6			41.6	41.6	
	Student wrkr - 500 hr @14 / hr		7.0		0.0					0.0			0	0	
41070	<b>Other Benefits</b>		5.0		12.5		-6.4	18.9		5.0		-6.9	11.9	11.9	
41100	<b>Space Rental</b>		40.0		40.0					40.0			40.0	40.0	
41500	<b>Repairs, Maint</b>		0.5		0.0					0.0			0.0	0.0	
41110	<b>Printing and advertising</b>		3.0		0.2					0.6			0.6	0.6	
41130	Prof Technical Services		15.0		1.0					5.0			5.0	5.0	
41145	<b>IT Prof Technical Services</b>		37.1		0.0					0.0			0.0	0.0	
41150	<b>Computer sys. and svcs.</b>		11.0		6.3					3.6			3.6	3.6	
41155	<b>Communications</b>		9.7		7.6					9.4			9.4	9.4	
41160	<b>Travel - in state</b>		1.4		1.4					1.4			1.4	1.4	
41170	<b>Travel - Out of state</b>		4.5		0.0					0.0			0.0	0.0	
41300	<b>Supplies</b>		12.9		4.0		1.3	2.7		4.0		0.9	3.1	3.1	
41400	<b>Equip. rental</b>		3.0		2.7					2.7			2.7	2.7	
41500	<b>Maintenance contracts)</b>		1.2		1.0					1.0			1.0	1.0	
47160	<b>Equipment - non-capital</b>		6.0		0.0					0.0			0.0	0.0	
41180	<b>Employee development</b>		1.7		0.0					0.0			0.0	0.0	
41190	<b>OAH Rule services</b>		4.0		0.0					0.0			0.0	0.0	
43000	<b>Other operating costs</b>		6.0		0.3		0.1	0.2		2.8		1.1	1.7	1.7	
	Expense total		756.0		678.5		24.0	654.5		699.5		45.0	654.5	654.5	
	Appropriation		689.0		689.0			689.0		689.0			689.0	689.0	
	5% reduction				-34.5			-34.5		-34.5			-34.5	-34.5	
	<b>Carry Forward</b>		67.0				24.0					45.0			
	Total Available		756.0		654.5			654.5		654.5			654.5	654.5	
	<b>Surplus (Shortage)</b>		0.0		-24.0			0.0		-45.0			0.0	0.0	

 These items are increases

Operating Budget  
Fee system Change item

Acct	FY 13			FY 14			FY 15			FY 16			FY 17				
	FTE			FTE	Base	New FTE	New Amt	Change	FTE	Base	New FTE	New Amt	Change	Base	New FTE	New Amt	Change
41000	7.0	557.0		6.4	561.9	8.0	708.0	146.1	6.4	582.4	8.0	741.0	158.6	571.9	8.0	741.0	169.1
41030	0.6	30.0		0.6	39.6	1.0	65.0	25.4	0.6	41.6	1.0	70.0	28.4	41.6	1.0	70.0	28.4
		7.0			0.0					0.0							
																	0.0
41070		5.0			12.5		5.0	-7.5		5.0		5.0		5.0		5.0	0.0
41100		40.0			40.0		40.0			40.0		40.0		40.0		40.0	0.0
41500		0.5			0.0		0.5	0.5		0.0		0.5	0.5	0.0		0.5	0.5
41110		3.0			0.2		4.2	4.0		0.6		4.6	4.0	0.6		4.6	4.0
41130		15.0			1.0		10.0	9.0		5.0		10.0	5.0	5.0		5.0	0.0
41145		37.1			0.0		101.5	101.5		0.0		96.5	96.5	0.0		83.0	83.0
41150		11.0			6.3		12.5	6.2		3.6		9.0	5.4	3.6		12.5	8.9
41155		9.7			7.6		7.7	0.1		9.4		9.5	0.1	9.4		9.5	0.1
41160		1.4			1.4		1.4	0.0		1.4		1.4	0.0	1.4		1.4	0.0
41170		4.5			0.0		5.5	5.5		0.0		4.5	4.5	0.0		4.5	4.5
41300		12.9			4.0		4.7	0.7		4.0		6.8	2.8	4.0		6.8	2.8
41400		3.0			2.7		2.7	0.0		2.7		2.7	0.0	2.7		2.7	0.0
41500		1.2			1.0		1.2	0.2		1.0		1.2	0.2	1.0		1.2	0.2
47160		6.0			0.0		7.0	7.0		0.0		4.0	4.0	0.0		4.0	4.0
41180		1.7			0.0		2.2	2.2		0.0		2.2	2.2	0.0		2.2	2.2
41190		4.0			0.0		5.0	5.0		0.0		5.0	5.0	0.0		5.0	5.0
43000		6.0			0.3		0.9	0.6		2.8		1.1	-1.7	2.8		1.1	-1.7
																	0.0
																	0.0
																	0.0
Expense total/change total		756.0			678.5		985.0	306.5		699.5		1,015.0	315.5	689.0		1,000.0	311.0
General Fund Appropriation		689.0			689.0		650.0	-39.0		689.0		650.0	-39.0	689.0		650.0	-39.0
Special Fund Appropriation							350.0	350.0				350.0	350.0			350.0	350.0
Carry Forward		67.0			-10.5		-15.0			10.5		15.0					
Total Available / total change		756.0			678.5		985.0	311.0		699.5		1,015.0	311.0	689.0		1,000.0	
Surplus (Shortage)		0.0			0.0		0.0			0.0		0.0		0.0		0.0	0.0

September 27, 2012

John Michael Rouleau  
2000 Magoffin Avenue  
St. Paul, MN 55116

Dear Mr. Rouleau,

The Campaign Finance and Public Disclosure Board received your complaint dated September 25, 2012, regarding Impact Enterprises Inc., LLC.

The complaint alleges that Impact Enterprises has spent more than \$100 to print ballot question signs but has not registered a ballot question committee or fund with the Board. The complaint also alleges that the printed signs did not include the disclaimer required by Minnesota Statutes section 211B.04. The complaint includes two photographs that you indicate are of the signs at issue.

The Executive Director of the Board, Gary Goldsmith, has reviewed the complaint. Mr. Goldsmith has determined under the authority granted to him by the Board that the complaint does not state a claim that the Board will investigate. There is no evidence in the complaint that Impact Enterprises actually paid for or distributed the signs at issue. Instead, the evidence suggests that Impact Enterprises was a vendor to whoever paid for and distributed the signs. Impact Enterprises therefore was not required to register a ballot question committee or fund with the Board.

In addition, the requirement to include a disclaimer on signs is found in Chapter 211B of Minnesota statutes. The Board's jurisdiction, however, is limited to provisions included in Chapter 10A. Because the disclaimer requirement is not included in the chapter that the Board enforces, the Board has no authority to investigate disclaimer issues.

Thank you for your concern about campaign law in Minnesota. If you have any questions about this letter, please contact Mr. Goldsmith at (651) 539-1190.

Sincerely,

Jodi Pope  
Management Analyst

Cc: Impact Enterprises Inc.  
with copy of complaint



12 SEP 25 AM 10:51

CAMPAIGN FINANCE & PUBLIC DISCLOSURE BOARD

# COMPLAINT FOR VIOLATION OF THE CAMPAIGN FINANCE AND PUBLIC DISCLOSURE ACT

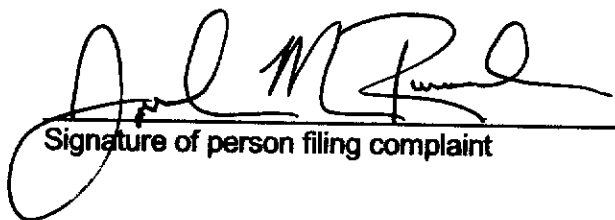
All information on this form is private and confidential until a finding is issued by the Board.

### Information about complaint filer

Name of complaint filer <i>John Michael Bouleau</i>	
Address <i>2000 Magoffin Avenue</i>	
City, state, zip <i>St. Paul, MN 55116</i>	Daytime telephone no. <i>612 231 0050</i>

### Identify person/entity you are complaining about

Name of person/entity being complained about <i>Impact Enterprises Ink LLC</i>	
Address <i>1067 Rice Street</i>	
City, state, zip <i>St. Paul, MN 55117</i>	
Title of respondent (if applicable) <i>Deborah Wallace in her capacity as manager et al</i>	
Board/Department/Agency/District # (if legislator)	

  
Signature of person filing complaint

*9/25/2012*  
Date

Send completed form to: Campaign Finance & Public Disclosure Board  
Suite 190, Centennial Building  
658 Cedar Street  
St. Paul, MN 55155

If you have questions call: 651/296-1721; 800/657-3889; or  
for TTY/TDD communication contact us through the Minn. Relay Service at 800/627-3529  
Board staff may also be reached by e-mail at: [cf.board@state.mn.us](mailto:cf.board@state.mn.us).

This document is available in alternative formats to individuals with disabilities by calling 651/296-5148; 800/657-3889; or through the Minnesota Relay Service at 800/627-3529.

Give the statute cite of the portion of Chapter 10A, or Minn. Rules you believe has been violated.

10A.12 "Political Funds" Subd 1

211B.04 "Campaign Literature must include Disclaimer" Sub sec. (a) + (b)

You will find the complete text of Minn. Stat. §10A and Minn. Rules Chapters 4501 - 4525 on the Board's website at [www.cfboard.state.mn.us](http://www.cfboard.state.mn.us).

### Nature of complaint

Explain in detail why you believe the respondent has violated Chapter 10A, the Campaign Finance and Public Disclosure Act. Attach an extra sheet of paper if necessary. Attach any documents, materials, minutes, resolutions or other evidence to support your allegations.

Respondent has actively taken part in the printing of materials urging Minnesotans to "Vote No on BOTH AMENDMENTS DON'T LIMIT THE FREEDOM TO MARRY OR THE RIGHT TO VOTE". In failure to be in compliance with 10A.12, Respondent does not have an existing political fund or registered ballot committee required to spend, or raise in excess of \$100<sup>00</sup>. Said materials also lack a disclaimer as defined by 211B.04 subsections (a) + (b). Included are digital photographs taken on September the 24<sup>th</sup> of 2012, which show the materials in question and the lack of a statement of disclosure.

Minn. Stat. 10A.02, subd 11 - Violations; enforcement.

The board shall investigate any alleged violation filed in writing with the board. For an alleged violation of sections 10A.25 (expenditure limits) or 10A.27 (additional limits) the board shall either enter into a conciliation agreement or make a public finding of whether or not there is probable cause, within 60 days of the filing of the complaint. For alleged violations of all other sections, the board shall within 30 days after the filing of the complaint make a public finding of whether or not there is probable cause to believe a violation has occurred.

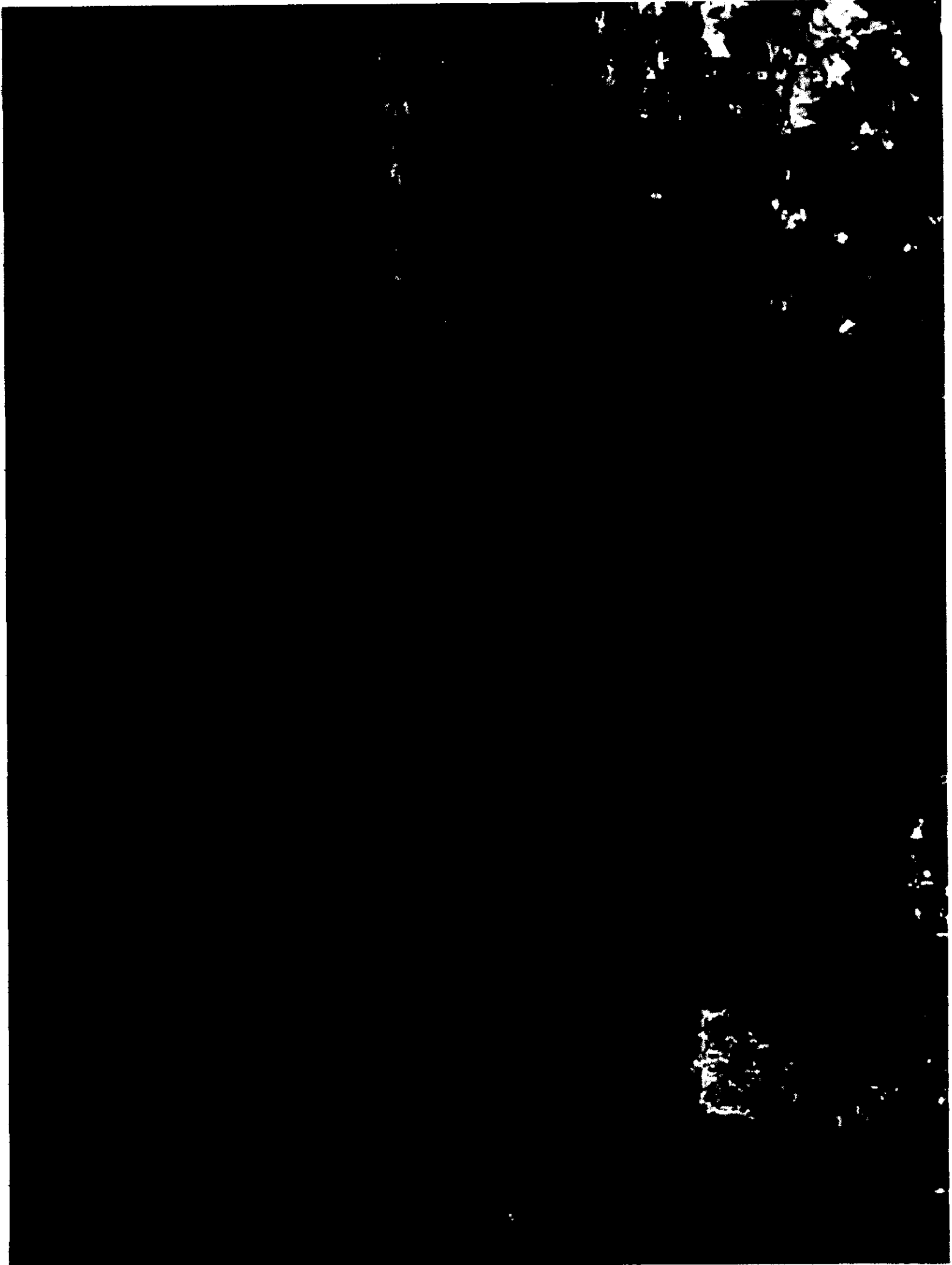
The deadline for action may be extended by a majority vote of the board. Within a reasonable time after beginning an investigation of an individual or association, the board shall notify that individual or association of the fact of the investigation. The board shall make no finding without notifying the individual or association of the nature of the allegations and affording an opportunity to answer those allegations.

Any hearing or action of the board concerning a complaint or investigation shall be confidential until the board makes a public finding concerning probable cause or enters into a conciliation agreement.

Except as provided in section 10A.28, after the board makes a public finding of probable cause the board shall report that finding to the appropriate law enforcement authorities.





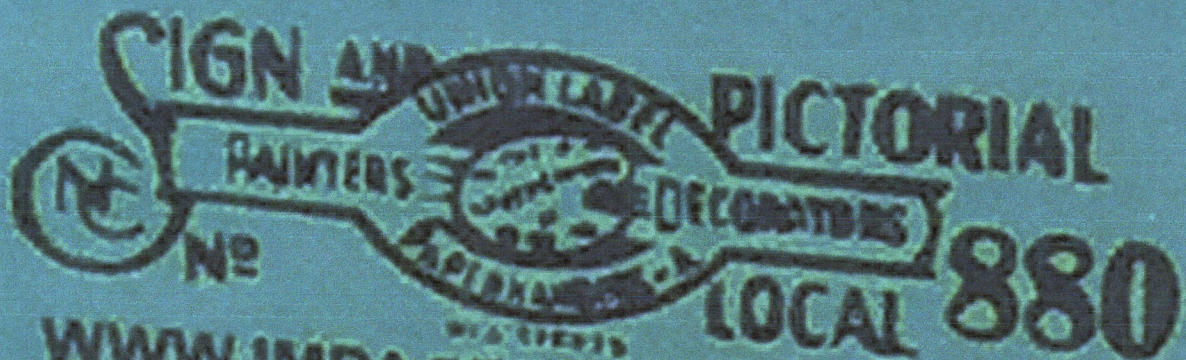




**VOTE NO**  
ON BOTH AMENDMENTS

DON'T LIMIT THE  
FREEDOM TO MARRY OR  
THE RIGHT TO VOTE.





[WWW.IMPACTPRINTINGINK.COM](http://WWW.IMPACTPRINTINGINK.COM)  
651.489.0803 / 800.489.0803



## Goldsmith, Gary (CFB)

---

**From:** Goldsmith, Gary (CFB)  
**Sent:** Thursday, September 06, 2012 8:57 AM  
**To:** 'doduelegal@yahoo.com'  
**Cc:** Sigurdson, Jeff (CFB)  
**Subject:** RE: Secretary of State

Dear Mr. Rosenbloom,

You request that the Board issue an advisory opinion or conduct an investigation into alleged actions of Secretary of State Mark Ritchie. The advisory opinion process is used for people to seek guidance with regard to their own contemplated actions, so it would not be available in this matter.

The Board's jurisdiction to conduct investigations is limited to alleged violations of Minnesota Statutes Chapter 10A, the Campaign Finance and Public Disclosure act. That act does not relate to claims of abuse of office or to allegations that an official exceed his or her authority. Questions of the authority of the Secretary of State to provide titles for ballot questions are not under the Board's jurisdiction.

Finally, public officials often take positions on matters of public interest, including ballot questions. An individual taking a position on such a matter does not automatically fall under the provisions of Chapter 10A. In order to be covered by Chapter 10A, a person would have to spend money expressly to promote or defeat a ballot question. It is not the position of the Board to determine the scope of educational efforts that are encompassed in the duties of the Office of the Secretary of State.

Your request for an investigation does not allege any specific violations of Chapter 10A and, thus, will not be investigated by the Board. If you have evidence of specific conduct that you believe violate Chapter 10A, you may file a new complaint identifying both the conduct and the provisions of Chapter 10A that you allege were violated.

Thank you for your interest in the integrity of Minnesota's campaign finance systems.

Gary Goldsmith

-----  
Gary Goldsmith  
Executive Director  
Minnesota Campaign Finance and Public Disclosure Board  
(651) 539-1190  
[gary.goldsmith@state.mn.us](mailto:gary.goldsmith@state.mn.us)

Please forward to appropriate staff.

I am asking your office to look into the issue of whether Mark Ritchie (Sec. of State) abused his office by attempting to influence voters and/or in any way whatsoever, exceed his authority of his office in an attempt at substituting wording of his own relating to the Constitutional amendments regarding voter ID and the marriage amendment in opposition to wording by lawmakers, as the Minnesota court in its Findings indicated he did so?

Please issue an advisory opinion.

Please conduct an investigation into this concern.  
Lucky Rosenbloom



## Goldsmith, Gary (CFB)

---

**From:** Sigurdson, Jeff (CFB)  
**Sent:** Wednesday, September 05, 2012 9:50 AM  
**To:** Goldsmith, Gary (CFB)  
**Subject:** FW:

Jeff Sigurdson  
Assistant Director  
Minnesota Campaign Finance and Public Disclosure Board  
651-539-1189

**From:** Lucky R-OpinionNewsColumnist [<mailto:doduelegal@yahoo.com>]  
**Sent:** Tuesday, September 04, 2012 12:32 PM  
**To:** Sigurdson, Jeff (CFB)  
**Subject:** Fw:

--- On Tue, 9/4/12, Lucky R-OpinionNewsColumnist <[doduelegal@yahoo.com](mailto:doduelegal@yahoo.com)> wrote:

From: Lucky R-OpinionNewsColumnist <[doduelegal@yahoo.com](mailto:doduelegal@yahoo.com)>  
Subject:  
To: [jrff.sigurdson@state.mn.us](mailto:jrff.sigurdson@state.mn.us)  
Cc: [gray.goldsmith@state.mn.us](mailto:gray.goldsmith@state.mn.us)  
Date: Tuesday, September 4, 2012, 12:20 PM

LUCKY ROSENBLOOM

Citizen of the State of Minnesota

PO Box 4171 St. Paul, MN 55104

612 661.0923

September 3, 2012

Jeff Sigurdson  
Gray Goldsmith  
Campaign Finance  
Sept. 3, 2012

Please forward to appropriate staff.

I am asking your office to look into the issue of whether Mark Ritchie (Sec. of State) abused his office by attempting to influence voters and/or in any way whatsoever, exceed his authority of his office in an attempt at substituting wording of his own relating to the Constitutional amendments regarding voter ID and the marriage amendment in opposition to wording by lawmakers, as the Minnesota court in its Findings indicated he did so?

Please issue an advisory opinion.

Please conduct an investigation into this concern.

Lucky Rosenbloom

Cc: Concerned

---

Lucky R Radio Show  
WHERE GOD'S PEOPLE COME TO TALK  
With over 12 thousand people visiting our show, click in and find out why?  
[www.blogtalkradio.com/lucky-r](http://www.blogtalkradio.com/lucky-r)  
<http://www.youtube.com/watch?v=sOECxUU3J9o>

*"If your word is nothing you are nothing" Tiger Jack." "If you can't pay for it, don't touch it" Nurceal Rosenbloom. "If you don't know where God is leading you, you are likely to be led anywhere" Lucky*



September 26, 2012

Mr. James Sanborn  
308 West 5th Street  
Waconia, MN 55387

Re: Complaint regarding Schwichtenberg Volunteer Committee

Dear Mr. Sanborn,

The Board has received your complaint dated September 23, 2012, regarding the Schwichtenberg Volunteer Committee. The failure to report a large contribution within 24 hours of its receipt is a matter that is routinely investigated by the Board in every case without the filing of a complaint. In fact, your complaint is based on reports filed with the Board.

At best, a complaint such as yours would affect only the timing of the Board's handling of the matter, not the outcome. Additionally, filing a report, including a 24-hour notice report, is a late filing matter. Late filings are not handled through the complaint process. Late filing fees are automatically imposed as they come due.

In this case, prior to receiving your complaint, the Board had already imposed a late filing fee of \$300 for the late filing of these notices. The Schwichtenberg Committee has asked the Board to waive all or part of these late filing fees and that request was considered by the Board at its October 1, 2012, meeting, at which time the Board waived \$200 of the late filing fee, leaving in place a \$100 fee. It is common for the Board to partially waive late filing fees for first-time violations of the 24-hour notice requirement.

For the reasons outlined above, the Board will not initiate an investigation of your complaint.

Sincerely,

Gary Goldsmith  
Executive Director

cc: Schwichtenberg Volunteer Committee (with complaint)



**COMPLAINT FOR VIOLATION OF THE  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE ACT** OCT 26 PM 1:42

CAMPAIGN FINANCE &  
PUBLIC DISCLOSURE BOARD

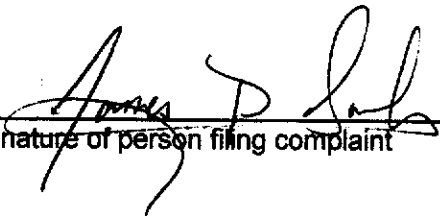
All information on this form is private and confidential until a finding is issued by the Board.

**Information about complaint filer**

Name of complaint filer <b>JAMES SANBORN</b>	
Address <b>308 West 5th Street</b>	
City, state, zip <b>Waconia MN 55387</b>	Daytime telephone no. <b>952-270-6085</b>

**Identify person(s) you are complaining about**

Name of person/entity being complained about <b>Schwichtenberg (Brux) Volunteer Committee</b>	
Address <b>15255 Halsey Ave</b>	
City, state, zip <b>Carver MN 55315</b>	
Title of respondent (if applicable) <b>Eric Schuman, Treasurer      Frank Long, Chair</b>	
Board/Department/Agency/District # (if legislator) <b>Senate 47</b>	

  
Signature of person filing complaint

**9/23/2012**  
Date

Send completed form to: Campaign Finance & Public Disclosure Board  
Suite 190, Centennial Building  
658 Cedar Street  
St. Paul, MN 55155

If you have questions call: 651/296-1721; 800/657-3889; or  
for TTY/TDD communication contact us through the Minn. Relay Service at 800/627-3529  
Board staff may also be reached by e-mail at: cf.board@state.mn.us.

This document is available in alternative formats to individuals with disabilities by calling 651/296-5148; 800/657-3889; or through the Minnesota Relay Service at 800/627-3529.

Give the statute cite of the portion of Chapter 10A, or Minn. Rules you believe has been violated.

10A.20 Sub 5

You will find the complete text of Minn. Stat. §10A and Minn. Rules Chapters 4501 - 4525 on the Board's website at [www.cfboard.state.mn.us](http://www.cfboard.state.mn.us).

**Nature of complaint**

Explain in detail why you believe the respondent has violated Chapter 10A, the Campaign Finance and Public Disclosure Act. Attach an extra sheet of paper if necessary. Attach any documents, materials, minutes, resolutions or other evidence to support your allegations.

Candidates for Legislative office are required to report contributions over \$400 within 24 hours of receiving the contribution. The Schwabert committee received a contribution for \$500 from Motorcycle PAC of Minnesota on 8/9/12 - but did not report the contribution until 8/15/12 - the day after the Primary. The committee also received a \$500 contribution from Mark D. Senn 7160 Willow View Cove Chanhassen MN 55317 on 8/9/12 but did not report the contribution until 8/15/2012 - again, the day after the Primary election. See Attached

Minn. Stat. 10A.02, subd 11 - Violations; enforcement.

The board shall investigate any alleged violation filed in writing with the board. For an alleged violation of sections 10A.25 (expenditure limits) or 10A.27 (additional limits) the board shall either enter into a conciliation agreement or make a public finding of whether or not there is probable cause, within 60 days of the filing of the complaint. For alleged violations of all other sections, the board shall within 30 days after the filing of the complaint make a public finding of whether or not there is probable cause to believe a violation has occurred.

The deadline for action may be extended by a majority vote of the board. Within a reasonable time after beginning an investigation of an individual or association, the board shall notify that individual or association of the fact of the investigation. The board shall make no finding without notifying the individual or association of the nature of the allegations and affording an opportunity to answer those allegations.

Any hearing or action of the board concerning a complaint or investigation shall be confidential until the board makes a public finding concerning probable cause or enters into a conciliation agreement.

Except as provided in section 10A.28, after the board makes a public finding of probable cause the board shall report that finding to the appropriate law enforcement authorities.

## 24 Hour Notice Report

Report Received:

8/15/2012 10:15:28 PM

\*\*\*\*\*

### 24 Hour Notice(s)

\*\*\*\*\*

17518  
Schwichtenberg (Bruce) Volunteer Committee  
15255 Halsey Ave

Carver MN 55315  
9524486071

\*\*\*\*\*

Motorcycle PAC of Minn  
7160 Willow View Cove

Chanhassen  
MN  
55317

08/08/2012  
500.00 - CONTRIBUTION

\*\*\*\*\*

Senn, Mark O  
7160 Willow View Cove

Chanhassen  
MN  
55317  
Retired

08/09/2012  
500.00 - CONTRIBUTION

\*\*\*\*\*

**From:** Eric Schuman  
**To:** Larson, Joyce (CFB)  
**Subject:** Motorcycle PAC of Minnesota Donation  
**Date:** Thursday, August 16, 2012 10:04:30 PM

---

Dear Ms. Larson,

I am the Treasurer for the Schwichtenberg Volunteer Committee (#17518Q). I am emailing you regarding the donation we received from the Motorcycle PAC of Minn. The date that the donation was received was incorrectly input into the system and should have been 08/09/2012 instead of 08/08/2012. The donation from Motorcycle PAC of Minn. and the donation from Mark O. Senn should have been dated the same date.

If you have any questions please don't hesitate to call me.

Thank you,

Eric G. Schuman  
Schwichtenberg Volunteer Committee  
612-644-2328 (Mobile)

October 23, 2012

Frederic W. Knaak, Attorney at Law  
4501 Allandale Dr.  
St. Paul, MN 55127

Re: Complaint of Parry and Newman regarding Ritchie

Dear Mr. Knaak:

The Campaign Finance and Public Disclosure Board received your complaint in the above matter on October 10, 2012. The Board will investigate a complaint filed with it unless the complaint does not allege a violation of Minnesota Statutes Chapter 10A or the complaint is so insufficient in its allegations as to not warrant an investigation. The Board has delegated to its Executive Director the authority to determine if a complaint meets the thresholds to require an investigation.

You have acknowledged that this complaint raises issues under Minnesota Statutes Chapter 211B, over which the Board has no jurisdiction. You have also raised issues under Minnesota Statutes section 43A.38, another statute that is outside the Board's authority. The only question the Board could consider is whether the allegations of the complaint give rise to a registration or reporting requirement under Chapter 10A.

In the immediate case, I have determined that your complaint is insufficient to require an investigation. You may submit an amended complaint if you believe that you can provide facts to cure the insufficiencies explained below.

Your complaint states that "Mark Ritchie, as Secretary of State, has, associated with his office" to create a website and to engage in communications that you allege are for the purpose of defeating the voter photo ID ballot question. All of the allegations of the complaint relate to Secretary Ritchie in his official capacity. Your complaint includes a specific allegation that Mr. Ritchie violated Minnesota Statutes section 211B.09 through the "use of his state position to take part in political activity and to require his employees to engage in same . . ."

Minnesota Statutes section 211B.09 states that:

An employee or official of the state or of a political subdivision may not use official authority or influence to compel a person to . . . take part in political activity.

Chapter 10A recognizes disclosure obligations for both individuals and associations. Although you indicate that Mr. Ritchie has "associated with his office" that phrase is insufficient to raise the question of whether the alleged expenditures were made by an association, which is two or more individuals acting in concert. To the contrary, your complaint establishes, if anything, that the alleged actions were official actions of the Secretary of State using the resources of his office (and, according to your allegations, compelling employees to take part). There is no support in Chapter 10A or previous Board actions for the proposition that an employee compelled by his or her employer to

engage in political activity makes the employer and employee an association under Chapter 10A. As a result, there is nothing in your complaint or in Chapter 10A that would permit the Board to conclude that the Secretary's actions were anything other than the actions of an individual.

In the absence of allegations in the complaint sufficient to raise the question of the existence of an association, I have reviewed the statutory requirements relating to individuals undertaking actions related to ballot questions. There is no registration requirement for an individual, but periodic reporting is required if statutory thresholds are met.

Minnesota Statutes section 10A.20, subdivision 6, sets forth the disclosure requirements for an individual engaging in ballot question activity. The statute states, in the relevant part:

[A]n individual who makes independent expenditures or expenditures expressly advocating the approval or defeat of a ballot question in aggregate in excess of \$100 in a year must file with the board a report containing the information required by subdivision 3.

In Advisory Opinion 428, issued on August 7, 2012, the Board considered the question of express advocacy in the context of independent expenditures, which are expenditures "expressly advocating" the election or defeat of a candidate. In that opinion the Board reaffirmed an earlier conclusion that express advocacy in the independent expenditure context requires the use of the "magic words" of express advocacy, such as "vote for" "vote against" or similar words.

Where the exact same phrase is used in similar contexts in multiple sections of Chapter 10A, the Board will typically give the phrase the same meaning in each section. In the immediate matter, that interpretation leads to the conclusion that an individual is required to report communications related to ballot questions only if the communications are expressly advocating for or against the ballot question. In other words, reporting is required only if the communications use the words of express advocacy. The web pages you cite do not use words of express advocacy and there is no allegation in the complaint that personal communications of the Secretary expressly urged voters to vote against the ballot question.

The complaint also alleges that the Secretary included an insert, prepared by a third party, in a single letter that he wrote and mailed. It is not necessary to determine whether this insertion constituted express advocacy by the Secretary of State because it is clear that the cost would not exceed any reporting threshold.

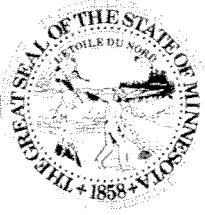
For the reasons described above, the Board will not investigate this complaint. I wish to point out that the resolution of this complaint does not reach the legal question of whether the alleged communications were "for the purpose of" defeating the ballot question. No assumptions about the Board's possible future resolution of that issue should be made.

If you have questions, please call me at (651) 539-1190.

Sincerely,

Gary Goldsmith  
Executive Director

copy: Secretary of State Mark Ritchie



12 OCT 10 PM 12:46  
CAMPAIGN FINANCE &  
PUBLIC DISCLOSURE BOARD

# COMPLAINT FOR VIOLATION OF THE CAMPAIGN FINANCE AND PUBLIC DISCLOSURE ACT

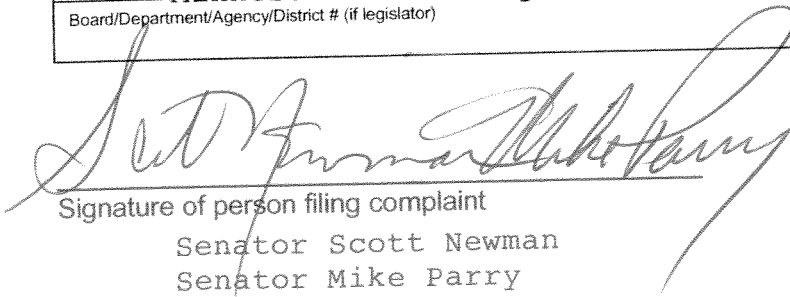
All information on this form is private and confidential until a finding is issued by the Board.

## Information about complaint filer

Name of complaint filer State Senator Mike Parry and State Senator Scott Newman	
Address c/o Frederic W. Knaak, Attorney at Law, 4501 Allendale Drive	
City, state, zip St. Paul, MN 55127	Daytime telephone no. 651-490-9078

(Further address and contact information attached)  
**Identify person/entity you are complaining about**

Name of person/entity being complained about Mark Ritchie (Minnesota Secretary of State)
Address Office of Secretary of State, 60 Empire Drive - Suite 100
City, state, zip St. Paul, MN 55103
Title of respondent (if applicable) Minnesota Secretary of State
Board/Department/Agency/District # (if legislator)

  
 Signature of person filing complaint  
 Senator Scott Newman  
 Senator Mike Parry

10/9/12  
Date

Send completed form to: Campaign Finance & Public Disclosure Board  
 Suite 190, Centennial Building  
 658 Cedar Street  
 St. Paul, MN 55155

If you have questions call: 651/296-1721; 800/657-3889; or  
 for TTY/TDD communication contact us through the Minn. Relay Service at 800/627-3529  
 Board staff may also be reached by e-mail at: cf.board@state.mn.us.

This document is available in alternative formats to individuals with disabilities by calling 651/296-5148; 800/657-3889; or through the Minnesota Relay Service at 800/627-3529.



Give the statute cite of the portion of Chapter 10A, or Minn. Rules you believe has been violated.

\_\_\_\_\_

You will find the complete text of Minn. Stat. §10A and Minn. Rules Chapters 4501 - 4525 on the Board's website at [www.cfboard.state.mn.us](http://www.cfboard.state.mn.us) .

**Nature of complaint**

Explain in detail why you believe the respondent has violated Chapter 10A, the Campaign Finance and Public Disclosure Act. Attach an extra sheet of paper if necessary. Attach any documents, materials, minutes, resolutions or other evidence to support your allegations.

SEE ATTACHED NARRATIVE AND COMPLAINT, WHICH ARE  
\_\_\_\_\_

INCORPORATED HEREIN BY REFERENCE.  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Minn. Stat. 10A.02, subd 11 - Violations; enforcement.

The board shall investigate any alleged violation filed in writing with the board. For an alleged violation of sections 10A.25 (expenditure limits) or 10A.27 (additional limits) the board shall either enter into a conciliation agreement or make a public finding of whether or not there is probable cause, within 60 days of the filing of the complaint. For alleged violations of all other sections, the board shall within 30 days after the filing of the complaint make a public finding of whether or not there is probable cause to believe a violation has occurred.

The deadline for action may be extended by a majority vote of the board. Within a reasonable time after beginning an investigation of an individual or association, the board shall notify that individual or association of the fact of the investigation. The board shall make no finding without notifying the individual or association of the nature of the allegations and affording an opportunity to answer those allegations.

Any hearing or action of the board concerning a complaint or investigation shall be confidential until the board makes a public finding concerning probable cause or enters into a conciliation agreement.

Except as provided in section 10A.28, after the board makes a public finding of probable cause the board shall report that finding to the appropriate law enforcement authorities.

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF RAMSEY )

AFFIDAVIT OF SERVICE  
HAND DELIVERED

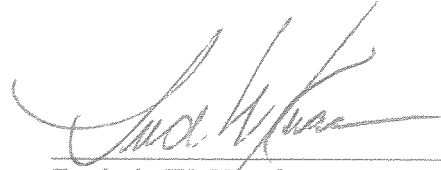
Frederic W. Knaak, of White Bear Lake, County of Ramsey, in the State of Minnesota,  
being duly sworn, says that on the 4th day of October, 2012, he served the following:

Complaint Form for Violation of the Fair Campaign Practices and Campaign Finance Acts,  
and Notice of Appearance

upon the following:


Secretary of State Mark Ritchie  
Secretary of State's Office  
Office of Secretary of State  
Retirement Systems of MN Bldg  
60 Empire Drive, Suite 100  
St. Paul, MN 55103

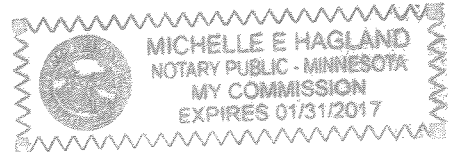
by hand-delivering in person, a copy thereof, enclosed in an envelope, directed to the above  
address, the last known address of said individual.

  
\_\_\_\_\_  
Frederic W. Knaak

Subscribed and sworn to before me

this 4<sup>th</sup> day of October, 2012.

  
\_\_\_\_\_  
Notary Public



STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Minnesota State Senators Scott Newman  
and Mike Parry

Complainants,

vs.

**NOTICE OF APPEARANCE**

Mark Ritchie, Minnesota Secretary of  
State,

Respondent

PLEASE TAKE NOTICE that the parties named below will participate in the prehearing conference and subsequent proceedings in the above-entitled matter and shall be represented by Counsel as indicated herein.

**Name of Parties:** Minnesota State Senators Scott Newman and Mike Parry

**Mailing Address:** (please direct all communications through legal counsel)

Scott Newman, 243 Oday Avenue, Hutchinson, MN 55350

Mike Parry, 804 9<sup>th</sup> Avenue SE, Waseca, MN 56093

**Telephone Number:** (please direct all communications through legal counsel)

Scott Newman, 320-587-5965

Mike Parry, 507-382-8447

**Fax Number:** (please direct all facsimile communications through legal counsel)

**E-Mail Address:** (note above directives)

**Attorney:** Frederic W. Knaak


**Address:** Knaak & Associates, 4501 Allendale Drive, St. Paul, MN. 55127

**Telephone Number:** 651-490-9078


**Fax Number:** 651-490-1580

**E-Mail Address:** fknaak@klaw.us

Date: October 4, 2012

  
Signature: Senator Scott Newman

  
Signature: Senator Mike Parry

  
Signature: Frederic W. Knaak (#0056777)  
Attorney for Complainants

NOTICE: This form must also be served upon the opposing party. Counsel may not withdraw from representation without written notice.

Please return this form to the Office of Administrative Hearings immediately. Our fax number is: 651-361-7878.

STATE OF MINNESOTA  
 OFFICE OF ADMINISTRATIVE HEARINGS  
 PO Box 64620  
 St. Paul, MN 55164-0620

## COMPLAINT FORM FOR VIOLATION OF THE FAIR CAMPAIGN PRACTICES AND CAMPAIGN FINANCE ACTS

### Information about complaint filer (Complainant)

<b>Name of complaint filers:</b> State Senator Scott Newman State Senator Mike Parry	
<b>Address: (respectively)</b> 24203 Oday Avenue, Hutchinson, MN 56350 804 9 <sup>th</sup> Avenue SE, Waseca, MN 56093	
<b>City, state, zip</b> (noted above)	<b>Daytime telephone no.</b> 320-587-5965 (Newman) 507-382-8447 (Parry)
<b>Fax no.</b> Via legal counsel at: 651-490-1580	<b>E-mail address</b> Via legal counsel at fknaak@klaw.us

### Identify person/entity you are complaining about (Respondent)

<b>Name of person/entity being complained about</b> Mark Ritchie, Minnesota Secretary of State	
<b>Address (place of business in official capacity)</b> Office of Secretary of State Retirement Systems of MN Bldg 60 Empire Drive, Suite 100 St. Paul, MN 55103	
<b>City, state, zip</b> (noted above)	<b>Daytime telephone no.</b> 651-203-1324
<b>Fax no.</b> 651-296-9073	<b>E-mail address</b>

Give the statutory cite to the part of Minnesota Statutes Chapter 211A or 211B that you believe has been violated. M.S. §§ 211B.06 and 211B.09.

(You will find the complete text of Minn. Stat. Chs. 211A and 211B at the OAH website, [www.oah.state.mn.us](http://www.oah.state.mn.us).)

Date(s) of violation: At least one is ongoing in nature.

Date of election or ballot question: November 6, 2012.

Elected office or ballot question involved: The Second Constitutional Amendment proposed to the voters on this ballot in the above-noted election with the following language: "Shall the Minnesota Constitution be amended to require all voters to present valid photo identification to vote and to require the state to provide free identification to eligible voters, effective July 1, 2013?"

If allowed by law, do you wish to request an expedited probable cause hearing (within 3 business days)? Yes.

### Nature of complaint

Explain in detail why you believe the respondent has violated Chapter 211A or 211B. Attach an extra sheet of paper if necessary. Attach copies of any documents that support your allegations. This complaint must be dismissed by the Administrative Law Judge if this submission does not show a prima facie violation of the statutes. "Prima facie" means that the facts you present must be sufficient to show a violation.

(Please see the attached brief memorandum and exhibits which are incorporated herein by reference and attachment.)

Scott Newman  
I, Michael Parry, under penalty of perjury, swear or affirm that the statements I have made in this complaint are true and correct to the best of my knowledge.

### Oath:

Scott Newman  
Signature of person filing complaint  
(Sign in front of Notary Public)

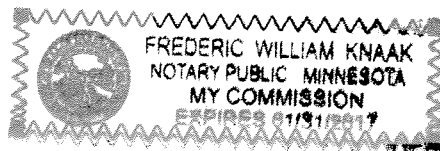
10/4/12  
Date

Michael Parry  
Signature of person filing complaint  
(Sign in front of Notary Public)

10/4/12  
Date

Sworn/affirmed before me  
this 4th day of October, 2012.

Frederic W. Knaak  
Notary Public/Seal



## **COMPLAINT ADDENDUM TO THE CAMPAIGN FINANCE COMPLAINT OF SENATORS PARRY AND NEWMAN**

The attached joint Complaint Form has been served upon the Secretary of State and filed with the Office of Administrative hearings. These Complainants allege that the conduct contained in the narrative of this consolidated and joint Complaint results in several violations of a number of Minnesota laws governing conduct and activities surrounding the current ballot question on the proposed constitutional amendment requiring photographic voter identification.

Those matters properly in the jurisdiction of the Office of Administrative Hearings, most specifically related to prohibited acts under Minn. Stat. §211B, are now before that Agency.

That same behavior, specifically the expenditure of funds to defeat the proposed ballot question, the use of state funds for that purpose, including the Secretary of State's web site, the use of his office to publish materials intended to assist in the defeat of that proposal, the use of state employees on state time to advocate against passage of the proposal, and the use of state vehicles and funds for that same purpose are all properly before the Campaign Finance Board under the provisions it oversees in Minn.Stat. §10A. . More particularly, Mr. Ritchie has failed to report these expenditures made on behalf of the defeat of the proposal which are personal in character and are not directly related to the function of his constitutional office.

ATTACHMENT 1:

SUMMARY WITH SPECIFICITY OF ELECTION PRACTICES VIOLATIONS OF MARK RITCHIE IN THE MATTER OF STATE SENATORS SCOTT NEWMAN AND MIKE PARRY vs. MARK RITCHIE.

The Complainants divide their allegations into three groups, each representing a separate, alleged violation, or series of violations, as follows:

1. Mark Ritchie, as Minnesota Secretary of State, has, associated with his office and paid for with public funds, a web site for the purpose of providing information to the public. Part of this site deals directly with elections in Minnesota and is purportedly for the sole purpose of providing basic voter information, such as polling locations and information. The site is located on the internet at:

<http://www.sos.state.mn.us/.index.aspx?page=1719>

Nowhere in state law is anyone, including the Secretary of State, permitted to use public communications for the purpose of promoting or opposing a particular candidate or ballot question. The only exception to this rule is one that permits candidates or groups supporting or opposing a ballot question to have a link to their organization's web site provided by the Secretary of State as part of the information available at the web site. State law, specifically, M.S. §16A.139, prohibits any state official from using money appropriated by law for any purpose other than the stated purpose of the appropriation.

It is known by these Complainants that Mark Ritchie opposes the above-noted constitutional amendment question. He has used this public website for the purpose of advocating against the constitutional question. Specifically, for example (and the example is not intended to limit consideration of other, similar violations) he has added several additional pages, ostensibly to "educate" voters on the constitutional question, including one captioned "Proposed Constitutional Amendment on Elections", another, more brazen, "Why Proposed Amendment Would End Same-day Registration", and a third, "Impact of Proposed Amendment on Voting by Mail." Copies of these web pages are attached herewith and incorporated herein.

Even a cursory review of these documents shows their plain purpose of advocacy for Mr. Ritchie's position in opposition to the proposed amendment. More important, in the view of these Complainants, these published website documents are rife with falsehoods and misinformation clearly intended to misinform voters as to the nature of the amendments they will be considering.

As an example, on page 1 of 2 of the section entitled "Proposed Constitutional Amendment on Elections" the document states that: "***There was a bi-partisan proposal to permit the future use of new technologies to identify voters, but it was rejected. The result is that if the amendment is adopted Minnesota would not be authorized to use more modern means of identification.***"



In fact, as Mr. Ritchie is fully aware, there is no reason why a legislature could not adopt, in implementing the amendment, any technologies as may be available in securing the election process. Mr. Ritchie knows this, has been told this, and nevertheless continues to misrepresent this information in this manner to the public in the hope of persuading them to vote against the amendment. In making this assertion, he is knowingly misstating the truth, intentionally or with reckless disregard as to its veracity, which these Complainants allege is a standard practice in his office.

Later, in the same document, after plain advocacy, again, against the amendment, Mr. Ritchie's web site states: "**...there would be startup costs to local and state agencies of \$50 million[vii] and additional ongoing cost for local government of over \$10 million that would need to be paid through local taxes. Adopting this new provisional balloting system would trigger oversight by the U.S. Department of Justice under the Help America Vote Act.**" These numbers are, knowingly made to influence voters who may be coming to the site for unbiased information, and they are deliberately false or with disregard to the truth. There is no credible basis whatsoever for this misinformation and it is directly contradicted by the so-called "fiscal note" prepared by the non-partisan legislative staff in its review of the legislation bringing forward the amendment. A copy of the non-partisan fiscal note is attached and incorporated herein by reference. Mr. Ritchie is fully aware of this analysis and chooses to disregard it.

Complainant Newman acknowledges that he is familiar with the \$50 million cost figure claimed by Ritchie, but **\$50 million was the projected cost of Mr. Ritchie's proposal to the legislature that the legislature rejected because of the cost, and not the cost to the local units of government to implement the amendment.** Mr. Ritchie's proposal, which was offered to Complainant Newman as a form of "compromise", in fact would have required massive investment in very expensive technology that could not, in any way, be shown to impact fraudulent voting. That cost simply is not incurred under the language of the amendment. Mr. Ritchie clear knows or should this fact, yet he persists in misrepresenting this information in an effort to persuade cost-conscious voters to vote against the proposed amendment.

Similarly, the categorical statement regarding actions by the Department of Justice are misleading, at best, since any such action would necessarily await the enabling legislation that would need to be passed to implement the constitutional provision. There is no basis whatsoever in law or fact for the categorical statement that passage of the proposed amendment would automatically trigger any intervention whatsoever from the Federal government.

In the same vein, later in the document, Ritchie contends that "**... a Minnesota voter, voting absentee from another state or country would have to have their identity verified in a way that is substantially equivalent to a voter voting in the polling place who hands a photo ID to an election judge. It is not clear how this is possible (emphasis added)....This section would also end same day voter registration as we know, which is used by over 500,000 voters in presidential elections.**" As Mr. Ritchie well knows, this is nonsense. Although the details clearly would await further consideration of the legislature in implementing the amendment language, same day registration for anyone with a current driver license, which is the means of identification given by an overwhelming percentage of new registrations, would remain unchanged.

Mr. Ritchie's language clearly indicates that "over 500,000 voters" who use same day voter registration would either no longer be able to vote that way or would be, somehow, adversely impacted by this amendment. In fact, as noted in the legislative record, in other states there were similar amendments have been adopted, nothing remotely like the apocalyptic results he categorically projects ever occurred. As noted in the Crawford case, for example, the percentage of voters in the State of Indiana who were projected in any way to be impacted by a very similar provision was projected to be 1%. Extrapolated to normal turnouts in Minnesota, that number would result in something just over 30,000 voters. In other words, less than 10% of the number stated by Ritchie. And these Minnesota voters would not be prevented from voting by the amendment, as suggested by Ritchie, but would be required to obtain some form of free and readily available photographic identification. Moreover, as noted by Justice Kennedy in the Crawford case, the provisional balloting provision "solves the problem" for same day registrants who do not have the necessary photo ID on election day.

The same assertion regarding same-day voter registration is made on a subsequent page of the web site entitled, simply, "Why Proposed Amendment Would End Same-day Registration." Yet again, Mr. Ritchie is fully aware of the falsehood of this statement and what is provided is little more than misinformation used as scare tactics to improperly persuade voters to vote against the proposed amendment.

No disclaimer exists on the site to indicate that it is being used for the purpose of advocating opposition to the proposed amendment. Nor does it indicate any source of payment for the advocated message opposing the amendment.

2. The second count of Complainants formal election practices' complaint against Mr. Ritchie consists an action by Ritchie that is similar in its illegal character to the foregoing, but involves an advocacy letter sent to a organization of parents of veterans and military personnel on official Secretary of State stationery. The obvious effort here to play on the emotions of these people in order to influence their opinions on the amendment question is illegal and deeply offensive.

Attached and made part to this Complaint is a letter written and signed by Mr. Ritchie, dated September 12, 2012, to Ms. Barbara Farrell, as President of Minnesota Gold Star Mothers, an organization of Veteran and active-service military families. The organization is a non-profit entity which cannot and does not engage in political advocacy. Ritchie's correspondence is on official State of Minnesota, Secretary of State letterhead.

As can be seen in the letter, Ritchie, purporting to be acting in his capacity as Secretary of State, in fact uses his position and taxpayer resources to advocate for a position against the proposed amendment. There is no disclaimer on the letter indicating that it was paid for by Mr. Ritchie or any other groups. As before, this communication is rife with misinformation that Ritchie knew or should have known to be inaccurate, false and misleading.

In the letter, Ritchie specifically invites the recipient to view the above-noted, inaccurate and slanted web site "to learn more about the proposed amendment". The last line of the final attachment to the letter says, simply, "Minnesota voters can veto this

bill and send it back to the legislature by voting "no" on November 6," which is plain enough advocacy against the amendment as to need no further comment.

The recipient of the letter, Ms. Farrell, has no official position on the amendment; nor does or can her organization. Ms. Farrell has, however, been very vocal in expressing her outrage at these efforts by Mr. Ritchie, ostensibly in his role as Secretary of State, to engage in an obvious effort to play on the emotions and concerns of that group to attempt to persuade them to take a political position against the proposed amendment. Her comments and reaction are in the public domain and can be seen at: <http://youtu.be/bIRaNPb5PW4>.

Moreover, Ritchie states to Farrell that "if your board or any of your members would like to have a discussion about the amendment and its potential impacts, my staff or I would be happy to attend", thereby implicating and involving his staff in this effort.

The foregoing would constitute, at a minimum, and without limitation, the following violations of State law: 1) illegal use of state property in violation of M.S. §43A.38 (4); 2) Making a false statement to influence a ballot initiative in violation of M.S. §211B.06; 3) Use of his state position to take part in political activity and to require his employees to engage in same in violation of M.S. §211B.09; and, 4) an illegal conflict of interest in using his official position to influence the outcome of the amendment question in violation of M.S. §43A.38

3. For their final count in this Complaint, Complainants allege that Mr. Ritchie has repeatedly used State of Minnesota public resources, including motor vehicles, hotel reimbursements, time spent for which he was paid to do state duties and other items, in order to actively oppose passage of the aforesaid amendment. In six specific instances --- and Complainants believe on information and belief that there are many more constituting an ongoing pattern or behavior --- one in Mankato, Minnesota, another in Marshall, a third in Northfield, a fourth in New Ulm, another in Red Wing and another in Waite Park, Ritchie was reported by local newspapers to have travelled to those locations, purportedly in his official capacity, but specifically in order to speak to newspaper editors and others to campaign against passage of the amendment and seeking to solicit opposition to the amendment. In doing so, Ritchie spent State monies for mileage, meals and related expenses and neither reported those expenditures as campaign expenditures, nor used his own funds or those of a registered committee or organization in advocating against passage of the amendment.

These Complainants and others have attempted to obtain from Mr. Ritchie's office, pursuant to the Minnesota Data Practices Act, copies of his expense vouchers for the travel locations in question, which demands, to date, have been refused.

In each of these specific instances, on information and belief, Ritchie specifically reiterated materially false and misleading information, including references to the purported facts and materials noted above, specifically, among other things, the so-called \$50 million cost, the "elimination of same-day registration", and the disenfranchisement of military voters, that he knew or should have known to have been demonstrably false or without basis in fact, and did so for the purpose of wrongfully influencing voters to vote against the aforesaid amendment.

**Fiscal Note – 2011-12 Session**

**Bill #:** S1577-0 **Complete Date:** 02/15/12

**Chief Author:** NEWMAN, SCOTT J

**Title:** VOTER ID REQ CONST AMENDMENT

**Agency Name:** Public Safety Dept

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY11	FY12	FY13	FY14	FY15
<b>Expenditures</b>					
-- No Impact --					
<b>Less Agency Can Absorb</b>					
-- No Impact --					
<b>Net Expenditures</b>					
-- No Impact --					
<b>Revenues</b>					
-- No Impact --					
<b>Net Cost &lt;Savings&gt;</b>					
-- No Impact --					
<b>Total Cost &lt;Savings&gt; to the State</b>					

	FY11	FY12	FY13	FY14	FY15
<b>Full Time Equivalents</b>					
-- No Impact --					
<b>Total FTE</b>					



**Bill Description**

This bill proposes an amendment to the Minnesota constitution, requiring voters to present photographic identification, providing photographic identification to voters at no charge, and that there are substantially equivalent verification standards for all voters.

**Assumptions**

This bill is to approve a vote for a constitutional amendment question for the 2012 general election, and therefore does not have a financial impact on the Department of Public Safety.

If this bill passes and an amendment is subsequently passed by voters, it is assumed that legislation will be needed for implementation, including the photographic identification requirements and how they will be provided to eligible voters free of charge. During the FY 2011 session, fiscal notes for SF509 addressed potential cost implications concerning voter identification.

FN Coord Signature: LARRY FREUND

Date: 03/01/12 Phone: 651-201-7050

**EBO Comments**

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT

Date: 03/01/12 Phone: 651-201-8034

**Consolidated Fiscal Note – 2011-12 Session**

**Bill #:** S1577-0 **Complete Date:** 02/16/12

**Chief Author:** NEWMAN, SCOTT J

**Title:** VOTER ID REQ CONST AMENDMENT

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

**Agencies:** Secretary Of State (02/16/12)

Public Safety Dept (02/15/12)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY11	FY12	FY13	FY14	FY15
<b>Net Expenditures</b>					
General Fund		0	2	0	0
Secretary Of State		0	2	0	0
<b>Revenues</b>					
-- No Impact --					
<b>Net Cost &lt;Savings&gt;</b>					
General Fund		0	2	0	0
Secretary Of State		0	2	0	0
<b>Total Cost &lt;Savings&gt; to the State</b>		0	2	0	0

	FY11	FY12	FY13	FY14	FY15
<b>Full Time Equivalents</b>					
-- No Impact --					
<b>Total FTE</b>					

**Consolidated EBO Comments**

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KATHARINE BARONDEAU

Date: 02/16/12 Phone: 651-201-8026

**Fiscal Note – 2011-12 Session**

**Bill #:** S1577-0 **Complete Date:** 02/16/12

**Chief Author:** NEWMAN, SCOTT J

**Title:** VOTER ID REQ CONST AMENDMENT

**Agency Name:** Secretary Of State

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY11	FY12	FY13	FY14	FY15
<b>Expenditures</b>					
General Fund					
<b>Less Agency Can Absorb</b>		0	2	0	0
-- No Impact --					
<b>Net Expenditures</b>					
General Fund					
<b>Revenues</b>		0	2	0	0
-- No Impact --					
<b>Net Cost &lt;Savings&gt;</b>					
General Fund		0	2	0	0
<b>Total Cost &lt;Savings&gt; to the State</b>		0	2	0	0

	FY11	FY12	FY13	FY14	FY15
<b>Full Time Equivalents</b>					
-- No Impact --					
<b>Total FTE</b>					

**Fiscal Note – 2011-12 Session**

**Bill #:** S1577-2E (R) **Complete Date:** 03/01/12

**Chief Author:** NEWMAN, SCOTT J

**Title:** VOTER ID REQ CONST AMENDMENT

**Agency Name:** Public Safety Dept

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY11	FY12	FY13	FY14	FY15
<b>Expenditures</b>					
-- No Impact --					
<b>Less Agency Can Absorb</b>					
-- No Impact --					
<b>Net Expenditures</b>					
-- No Impact --					
<b>Revenues</b>					
-- No Impact --					
<b>Net Cost &lt;Savings&gt;</b>					
-- No Impact --					
<b>Total Cost &lt;Savings&gt; to the State</b>					

	FY11	FY12	FY13	FY14	FY15
<b>Full Time Equivalents</b>					
-- No Impact --					
<b>Total FTE</b>					



**Consolidated Fiscal Note – 2011-12 Session**

**Bill #:** S1577-2E (R) **Complete Date:** 03/13/12

**Chief Author:** NEWMAN, SCOTT J

**Title:** VOTER ID REQ CONST AMENDMENT

**Agencies:** Secretary Of State (03/13/12)

Public Safety Dept (03/01/12)

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY11	FY12	FY13	FY14	FY15
<b>Net Expenditures</b>					
General Fund					
Secretary Of State		0	2	0	0
<b>Revenues</b>					
-- No Impact --					
<b>Net Cost &lt;Savings&gt;</b>					
General Fund					
Secretary Of State		0	2	0	0
<b>Total Cost &lt;Savings&gt; to the State</b>		0	2	0	0

	FY11	FY12	FY13	FY14	FY15
<b>Full Time Equivalents</b>					
-- No Impact --					
<b>Total FTE</b>					

**Consolidated EBO Comments**

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KATHARINE BARONDEAU

Date: 03/13/12 Phone: 651-201-8026

**Fiscal Note – 2011-12 Session**

**Bill #:** S1577-2E (R) **Complete Date:** 03/13/12

**Chief Author:** NEWMAN, SCOTT J

**Title:** VOTER ID REQ CONST AMENDMENT

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

**Agency Name:** Secretary Of State

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY11	FY12	FY13	FY14	FY15
<b>Expenditures</b>					
General Fund		0	2	0	0
<b>Less Agency Can Absorb</b>					
-- No Impact --					
<b>Net Expenditures</b>					
General Fund		0	2	0	0
<b>Revenues</b>					
-- No Impact --					
<b>Net Cost &lt;Savings&gt;</b>					
General Fund		0	2	0	0
<b>Total Cost &lt;Savings&gt; to the State</b>		0	2	0	0

	FY11	FY12	FY13	FY14	FY15
<b>Full Time Equivalents</b>					
-- No Impact --					
<b>Total FTE</b>					



MINNESOTA  
Management  
& Budget

**Date:** February 29, 2012

**To:** Senator Julianne Ortman, Chair  
Senator John Marty  
Senator Claire Robling, Chair  
Senator Richard Cohen

**From:** Margaret Kelly *MK*  
State Budget Director

**Subject:** Local Impact Note: SF 1577 (Newman): Constitutional Amendment for Voter Photographic Identification (photo ID) Requirement

On February 14, 2012 Minnesota Management & Budget received a local impact note request for SF1577 (Newman), a bill authorizing a ballot question regarding a constitutional amendment to require photo ID. This memo is to inform you that a formal local impact estimate cannot be completed on this bill because the bill does not include specific administrative provisions that would define local government duties if the amendment were to pass.

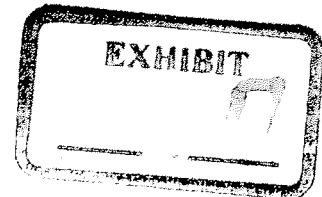
However, in order to provide you with a range of possible local government costs if this bill were to become law, we have attached two local impact notes on voter ID bills (HF 210 DE2, Kiffmeyer et al.; HF 210 DE6, Kiffmeyer et al) that were completed during the 2011 legislative session. The final aggregated statewide local cost estimates for these bills are shown below:

**Statewide local cost estimate of HF 210 DE2 for FY 2012 – FY 2015:**

	FY 2012	FY 2013	FY 2014	FY 2015
On Going Local Government Costs	\$ -	\$ 4,050,359	\$ 3,965,230	\$ 4,303,191
One time Local Government Costs	\$ -	\$ 4,157,866	\$ -	\$ -
Internet Connectivity	\$ -	\$ 89,775	\$ 89,775	\$ 89,775
<b>Total Local Government Costs</b>	<b>\$ -</b>	<b>\$ 8,298,001</b>	<b>\$ 4,055,005</b>	<b>\$ 4,392,966</b>

**Statewide local cost estimate of HF 210 DE6 for FY 2012 – FY 2015:**

	FY 2012	FY 2013	FY 2014	FY 2015
On Going Local Government Costs	\$ -	\$ 3,669,619	\$ 5,883,842	\$ 4,038,274
One time Local Government Costs	\$ -	\$ 19,677,001	\$ -	\$ -
<b>Total Local Government Costs</b>	<b>\$ -</b>	<b>\$ 23,346,620</b>	<b>\$ 5,883,842</b>	<b>\$ 4,038,274</b>



It should be noted that these two bills contained an effective date that would have made them law before the November 2012 election and thus show costs in FY 2013. If it were to pass, the voter ID constitutional amendment would not be effective for the November 2012 election, thus local costs would not be incurred until at least FY 2014

Local government activities that were included in the cost estimates for the 2011 voter ID bill included:

- Costs related to the purchase, maintenance, storage, insurance and testing of "electronic pollbooks" used to process voter data on election day;
- Costs related to provisional balloting requirements included the bills;
- Costs related to extended election material retention periods;
- Costs related to absentee board meeting requirements;
- Costs related to additional training for election employees;
- Savings related to automated voter information data entry;
- Costs related to hiring additional election day judges.

These estimates did not include local costs related to supplying an internet connection for all polling places, something that may be required if the voter ID amendment were to become law.

The attached local cost estimates for past voter ID bills likely will not be an exact proxy for a local cost estimate if the constitutional amendment requiring voter ID were to pass. It is unclear at this time how a voter ID requirement would be administered and how some duties would be passed on to local units of government. The attached estimates are provided to give you an idea of the cost possibilities of a voter ID law for local units of government

If you or your staff has questions regarding this memo or the attached estimates, please contact Bryan Dahl, Executive Budget Officer, (651)201-8031

cc: Senator Scott Newman  
Legislative staff

Attachments: Local Impact Note for HF 210 DE2 (Kiffmeyer et al, 2011); Local Impact Note for HF 210 DE6 (Kiffmeyer et al., 2011)

April 7, 2011

HF 210 DE2 (Kiffmeyer et al.)  
**Voter picture identification required before receiving a ballot, identification cards provided at no charge, provisional ballot procedures established, election administration procedures specified, electronic polling place required, and recount procedures enacted.**

Local Fiscal Impact				
Net Expenditure Increase/Revenue Loss or (Expenditure Decrease/Revenue Gain)				
Dollars in Thousands, State Fiscal Years				
	FY 2012	FY 2013	FY 2014	FY 2015
Statewide	\$0	\$8,298	\$4,055	\$4,393

**Local Governments Participating:** City of Elk River, City of Eden Prairie, City of Edina, Washington County, Cass County, Blue Earth County, Hennepin County. Detailed survey responses are available upon request. Three other local units of government that were sent a survey did not return a response.

**Explanation of the Bill**

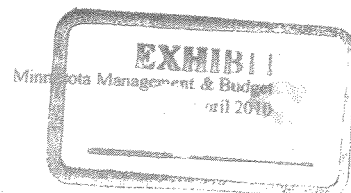
HF 210 makes numerous changes to election law including requiring photo identification in the polling place, eliminating the use of vouching as a mechanism for voter registration in most cases, instituting a system of provisional balloting, specifying reconciliation procedures, requiring use of electronic polling place rosters, and codifying certain recount procedures in statute.

**Local Impact Analysis Methodology**

To estimate the statewide local government impact of the changes included in HF 210, MMB surveyed a sampling of local governments to determine a per voter impact of the bill *if it had been current law for elections held in 2008 - 2010*. The per voter costs were then used to calculate a statewide estimated cost using statewide vote totals for 2008 - 2010. To then estimate aggregate statewide local government costs related to HF 210, MMB used population growth projections to estimate voter turnout for FY 2012 - 2015.

**Local Impact Analysis of SF 2708 / HF 2995:**

MMB worked with the Secretary of State's office to identify provisions in HF 210 that could result in additional costs to local units of Government. These provisions were then used to develop a survey that was sent to selected local units of government contacts provided to MMB by the League of Minnesota Cities and the Minnesota Inter-County Association. The complete survey is included in appendix 1.



Local governments were asked to provide cost information on the following provisions in the bill:

- The costs related to electronic pollbooks<sup>1</sup> including maintenance, storage, insurance, pre-election testing, any additional electronic pollbooks considered necessary to efficiently carry out the requirements of the bill, IT staff to trouble shoot on election day, and costs related to a written security, contingency and backup and data encryption policy and procedure for electronic pollbooks. Survey recipients were told to assume that additional electronic pollbooks would cost \$4,293 each (cost information provided by Secretary of State's office)
- The costs related to provisional balloting requirement included in the bill including staff and resources needed for monitoring of provisional voters and ballots, separate storage of provisional ballots, posting provisional ballot data into the Statewide Voter Registration System (SRVS), entering election day registrations for provisional voters the day after the election, access for voters to present a valid ID for 5 days after the election, and mailing of notices to provisional voters whose ballots were not counted. Local governments were told to assume that 2.5% of voters would cast a provisional ballot and that 50 percent of those voters would return to have their vote counted within 5 days.<sup>2</sup>
- The costs related to extending the retention period of election materials to 36 months from 22 months.
- The costs related to absentee boards meeting every day during the balloting period.
- The costs related to additional training for election employees.
- The savings related to automated voter information data entry.
- The costs for smaller jurisdictions that would have to comply with the requirements in the bill while not being provided with an electronic pollbook by the state. Jurisdictions were specifically asked to consider costs related to entering all Election Day registrations within 42 days, counting voter signatures instead of receipts and printing and checking the ineligible voter list.
- Any other costs that a jurisdiction sees as resulting from the bill.
- Local governments were asked to note if a given cost would be carried by another jurisdiction.

Local governments responding to the survey were then asked to provide cost estimates for each survey question if HF 210 had been current law in 2008, 2009 and 2010. Local governments were also asked to list any start-up (one time) costs related to the bill. Table 1 below shows the aggregated costs of the local governments that responded to the survey:

<sup>1</sup> An electronic pollbook is defined as an electronic roster workstation used to process voter data on Election Day. When referring to an electronic pollbook in this note a computer, voter receipt printer, cables and software is included.

<sup>2</sup> To arrive at the assumption that 2.5% of voters would cast a provisional ballot, MMB used the following information from the Secretary of State's office:

- 1 In 2008, 17% of voters were election-day registrants.
- 2 In 2008, 28% of election-day registrants used a proof of residence other than a driver's license with their current address. Assume that the education campaign reaches 2/3 of this group, but 1/3 come to the polling place without an authorized photo ID with their current address.
- 3 Assume that 0.5% of all voters would be challenged and thus would cast provisional ballots.

Table 1: Aggregated HF 210 Local Government Survey Responses:

	*Start up costs	2008	2009	2010
1 Number of Voters:	-	1,061,135	51,842	857,730
2. Costs related to pollbook storage, maintenance, insurance/additional pollbook procurement.	\$ 1,195,360	\$ 736,128	\$ 704,363	\$ 734,204
3 Costs related to provisional voting:	\$ 69,181	\$ 605,395	\$ 125,282	\$ 526,453
4. Costs related to increased record retention	\$ -	\$ 65,752	\$ 64,408	\$ 65,752
5. Costs related to absentee ballot board requirements.	\$ -	\$ 85,820	\$ 35,260	\$ 85,820
6. Costs related to employee training	\$ 55,550	\$ 33,399	\$ 5,777	\$ 33,614
7. Savings related to pollbook	\$ -	\$ (317,196)	\$ (36,504)	\$ (171,180)
8. Costs related to complying with requirements in the bill without new technology.	\$ 500	\$ 4,000	\$ 600	\$ 4,000
9. Please list any other costs/savings	\$ -	\$ 27,860	\$ 6,180	\$ 25,860
<b>Total Costs:</b>	<b>\$ 1,320,591</b>	<b>\$ 1,241,157</b>	<b>\$ 905,366</b>	<b>\$ 1,304,523</b>

Survey respondents noted the following as other costs/savings:

- Posting voter history
- Overtime for the 42 day limit and recounting 1 precinct at a time
- Savings from eliminating need to stamp rosters for absentee voters.

Using this information in the table above, MMB then calculated a per voter cost for each year:

Table 2: HF 210 Local Government Per Voter Costs:

	2008	2009	2010
Per Voter Costs	\$ 1.17	\$ 17.46	\$ 1.52

The Secretary of State provided the following voter turnout information for 2008 – 2010:

Table 3: 2008 – 2010 Statewide Voter Turnout:

	2008	2009	2010
Voters Primary	419,474	18,492	606,394
Voters General	2,921,498	200,567	2,123,369
<b>Total Voters</b>	<b>3,340,972</b>	<b>219,059</b>	<b>2,729,763</b>

Using the above information, the costs to local governments if HF 210 had been law from 2008 – 2010 are as follows:

Table 4: Estimated HF 210 Local Government Costs (2008 – 2010):

	2008	2009	2010
Local Government Costs	\$ 3,907,769	\$ 3,825,636	\$ 4,151,700

To estimate the local government costs related to HF 210 for FY 2012 – 2015, MMB made the following assumptions for “like” election years:

- Presidential election years: 2008 and FY 2013<sup>3</sup>
- Statewide election years: 2010 and FY 2015
- Odd year/local election years: 2009 and FY 2014

Additionally MMB adjusted the above statewide costs estimate by an annual population growth factor of 0.9 percent.<sup>4</sup> Using the above assumptions, the following preliminary estimates for FY 2012 – 2015 were calculated:

Table 5: Estimated HF 210 Ongoing Local Government Costs (FY 2012 – 2015):<sup>5</sup>

	FY 2012	FY 2013	FY 2014	FY 2015
On Going Local Government Costs	\$ -	\$ 4,050,359	\$ 3,965,230	\$ 4,303,191

Surveyed local government also provided estimates for start-up costs (see survey results on previous page) for items such as purchasing additional electronic pollbooks, purchase of Election Day materials, and preparation of pollbook policies. Across the local governments surveyed, these costs totaled \$1,320,591. Assuming these one-time costs would occur during the first year HF 210 is law (FY 2013), MMB used 2008 voter data reported in the survey (1,061,135 voters) and calculated a per voter one-time cost of \$1.24 per voter. A one-time statewide cost of \$4,157,866 was then calculated using the statewide turnout for 2008 (3,340,972).

Internet connectivity costs required for some jurisdictions in HF 210 was calculated centrally by MMB with the assistance of the Secretary of State’s office. For this provision it was assumed that 665 polling stations would be required by the bill to use electronic polling stations. Of these polling stations it is assumed that 10 percent would already have internet access and that 90 percent would need to acquire internet connectivity to be in compliance with the bill. Additionally, it is assumed that internet connectivity would have an annual cost of \$150. Using the above assumptions an additional aggregated statewide local government costs related to this provision would be \$89,775 annually.

Considering the above information, MMB calculated the aggregate statewide local government costs resulting from HF 210 to be:

**Statewide local cost estimate of HF 210 for FY 2012 – FY 2015:**

	FY 2012	FY 2013	FY 2014	FY 2015
On Going Local Government Costs	\$ -	\$ 4,050,359	\$ 3,965,230	\$ 4,303,191
One time Local Government Costs	\$ -	\$ 4,157,866	\$ -	\$ -
Internet Connectivity	\$ -	\$ 89,775	\$ 89,775	\$ 89,775
<b>Total Local Government Costs</b>	<b>\$ -</b>	<b>\$ 8,298,001</b>	<b>\$ 4,055,005</b>	<b>\$ 4,392,966</b>

<sup>3</sup> Fiscal years run July through June, thus the November 2012 election would occur during FY 2013

<sup>4</sup> Population growth calculation provided in appendix 2

<sup>5</sup> Most provisions in the bill will not be effective until FY 2013, thus there will be no local government costs in FY 2012



*Appendix 1: Local Government Survey*

- 1) *In our attempt to aggregate statewide local government costs if HF 210 were to become law, we will need to examine costs on a per voter basis. For each election year listed (2008 – 2010) please list the total number of votes cast in your jurisdiction across all elections.*
  
- 2) *Applicable to cities receiving pollbooks: For this question, please include the costs related to maintenance, insurance, storage, pre-election testing, any additional pollbooks that you would purchase (\$4,293 each), IT staff to troubleshoot on election day and the costs related to establishing a written security, contingency and backup and data encryption policy and procedure for electronic pollbooks \* Please use the following information to determine the number of pollbooks provided.*
  - a. *The State will buy the following numbers of pollbooks (with required printers, and other equipment):*

Precincts with 1 to 249 voters .	1
Precincts with 250 to 499 voters	2
Precincts with 501 to 700 voters	3
Precincts with 701 to 900 voters :	4
Precincts with 901 to 1099 voters	5
Precincts with 1100 or more voters	6

*\*note the cost for precincts to establish an internet connection will be calculated centrally*
  
- 3) *HF 210, if passed into law would allow provisional balloting if a voter's lawful ability to vote is questioned. This would require monitoring of provisional voters and ballots on election day, separate storage of provisional ballots after election day, posting of data about provisional ballots into the Statewide Voter Registration System (SYRS), entering election day registrations for provisional voters on the day after the election, access for voters to present a valid ID for 5 days after the election, and mailing of notices for provisional voters whose ballots were not counted. Please estimate the cost of additional staff, storage facilities and materials needed to administer these requirements with the following assumptions:*
  - a. *2.5% of voters will cast a provisional ballot*
  - b. *1/3 of those voters that cast a provisional ballot will return with a photo ID within 5 days to have their vote counted*
  - c. *Provisional ballots will require separate secrecy envelopes, ballot box, transfer case and storage after the election.*
  
- 4) *For this question, please estimate the costs of storing all election materials for an additional 14 months (36 months instead of 22)*
- 5) *HF 210 would require absentee ballot boards to meet every day during the absentee balloting period. Please estimate the additional costs associated with this requirement.*
- 6) *HF 210 would require additional training for election judges and municipal clerks to administer changes in election law. Please assume an additional 1 hour per election judge or municipal clerk*
- 7) *HF 210 would require voter education outreach to explain new ID requirements administered by local governments if the first election under the new law occurred in an odd year. For this question, please estimate costs associated with voter education if you expect to hold an odd year election in your jurisdiction. Please list these costs under 2009<sup>6</sup>*
- 8) *For those receiving pollbooks, HF 210 will automate voter information data entry currently practiced by local governments. Please estimate the savings with this task no longer being required*
- 9) *For cities with fewer than 25,000 registered voters in counties with fewer than 75,000 registered voters, electronic pollbooks will not be provided but these jurisdictions will still be expected to comply with election law changes in this bill. Please estimate the staff and supply costs related to*
  - a. *Entering all election day registrations within 42 days*
  - b. *Counting voter signatures instead of receipts*
  - c. *Printing and checking ineligible voter list*
- 10) *Please list any other costs or savings that you see resulting from the bill. If included, please include an explanation of these costs/savings*  
*\*\*If the costs associated with a given question are carried out by another jurisdiction please note this in column F*

<sup>6</sup> The costs resulting from this question were removed from the aggregated survey results due to the fact that the first election occurring under this law will occur in 2012, a statewide election year.

*Appendix 2: Population Growth Rates<sup>7</sup>*

<i>Time Period (year: Quarter)</i>	<i>Minnesota Total Resident Population (in Millions)</i>	<i>Growth Rate (year/year)</i>
1990.4	4.409	
1991.4	4.461	1.2%
1992.4	4.517	1.3%
1993.4	4.577	1.3%
1994.4	4.630	1.1%
1995.4	4.679	1.1%
1996.4	4.732	1.1%
1997.4	4.782	1.1%
1998.4	4.834	1.1%
1999.4	4.896	1.3%
2000.4	4.954	1.2%
2001.4	4.998	0.9%
2002.4	5.030	0.6%
2003.4	5.059	0.6%
2004.4	5.090	0.6%
2005.4	5.120	0.6%
2006.4	5.164	0.9%
2007.4	5.207	0.8%
2008.4	5.245	0.7%
2009.4	5.281	0.7%
2010.4	5.322	0.8%
<i>Average Annual Growth</i>		<i>0.8%</i>

<sup>7</sup> Data provided by MMB economic analysis division and the State Demographer's office

May 2, 2011

HF 210 DE6 (Kiffmeyer et al.)  
**Voter picture identification required before receiving a ballot, identification cards provided at no charge, provisional ballot procedures established, election administration procedures specified, and recount procedures enacted.**

<b>Local Fiscal Impact</b>				
Net Expenditure Increase/Revenue Loss or (Expenditure Decrease/Revenue Gain)				
Dollars in Thousands, State Fiscal Years				
	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
Statewide	\$0	\$23,347	\$5,884	\$4,038

**Local Governments Participating:** City of Elk River, City of Eden Prairie, City of Edina, Washington County, Hennepin County. Detailed survey responses are available upon request. Five other local units of government that were sent a survey did not return a response.

**Explanation of the Bill**

HF 210 DE6 makes numerous changes to election law including requiring government issued photo identification with a correct address in the polling place, eliminating the use of vouching as a mechanism for voter registration in most cases, instituting a system of provisional balloting, specifying reconciliation procedures and codifying certain recount procedures in statute.

**Local Impact Analysis Methodology**

To estimate the statewide local government impact of the changes included in HF 210 DE6, MMB surveyed a sampling of local governments to determine a per voter impact of the bill *if it had been current law for elections held in 2008 - 2010*. The per voter costs were then used to calculate a statewide estimated cost using statewide vote totals for 2008 - 2010. To then estimate aggregate statewide local government costs related to HF 210 DE6, MMB used population growth projections to estimate voter turnout for FY 2012 - 2015.

**Local Impact Analysis of HF 210 DE6:**

MMB worked with the Secretary of State's office to identify provisions in HF 210 DE6 that could result in additional costs to local units of Government. These provisions were then used to develop a survey that was sent to selected local units of government contacts provided to MMB by the League of Minnesota Cities and the Minnesota Inter-County Association. The complete survey is included in appendix 1.



Local governments were asked to provide cost information on the following provisions in the bill:

- The costs related to electronic pollbooks<sup>1</sup> if a jurisdiction would make the determination that use of an electronic pollbook would be the most efficient manner in which to carry out new requirements in the bill. Costs related to pollbooks include up-front/one-time costs of procurement, maintenance, storage, insurance, pre-election testing, IT staff to trouble shoot on election day, and costs related to a written security, contingency and backup and data encryption policy and procedure for electronic pollbooks. Survey recipients were told to assume that electronic pollbooks would cost \$4,293 each (cost information provided by Secretary of State's office).
- The costs related to provisional balloting requirement included in the bill including staff and resources needed for monitoring of provisional voters and ballots, separate storage of provisional ballots, posting provisional ballot data into the Statewide Voter Registration System (SVRS), entering election day registrations for provisional voters the day after the election, access for voters to present a valid ID for 5 business days after the election, and mailing of notices to provisional voters whose ballots were not counted. Local governments were told to assume that 2% of voters would cast a provisional ballot and that 50 percent of those voters would return to have their vote counted within 5 days.<sup>2</sup>
- The costs related to extending the retention period of election materials to 36 months from 22 months.
- The costs related to absentee boards meeting every day during the balloting period.
- The costs related to hiring additional election-day judges.
- The costs related to additional training for election employees
- The savings related to automated voter information data entry (if the jurisdiction were to decide to purchase electronic pollbooks).
- The costs for jurisdictions that would have to comply with the requirements in the bill without the use of an electronic pollbook. Jurisdictions were specifically asked to consider costs related to entering all Election Day registrations within 42 days, counting voter signatures instead of receipts and printing and checking the ineligible voter list.
- Any other costs or savings that a jurisdiction sees as resulting from the bill.
- Local governments were asked to note if a given cost would be carried by another jurisdiction.

Local governments responding to the survey were then asked to provide cost estimates for each survey question if HF 210 DE6 had been current law in 2008, 2009 and 2010. Local governments were also asked to list any start-up (one time) costs related to the bill. Table 1 below shows the aggregated costs of the local governments that responded to the survey:

<sup>1</sup> An electronic pollbook is defined as an electronic roster workstation used to process voter data on Election Day. When referring to an electronic pollbook in this note a computer, voter receipt printer, cables and software is included.

<sup>2</sup> To arrive at the assumption that 2% of voters would cast a provisional ballot, MMB used the following information from the Secretary of State's office:

1. In 2008, 17% of voters were election-day registrants
2. In 2008, 28% of election-day registrants used a proof of residence other than a driver's license with their current address. Assume that the education campaign reaches 2/3 of this group, but 1/3 come to the polling place without an authorized photo ID with their current address.
3. Assume that 0.5% of pre-registered voters do not have an ID that shows their current address

Table 1: Aggregated HF 210 DE6 Local Government Survey Responses:

	Start up costs	2008	2009	2010
1. Number of Voters	-	1,001,116	48,209	810,958
2. Costs related to pollbook procurement, maintenance, storage, insurance and policy:	11,557,291	675,710	651,395	675,711
3. Costs related to provisional voting:	61,981	415,769	114,406	365,173
4. Costs related to additional record retention:	-	64,472	63,608	64,472
5. Costs related to absentee ballot board requirements:	-	57,420	29,220	57,420
6. Costs of hiring additional election judges:	-	52,130	13,120	52,770
6a. Costs related to employee training	55,050	20,719	4,977	21,231
7. Costs related to voter education outreach for an odd-year election:	-	-	365,488	-
8. Savings related to pollbook:	-	(271,116)	(13,464)	(125,100)
9. Costs of complying to bill without new technology:	500	53,280	23,040	53,280
10. Please list any other costs/savings	-	(7,500)	(2,500)	(7,500)
<b>Total Costs:</b>	<b>\$ 11,674,822</b>	<b>\$ 1,060,884</b>	<b>\$ 1,249,290</b>	<b>\$ 1,157,456</b>

Survey respondents noted the following as other costs/savings:

- Savings from eliminating need to stamp rosters for absentee voters

Using this information in the table above, MMB then calculated a per voter cost for each year:

Table 2: HF 210 DE6 Local Government Per Voter Costs:

	2008	2009	2010
Per Voter Costs	\$ 1.06	\$ 25.91	\$ 1.43

The Secretary of State provided the following voter turnout information for 2008 – 2010:

Table 3: 2008 – 2010 Statewide Voter Turnout:

	2008	2009	2010
Voters Primary	419,474	18,492	606,394
Voters General	2,921,498	200,567	2,123,369
<b>Total Voters</b>	<b>3,340,972</b>	<b>219,059</b>	<b>2,729,763</b>

Using the above information, the costs to local governments if HF 210 DE6 had been law from 2008 – 2010 are as follows:

Table 4: Estimated HF 210 DE6 Local Government Costs (2008 – 2010):

	2008	2009	2010
Local Government Costs	\$ 3,540,432	\$ 5,676,706	\$ 3,896,109

To estimate the local government costs related to HF 210 for FY 2012 – 2015, MMB made the following assumptions for “like” election years:

- Presidential election years: 2008 and FY 2013<sup>3</sup>
- Statewide election years: 2010 and FY 2015
- Odd year/local election years: 2009 and FY 2014

Additionally MMB adjusted the above statewide costs estimate by an annual population growth factor of 0.9 percent.<sup>4</sup> Using the above assumptions, the following preliminary estimates for FY 2012 – 2015 were calculated:

Table 5: Estimated HF 210 DE6 Ongoing Local Government Costs (FY 2012 – 2015):<sup>5</sup>

	FY 2012	FY 2013	FY 2014	FY 2015
On Going Local Government Costs	\$ -	\$ 3,669,619	\$ 5,883,842	\$ 4,038,274

Surveyed local government also provided estimates for start-up costs (see survey results on previous page) for items such as purchasing electronic pollbooks, purchase of Election Day materials, and employee training. MMB separated the costs for purchasing electronic pollbooks from other one-time costs due to the fact that while the bill does not require that local governments purchase electronic pollbooks, half of the survey respondents projected that they would purchase electronic pollbooks in order to carry out the provisions in the bill effectively.

The total one-time costs related to the procurement of electronic pollbooks was reported in the survey was \$11,557,291. Using 2008 voter data reported in the survey (1,001,116 voters) MMB calculated a one-time cost of \$11.54 per voter. To estimate a statewide impact of this provision, MMB assumed that half of the voters in the state (1,670,486) would vote in precincts using the electronic pollbooks. Using these assumptions, MMB calculated the one-time statewide local government cost related to the electronic pollbooks to be \$19,284,771.

The total one-time costs related to the other provisions in the bill totaled \$117,531, which would equal a per voter cost of \$0.12 using 2008 voter totals provided in the survey data. To then extrapolate a statewide cost MMB multiplied the per voter cost of \$0.12 by the 2008 statewide turnout of 3,340,972 for a total cost of \$392,230.

MMB then added the one-time cost of procuring electronic pollbooks (\$19,284,771) to the other one-time costs reported in the survey (\$392,230) to arrive at a total aggregated statewide one-time local government costs if HF 210 DE6 were to become law of \$19,677,001.

<sup>3</sup> Fiscal years run July through June, thus the November 2012 election would occur during FY 2013

<sup>4</sup> Population growth calculation provided in appendix 2.

<sup>5</sup> Most provisions in the bill will not be effective until FY 2013, thus there will be no local government costs in FY 2012.

Considering the above information, MMB calculated the aggregate statewide local government costs resulting from HF 210 DE6 to be:

**Statewide local cost estimate of HF 210 DE6 for FY 2012 – FY 2015:**

	FY 2012	FY 2013	FY 2014	FY 2015
On Going Local Government Costs	\$ -	\$ 3,669,619	\$ 5,883,842	\$ 4,038,274
One time Local Government Costs	\$ -	\$ 19,677,001	\$ -	\$ -
<b>Total Local Government Costs</b>	<b>\$ -</b>	<b>\$ 23,346,620</b>	<b>\$ 5,883,842</b>	<b>\$ 4,038,274</b>

*Appendix 1: Local Government Survey*

- 1) In our attempt to aggregate statewide local government costs if HF 210 were to become law, we will need to examine costs on a per voter basis. For each election year listed (2008 – 2010) please list the total number of votes cast in your jurisdiction across all elections.
  - 2) Applicable to cities that would choose to purchase pollbooks: For this question, please include the costs of purchasing the pollbooks (\$4,293 each), plus any costs related to maintenance, insurance, storage, pre-election testing, IT staff to troubleshoot on election day and the costs related to establishing a written security, contingency and backup and data encryption policy and procedure for electronic pollbooks. If you plan to purchase electronic pollbooks please include an explanation for why you choose to purchase the pollbooks in column G.\*
  - 3) HF 210, if passed into law would allow provisional balloting if a voter is challenged or cannot present acceptable photo ID including their current address. This would require monitoring of provisional voters and ballots on election day, separate storage of provisional ballots after election day, posting of data about provisional ballots into the Statewide Voter Registration System (SVRS), entering election day registrations for provisional voters on the day after the election, access for voters to present a valid ID for 5 days after the election, and mailing of notices for provisional voters whose ballots were not counted. Please estimate the cost of additional staff, storage facilities and materials needed to administer these requirements with the following assumptions:
    - a. 2% of voters will cast a provisional ballot
    - b. ½ of those voters that cast a provisional ballot will return with a photo ID within 5 days to have their vote counted.
    - c. Provisional ballots will require separate secrecy envelopes, ballot box, transfer case and storage after the election.
  - 4) For this question, please estimate the costs of storing all election materials for an additional 14 months (36 months instead of 22).
  - 5) HF 210 would require absentee ballot boards to meet every day during the absentee balloting period. Please estimate the additional costs associated with this requirement.
  - 6) HF 210 may require additional election judges to be hired to manage voters casting provisional ballots, the ineligible voters list and to count signatures in the roster instead of receipts. Please estimate the cost of hiring additional election judges. If part of these costs were estimated in question 2, please exclude those costs here.
  - 6a) HF 210 would require additional training for election judges and municipal clerks to administer changes in election law. Please assume an additional 1 hour per election judge or municipal clerk.
  - 7) HF 210 would require voter education outreach to explain new ID requirements administered by local governments in any odd year election. For this question, please estimate costs associated with voter education if you expect to hold an odd year election in your jurisdiction. Please list these costs under 2009.
  - 8) For those choosing to purchase pollbooks, HF 210 will automate voter information data entry currently practiced by local governments. Please estimate the savings with this task no longer being required (show savings as a negative number).
  - 9) Cities that choose not to purchase pollbooks will still be expected to comply with election law changes in this bill. Please estimate the staff and supply costs related to:
    - a. Entering all Election Day registrations within 42 days
    - b. Counting voter signatures instead of receipts
    - c. Printing and checking ineligible voter lists
  - 10) Please list any other costs not identified in the questions above that you see being associated with HF 210. Please list the duties associated with these additional costs on the line below your response to this question. Please designate any savings by using a minus sign.
- \* Please show any one-time or start-up costs in column B.  
\*\*If the costs associated with a given question are carried out by another jurisdiction please note this in column F.



**Appendix 2: Population Growth Rates<sup>6</sup>**

<i>Time Period (Year, Quarter)</i>	<i>Minnesota Total Resident Population (in Millions)</i>	<i>Growth Rate (Year/Year)</i>
1990.4	4.409	
1991.4	4.461	1.2%
1992.4	4.517	1.3%
1993.4	4.577	1.3%
1994.4	4.630	1.1%
1995.4	4.679	1.1%
1996.4	4.732	1.1%
1997.4	4.782	1.1%
1998.4	4.834	1.1%
1999.4	4.896	1.3%
2000.4	4.954	1.2%
2001.4	4.998	0.9%
2002.4	5.030	0.6%
2003.4	5.059	0.6%
2004.4	5.090	0.6%
2005.4	5.120	0.6%
2006.4	5.164	0.9%
2007.4	5.207	0.8%
2008.4	5.245	0.7%
2009.4	5.281	0.7%
2010.4	5.322	0.8%
<b>Average Annual Growth</b>		<b>0.9%</b>

<sup>6</sup> Data provided by MMB economic analysis division and the State Demographer's office



STATE OF MINNESOTA  
Office of the Minnesota Secretary of State  
Mark Ritchie

September 12, 2012

Minnesota Gold Star Mothers  
President Barbara Farrell  
2361 Stillwater Ave.  
Maplewood, MN 55119

Dear Barbara Farrell:

Thank you for partnering with me and the Office of the Secretary of State over the past few years to ensure that our sons and daughters serving in the armed forces get the chance to exercise their right to vote, and for your help promoting the Vote in Honor of a Veteran program. Within the past few years we have made great progress on ensuring that every eligible Minnesotan can vote no matter where they are stationed or what their circumstances.

I want to call your attention to a proposed constitutional amendment on elections that will be on the Minnesota ballot in November. This amendment may eliminate the preferential processes provided to military and overseas voters under current Minnesota law. The language proposed to be added to the Minnesota Constitution states:

"All voters, including those not voting in person, must be subject to substantially equivalent identity and eligibility verification prior to a ballot being cast or counted."

Since this is a proposed change to our Constitution, it could not be altered or changed in any way by our Legislature or Governor. The proposed amendment would require all voters, including military voters, to be subject to all the same rules no matter what. This would likely require the reinstatement of a witness requirement for these voters—a requirement that was repealed from Minnesota law in 2008 at the recommendation of the Federal Voting Assistance Program of the U.S. Department of Defense. It would also require all military voters to provide current proof of their residential address in Minnesota, likely either by having it appear on their ID or in the form of a current utility bill.

No exemptions are included in the proposed amendment, which would make Minnesota the first state to apply photo ID requirements to military voters as well making Minnesota the only state to require the same eligibility verification requirements for military voters as walk-in voters. Military votes could not be cast or counted until these new requirements had been met.

I have enclosed a copy of the proposed amendment, the Legislature's summary, and a review of potential impacts on military voters prepared for the county board of Minnesota's second largest county by Joe Mansky, the state's former head of elections.

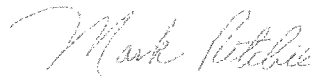


I would encourage you to visit the Office's website at [mnvotes.org](http://mnvotes.org) to learn more about the proposed Constitutional Amendment.

In addition, if your board or any of your members would like to have a discussion about the amendment and its potential impacts, my staff or I would be happy to attend. It is the Office's responsibility, as the state's chief elections office, to educate the public about the potential impact of proposed changes to our elections. If you are interested in more information or in finding a time to meet, please contact Amber at 651-201-1324 or [amber.helbling@state.mn.us](mailto:amber.helbling@state.mn.us).

Thanks to you and your families for all that you do.

Sincerely,

A handwritten signature in cursive script that reads "Mark Ritchie".

MARK RITCHIE  
Secretary of State

Enclosures

Key: (1) language to be deleted (2) new language

2012, Regular Session

CHAPTER 167--H.F.No. 2738

An act

proposing an amendment to the Minnesota Constitution, article VII, section 1; requiring voters to present photographic identification; providing photographic identification to voters at no charge; requiring substantially equivalent verification standards for all voters; allowing provisional balloting for voters unable to present photographic identification.

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

Section 1. CONSTITUTIONAL AMENDMENT PROPOSED.

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted, article VII, section 1, will read:

Section 1. (a) Every person 18 years of age or more who has been a citizen of the United States for three months and who has resided in the precinct for 30 days next preceding an election shall be entitled to vote in that precinct. The place of voting by one otherwise qualified who has changed his residence within 30 days preceding the election shall be prescribed by law. The following persons shall not be entitled or permitted to vote at any election in this state: A person not meeting the above requirements; a person who has been convicted of treason or felony, unless restored to civil rights; a person under guardianship, or a person who is insane or not mentally competent.

(b) All voters voting in person must present valid government-issued photographic identification before receiving a ballot. The state must issue photographic identification at no charge to an eligible voter who does not have a form of identification meeting the requirements of this section. A voter unable to present government-issued photographic identification must be permitted to submit a provisional ballot. A provisional ballot must only be counted if the voter certifies the provisional ballot in the manner provided by law.

(c) All voters, including those not voting in person, must be subject to substantially equivalent identity and eligibility verification prior to a ballot being cast or counted.

Sec. 2. SUBMISSION TO VOTERS.

(a) The proposed amendment must be submitted to the people at the 2012 general election. If approved, the amendment is effective July 1, 2013, for all voting at elections scheduled to be conducted November 5, 2013, and thereafter. The question submitted must be:

"Shall the Minnesota Constitution be amended to require all voters to present valid photo identification to vote and to require the state to provide free identification to eligible voters, effective July 1, 2013?"

Yes

.....

No ..... "





### Bill Summary House Research Department

**File Number:** H.F. 2738  
**Version:** Conference committee report  
**Subject:** Voter ID Constitutional Amendment

**Date:** April 4, 2012  
**Authors:** Kiffmeyer and others  
**Analyst:** Matt Gehring, 651-296-5052

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance.

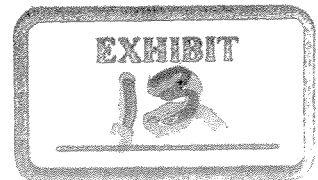
#### Overview

This bill proposes an amendment to the Minnesota Constitution requiring all voters be subject to substantially equivalent identity and eligibility verification prior to a ballot being cast or counted.

The constitutional amendment also requires that persons voting in person present valid government-issued photographic identification before receiving a ballot. The state would be required to provide photographic identification at no charge to eligible voters who do not have identification meeting these requirements. A voter unable to present government-issued photographic identification would be permitted to submit a provisional ballot. The process for certification and counting of a provisional ballot would be enacted by law at a later date.

1 Constitutional amendment proposed. Contains the substantive text of the amendment proposed to the Minnesota Constitution, as summarized above.

2 Submission to voters. Requires the constitutional amendment contained in the bill to be submitted to voters at the 2012 general election. If adopted, the amendment would be effective July 1, 2013, for elections conducted on or after November 5, 2013 (this is the general election date for some local units of government in 2013). The wording of the ballot question is provided in paragraph (a). The ballot question title is provided in paragraph (b).



9/4/2012

Impact on Overseas and Military Voters of  
Proposed Constitutional Amendment to Restrict Voting Rights

Absentee voting is a challenge for many voters under the best of circumstances. For Minnesotans who find themselves on active duty with the armed forces or working, volunteering or studying abroad, the smallest barrier can prove to be an insurmountable obstacle to exercising their right to vote while away from home.

The proposed constitutional amendment to restrict voting rights will also have the consequence of reducing the number of ballots that will be successfully cast by those voters who have the fewest options to vote.

Specifically, the "substantially equivalent" language of the proposed amendment will take away the ability of overseas and military voters to self-certify their absentee ballots, reversing a bipartisan decision of the legislature to remove an unnecessary bureaucratic barrier to absentee voting 27 years ago.

And the federal laws that are designed to remove some of the barriers to voting for armed forces and overseas voters, even as recently amended by the MOVE act, would not prevent the loss of self-certification in Minnesota under the proposed amendment.

In presidential elections, more than 2,000 Ramsey County residents who reside overseas or are serving in the armed forces typically attempt to vote by absentee ballot. Due to the difficulties placed on them by distance and procedural requirements, nearly 20% of these voters fail to return a ballot. This problem is especially acute among voters serving in the armed forces, where nearly 30% of the ballots sent by the Elections Office are never returned.

Moreover, the more that procedural hurdles are placed in front of voters who are far removed from the state, the greater the chance that even a small mistake has a catastrophic result. This is magnified by the fact that most absentee voters do not get to participate in the provisional voting process. They don't get a second chance, and under the proposed amendment, some voters in remote locations won't even get a first chance.

For the thousands of soldiers, students and business people affected by the proposed amendment, it would be necessary to revert to the pre-1985 environment, in which those voters needed to find a government official to certify their absentee ballot.



And these voters would also need to have the appropriate identity and eligibility documents on hand to show the government official in order to have their ballots certified.

The government issued photo ID requirements would also make it more difficult to vote for older veterans residing in one of the state-operated homes around Minnesota, particularly those who lack a current, valid driver's license.

Minnesota has had a long and honorable history of making it easier for everyone to vote, especially for those who are serving in the armed forces or residing overseas. For example, the 1985 act to eliminate the requirement for those overseas and military voters to obtain a witness passed the House by a vote of 129-0 and the Senate by a vote of 55-3.

Now a misguided decision based on a starkly partisan political vote seeks to turn back the clock on these voters.

This language in the proposed amendment was not seriously vetted through the normal legislative process. More work needs to be done.

Minnesota voters can veto this bill and send it back to the legislature by voting "no" on November 6.

5-29-12



Minnesota Dept. of State  
Mark Ritchie Secretary of State  
180 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd  
St. Paul, MN 55155

Minnesota Gold Star Mothers  
President Barbara Farrell  
2361 Stillwater Ave.  
Maplewood, MN 55119

551 283621 0249

11/11/11 11:11:11 AM

15





# Constitutional Amendments and the 2012 General Election

## Constitutional Amendments and the 2012 General Election

In the 2012 General Election there will be two proposed Constitutional Amendments on the ballot in Minnesota.

The proposed changes to the Minnesota State Constitution are as follows:

### PROPOSED AMENDMENT 1

(Minnesota Session Laws 2011, Chapter 88)

**UNDERLINED TEXT IS WHAT IS PROPOSED TO BE ADDED TO THE MINNESOTA CONSTITUTION**

Article XIII, Sec. 13. Only a union of one man and one woman shall be valid or recognized as a marriage in Minnesota.

### WHAT MINNESOTANS WILL SEE ON THE BALLOT

<b>AMENDMENT 1</b>	
<b>RECOGNITION OF MARRIAGE SOLELY BETWEEN ONE MAN AND ONE WOMAN</b>	
Shall the Minnesota Constitution be amended to provide that only a union of one man and one woman shall be valid or recognized as a marriage in Minnesota?	
<input type="radio"/>	YES
<input type="radio"/>	NO

### PROPOSED AMENDMENT 2

(Minnesota Session Laws 2012, Chapter 167)

**UNDERLINED TEXT IS WHAT IS PROPOSED TO BE ADDED TO THE MINNESOTA CONSTITUTION**

Article VII, Section 1. (a) Every person 18 years of age or more who has been a citizen of the United States for three months and who has resided in the precinct for 30 days next preceding an election shall be entitled to vote in that precinct. The place of voting by one otherwise qualified who has changed his residence within 30 days preceding the election shall be prescribed by law. The following persons shall not be entitled or permitted to vote at any election in this state: A person not meeting the above requirements; a person who has been convicted of treason or felony, unless restored to civil rights; a person under guardianship, or a person who is insane or not mentally competent.

(b) All voters voting in person must present valid government-issued photographic identification before receiving a ballot. The state must issue photographic identification at no charge to an eligible voter who does not have a form of identification meeting the



requirements of this section. A voter unable to present government-issued photographic identification must be permitted to submit a provisional ballot. A provisional ballot must only be counted if the voter certifies the provisional ballot in the manner provided by law.

(c) All voters, including those not voting in person, must be subject to substantially equivalent identity and eligibility verification prior to a ballot being cast or counted.

**WHAT MINNESOTANS WILL SEE ON THE BALLOT**

<p><b>AMENDMENT 2</b>  <b>PHOTO IDENTIFICATION REQUIRED FOR VOTING</b></p>
<p>Shall the Minnesota Constitution be amended to require all voters to present valid photo identification to vote and to require the state to provide free identification to eligible voters, effective July 1, 2013?</p>
<p><input type="radio"/> YES</p>
<p><input type="radio"/> NO</p>

**Additional Information about Constitutional Amendment 2**

- Impact of Constitutional Amendment on Elections
- Why Proposed Amendment Would End Same-day Registration
- Provisional Balloting Process
- Impact of Proposed Amendment on Voting by Mail

**WEBSITE LINKS TO CONSTITUTIONAL AMENDMENT INFORMATION**

In accordance with *Minnesota Statutes* 10.60 the Office of the Secretary of State will provide a link to the website of any individual or group advocating for or against or providing neutral information with respect to any ballot question. In order for the link to appear on the website, organizations or individuals must submit a request in writing and provide to this office a valid website and email address. Requests may be emailed to [secretary.state@state.mn.us](mailto:secretary.state@state.mn.us) or mailed to: Office of the Minnesota Secretary of State, 180 State Office Building, 100 Reverend Martin Luther King Jr. Blvd, St. Paul, MN 55155.

[Click here to view the list of organizations providing information regarding the amendments.](#)

This office has also provided a list of Frequently Asked Questions that Minnesotans have asked regarding the amendment process and the general election. If you have a question that is not answered here, please send your question to [secretary.state@state.mn.us](mailto:secretary.state@state.mn.us) and we will do our best to provide an answer.

[Click here to print a poster \(PDF format\) of the language of the proposed Constitutional Amendments and the language that you will see on your ballot. The poster prints on 8.5 X14 legal-sized paper.](#)

# Proposed Constitutional Amendment on Elections

## Impact of Proposed Constitutional Amendment on Elections

*The proposed amendment will make changes in how we vote, who gets to vote, and in the cost of elections. Here is the full text of the proposed amendment.*

"All voters voting in person must present valid government-issued photographic identification before receiving a ballot. The state must issue photographic identification at no charge to an eligible voter who does not have a form of identification meeting the requirements of this section. A voter unable to present government-issued photographic identification must be permitted to submit a provisional ballot. A provisional ballot must only be counted if the voter certifies the provisional ballot in the manner provided by law. All voters, including those not voting in person, must be subject to substantially equivalent identity and eligibility verification prior to a ballot being cast or counted." [i]

*To fully understand the impacts and the costs of the changes being proposed, it is useful to break the proposed amendment into sections:*

**1. "All voters voting in person must present valid government-issued photographic identification before receiving a ballot."**

In all other states, photo ID legislation has included a wide variety of exemptions ranging from military voters and people with religious objections to being photographed like the Amish, to people with disabilities and nursing home residents. Since, no exceptions are included in this proposal, it will apply to "all voters". Since this language would now be in the Constitution, it could not be changed by any further legislature. [ii] The requirement that the ID must be "government-issued" instead of "government-approved" means that certain forms of ID which are now permitted would no longer be acceptable, including those IDs issued to students from private colleges (Bethel, St. Olaf, etc.). There was a bi-partisan proposal to permit the future use of new technologies to identify voters, but it was rejected. The result is that if the amendment is adopted Minnesota would not be authorized to use more modern means of identification.

**2. "The state must issue photographic identification at no charge to an eligible voter who does not have a form of identification meeting the requirements of this section."**

There are two cost factors to all photo ID proposals – the bill paid by taxpayers and the expenses paid by each individual who does not currently have a valid ID that would allow them to vote. In Indiana, a state of similar size that recently adopted an ID law; it cost the state \$10 million in the first three years to provide IDs. [iii] The Minnesota Division of Vehicle Services estimates that there are 144,000 voting age Minnesotans without IDs. [iv] A comparison of databases showed that there are 215,000 current voters without Minnesota-issued IDs or whose ID has the wrong address [v]—all of whom may qualify for a free ID. Beyond this on-going cost to the government, all of these individuals without IDs will have to pay the expenses to obtain the documents needed to get an ID - including birth certificates and marriage licenses for women who have changed their names. Some voters born before birth certificates became commonly available may find this process expensive or impossible.

**3. "A voter unable to present government-issued photographic identification must be permitted to submit a provisional ballot. A provisional ballot must only be counted if the voter certifies the**



***provisional ballot in the manner provided by law.”***

If you do not have an ID with you on Election Day, you could submit a provisional ballot, which would be filled out but not counted on Election Day. You would need to go to the local election's office and show officials your ID within a few days so that your ballot could be reviewed for possible inclusion, assuming you can find your ID or obtain a new one. Nationwide 30% of provisional ballots are never counted.[vi] Since Minnesota does not currently have provisional balloting, there would be startup costs to local and state agencies of \$50 million[vii] and additional on-going costs for local governments of over \$10 million that would need to be paid through local taxes. Adopting this new provisional balloting system would trigger oversight by the U.S. Department of Justice under the Help America Vote Act. Election results would be delayed until the end of the provisional voting period, or longer, if rejected voters appeal to the Supreme Court.[viii]

***4. “All voters, including those not voting in person, must be subject to substantially equivalent identity and eligibility verification prior to a ballot being cast or counted.”***

Under this provision, a Minnesota voter, voting absentee from another state or country would have to have their identity verified in a way that is substantially equivalent to a voter voting in person in the polling place who hands a photo ID to an election judge. It is not clear how this is possible. No other state has asked military and civilian absentee voters to meet these kinds of requirements. This “proof of identity” requirement will affect 250,000 military, overseas and domestic absentee and mail-in Minnesota voters in presidential elections. This section would also end same day voter registration as we know it, which is used by over 500,000 voters in presidential elections. Before same day registrants’ ballots could be counted, the information provided on their voter registration forms would need to be verified for accuracy in the same way as those who submitted registration forms before the election. This includes mailing each person a non-forwardable postcard and with data-matching with other government databases. Since these processes cannot occur in the polling place, same day registrants would have to submit provisional ballots, which would not be counted on Election Day, delaying election results. .

***Following is what will appear on voter's ballots: [ix]***

**PHOTO IDENTIFICATION REQUIRED FOR VOTING**

***“Shall the Minnesota Constitution be amended to require all voters to present valid photo identification to vote and to require the state to provide free identification to eligible voters?”***

*Prepared by the Office of the Secretary of State. For further information, please contact [secretary.state@state.mn](mailto:secretary.state@state.mn).*

---

[i] <http://tinyurl.com/75ws6qm>

[ii] <http://www.ceimn.org/proposed-amendment>

[iii] <http://tinyurl.com/7505msr>

[iv] <http://tinyurl.com/7fsqxb7>, pg. 16

[v] <http://tinyurl.com/7zhqldo>

[vi] <http://tinyurl.com/7abw9k5>

[vii] <http://tinyurl.com/7fsqxb7>

[viii] <http://tinyurl.com/d94gjm7>

[ix] <http://tinyurl.com/ct6wy9j>

# Why Proposed Amendment Would End Same-day Registration

## Why the Proposed Constitutional Amendment Would End Same-day Registration:

Currently voters are allowed to register on Election Day and to cast a ballot at the polling place which is counted with the other ballots. However, the proposed amendment requires **all voters** to be subject to "substantially equivalent eligibility verification". This would mean that same day registrants could not have a ballot counted until their eligibility had been verified in essentially the same way as pre-registered voters.

Under our current system, when a voter pre-registers to vote their registration information undergoes the following checks:

**Check 1. Does this person exist / is the basic information they provided accurate?**

(Data match is performed against Division of Vehicle Services database and/or Social Security Administration database)

**Check 2. Is the individual serving a felony sentence?**

(Data match is performed against the Department of Corrections database; updates are received from Courts database)

**Check 3. Is the individual a citizen?**

(Data match is performed against data provided by Division of Vehicle Services)

**Check 4. Does the voter reside at the address provided?**

(Non-forwardable postcard is sent to the address provided on the voter registration application)

**Check 5. Has the court revoked the rights of a person under guardianship?**

(Updates are received from the Courts database)

**Check 6. Has the voter moved?**

(Updates are received from United States Postal Service data)

**Check 7. Has the voter died?**

(Updates are received from the Minnesota Department of Health and from Social Security death information database)

There is simply no way to conduct all of these checks while the voter is standing there. Polling places would have to have access to all the databases listed above AND mail out a postcard in order to meet the proposed eligibility verification requirements. Clearly, this would be impossible. **Voters could register at the polls on Election Day, but not cast a vote that would be counted that day.** Their vote would have to be provisional and could not be counted before these checks were completed. With over 500,000 same day registrants in presidential election years, the results of every election would be unknown until these votes were counted.



*Prepared by the Office of the Secretary of State*

*For further information, contact Beth Fraser at [beth.fraser@state.mn.us](mailto:beth.fraser@state.mn.us) or 651-201-1334*

# Provisional Balloting Process

## **Pre-Registered Voter Under Proposed Amendment:**

1. Voter provides required valid government-issued photo ID and proof of residence
2. If voter cannot do either or both, voter is sent to provisional ballot area
3. Voter checks in with provisional balloting election Judges and sign provisional balloting roster
4. Voter fills out ballot but does NOT put it in ballot box
5. Voter fills out form on provisional ballot envelope
6. Voter puts ballot in envelope(s) and leave with election judges
7. Within next few days, voter obtains required government-issued photo ID and/or proof of residence
8. Voter returns to city hall or county courthouse and present ID and/or proof of residence
- 9a. If ID and/or proof of residence is acceptable, provisional ballot envelope is given to ballot board (see other side)
- 9b. If voter does not return or returns with ID or proof of residence that doesn't meet the requirements, the ballot cannot be counted

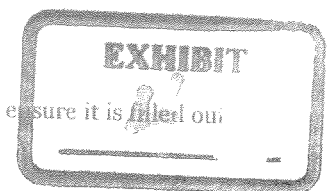
## **Same-Day Registrant Under Proposed Amendment:**

1. Voter fills out registration information and provides proof of residence, including required valid government-issued photo ID
2. Voter signs same-day registrant provisional ballot roster
3. Voter fills out ballot but does NOT put it in ballot box
4. Voter fills out form on provisional ballot envelope
5. Voter puts ballot in envelopes and leave with election judges
6. Within next few days, voter's information is input into Statewide Voter Registration System (have to check to see if the voter already is in the system)
7. Voter information is verified by/compared to variety of databases to check voter's eligibility
8. If cleared, provisional ballot envelope is given to ballot board (see other side)

If a same-day registrant proved their residency by providing a private college ID and the student housing list provided by their college, they would have to be cleared by the databases AND return with approved government-issued photo ID.

## **Steps Once a Provisional Ballot Envelope is Given to the Ballot Board:**

1. Two election judges of different major political parties review the form on each envelope to ensure it is filled out



completely

- 2a. If the form is not filled out correctly, the ballot must be rejected. Unlike absentee ballots, voters would not be given a second chance and provided with a replacement ballot (Note: 4.5% of absentee ballots are rejected because of a mistake in filling out the form – either by them or their witness)
- 2b. If the form is filled out correctly, the provisional ballot envelope is put in a stack to be counted (the ballots must stay segregated by precinct)
3. Two election judges will open each provisional ballot envelope and remove the secrecy envelope
4. Each of the secrecy envelopes must be opened and the ballots inserted into the optical scanner. If the voter voted for too many candidates in any race, two election judges of different major political parties will have to duplicate the ballot.
5. Results will be reported by precinct, which means that if there are only a few provisional ballots for a precinct, it will be fairly obvious who the voters voted for. Results of most, if not all, races will not be known until the end of the provisional ballot period.



# Impact of Proposed Amendment on Voting by Mail

## **How proposed constitutional amendment would impact absentee voting by mail, by those voting overseas, and by those voting in mail-ballot precincts:**

The proposed amendment states that, "All voters, including those not voting in person, must be subject to substantially equivalent identity and eligibility verification prior to a ballot being cast or counted."

This means that absentee and mail ballot voters will have to have their identity and eligibility verified in a way equal to that of voters who vote in-person. But how is this possible? In Minnesota over 210,000 ballots in a presidential year are cast by absentee, mail-in or overseas voters. This includes the 195,000 Minnesotans who voted absentee by mail, the approximately 11,500 military and overseas voters and the 45,000 registered voters in mail ballot precincts around the state.

### **Identity Verification**

In-person voters will have their identity verified by presenting a valid government-issued photo ID to the election judge who can look at the voter and then at the picture on the ID to ensure that they are the same person. How could someone who is in Arizona or Iraq have their identity verified in a substantially equivalent way, when they cannot physical present their ID in person and clearly are not there for the election judge to see?

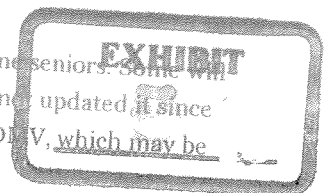
Some have suggested that voters could provide a photocopy of their ID card; however, without seeing the voter, how do election judges know that it is really theirs and that they didn't make a photocopy of someone else's ID? This does not seem to be a secure solution.

Others have suggested that voters be required to provide an identification number that election officials can verify. However, there are several problems with this idea. First, not all government issued photo-identification lists a number. Second, without seeing the voter, how would an election official know that the voter provided their own name and ID number? Also, the state does not have the ability to verify all types of ID numbers that could be provided, such as numbers found on U.S. Passports. Finally, since no voter is exempted from this provision, this would mean that all absentee and mail ballot voters would be required to have a government issued photo-identification to vote, and that is not currently the case. Some seniors who have given up driving, particularly women who were never employed outside of their homes, do not have any of these documents and may have a difficult and costly time obtaining them.

### **Eligibility Verification**

As for having their eligibility verified, this will also be challenging for some absentee and mail ballot voters. Same day registrants demonstrate their eligibility to vote in the precinct by providing current proof of residence – usually either a Minnesota driver's license with their current address or a current utility bill. But many military voters in particular will not have this type of documentation available to them. Often their state driver's licenses or ID cards have an old address on them or have expired, and they won't have utility bills with them if they're stationed away from home. Will they be prohibited from voting?

Requiring absentee voters to provide proper proof of residence will also be challenging for some seniors. Some will still have a Minnesota driver's license or state ID card, but with their last address, if they have not updated it since they moved into a nursing facility. Will they have the resources and wherewithal to get to the DMV, which may be

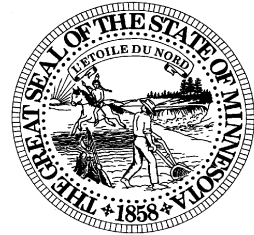


more than 80 miles away? If not, and if they live in a facility in which they do not receive utility bills, how will they provide proof of residence? Will they be prohibited from voting?

*Prepared by the Office of the Secretary of State. For further information, please contact Beth Fraser at 651-201-1334 or [beth.fraser@state.mn.us](mailto:beth.fraser@state.mn.us)*

Minnesota

*Campaign Finance and  
Public Disclosure Board*



**Date:** November 7, 2012

**To:** Board members

**From:** Gary Goldsmith, Executive Director

**Telephone:** 651-539-1190

The following recommendations list was taken from the Board's 2011-12 recommendations and from files and notes accumulated by staff over the past two years. At the November meeting, I will explain each possible recommendation and the Board will provide direction as to which recommendations are accepted for development as its 2013 legislative recommendations.

**Budgetary recommendations and service enhancements.**

**Financial support**

1. Establish a system of registration fees to provide adequate resources for the Board and reduce present and future demands on the state's general fund. The system should provide \$350,000 in annual revenue and result in a net increase of \$311,000 in the Board's operating budget.

**Service improvements**

The recommendations in this section are contingent on the establishment of a registration fee system. The Board would be unable to undertake these new responsibilities without additional resources.

2. Provide that the Board has jurisdiction over the "prepared and paid for" form of disclaimer as applied to communications about candidates for offices that are covered by Chapter 10A.
3. Provide that the Board has jurisdiction over statutes related to corporations spending money to influence the nomination or election of candidates when the spending is related to candidates for offices that are covered by Chapter 10A.
4. Provide that the Board has jurisdiction over statutes related to the legal uses of money raised for political purposes when that money is raised by an association or political fund that is registered with the Board.

**Strengthening the legal foundations of Chapter 10A**

5. Increase the threshold for registration of principal campaign committees, party units, political committees, and political funds from \$100 to \$750. Increase the reporting threshold for a candidate using only the candidate's own money to the same amount.
6. Increase the threshold for registration of independent expenditure political committees and funds from \$100 to \$2,000 (or some higher number).

7. Increase the threshold for registration of ballot question political committees and funds from \$100 to \$5,000 (or some higher number).
8. Increase the threshold for reporting by an individual who makes independent expenditures or ballot question expenditures using only the person's own money from \$100 to the same amount that would trigger a registration requirement for a political committee or fund making the same type of expenditures.
9. Make underlying source disclosure requirements for ballot question committees and funds consistent with those requirements for independent expenditure political committees or funds.
10. Provide that in investigations, the Board shall make findings and conclusions and issue orders, rather than making findings concerning probable cause. (Due process issue.)
11. Amend termination requirements to permit termination even if there are unpaid bills and to clarify that the termination requirements for political funds are simple.
12. Eliminate the requirement that a political fund that has had no financial transactions since the previous reporting date must file a statement of inactivity. Provide that a political fund need not file interim reports unless it has raised or spent more than \$750 since its last report. Possibly provide for an "inactive" status.
13. Increase the itemized contribution threshold from "more than \$100" to "more than \$200".

#### **Improving Chapter 10A compliance and administration**

14. Delete the requirement that a candidate file a pre-general-election Report of Receipts and Expenditures or comply with the pre-general-election 24-hour notice disclosure requirements if the candidate's name will not be on the general election ballot.
15. Provide that the Board may maintain a non-public electronic system for users to enter and store campaign finance data before releasing that data as a filed report and that without the filer's consent, the Board may not access or use this data.
16. Eliminate requirement to spend 50% of general fund public subsidy by a specified date.
17. Provide that when considering whether an individual is running for office for the first time, only efforts during the previous 10 years are considered. Add a provision that when considering whether an individual is running for office for the first time, previous elections in which the individual did not spend more than \$750 seeking nomination or election are not considered.
18. Change language in all provisions that say that a person "is guilty of a gross misdemeanor" to state that violation of the provision "is a misdemeanor" (or gross misdemeanor as the case may be).
19. Provide that in-kind contributions do not count as part of the contributions that must be raised to qualify for public subsidy.
20. Modify the false certification statute to make it a violation for an individual to knowingly provide false or incomplete information to a treasurer who relies on that information to

file a report or statement with the Board.

21. Modify the false certification statute to include a lesser violation based on filing a report that the treasurer "should have known" was inaccurate.
22. Provide a penalty for individuals and associations who fail to comply with the requirement to keep financial records. The penalty should be available for application to the filing committee or fund, the treasurer, and individuals beyond the treasurer if they are delegated that responsibility by the treasurer and accept the delegation.
23. Provide that a party unit that has both a state and a federally registered committee may pay with federal funds costs of employee salaries and benefits and costs of administration related to its state operations if it does so in compliance with Federal Election Commission laws and rules. If it does so, the payment by the federal account does not constitute a contribution to the state committee of the party unit.
24. Provide that persons running for federal office in Minnesota jurisdictions may purchase tickets to events sponsored by party units in Minnesota without complying with the underlying disclosure requirements of Minnesota Statutes section 10A.21, subdivision 13. To qualify for this exemption, payments may not exceed payments made by individuals or state candidates for the same event.
25. Increase the late filing fee in the lobbyist program to \$25 per day up to a maximum of \$500. Eliminate the need for a certified letter to start the late filing fee. Eliminate the 10-day grace period between the report due date and the beginning of the late filing fee.

#### **Technical Recommendations**

26. Modify Section 10A.20, subd. 12 to fix a drafting error that occurred during the 2010 legislative session.
27. Modify section 10A.31, subd. 7, to correct the reference to the certification of the commissioner of revenue on which the post-primary-election payment of general account public subsidy is based.
28. Correct a drafting error in 10A.20, subd. 4, that results in the year-end report not being cumulative.
29. Change threshold amounts that currently specify "\$\_\_\_\_\_ or more" to read "more than \$\_\_\_\_\_".

#### **Repealer:**

Repeal the following administrative rules:

- 4501.0500, subpart 2, item A (Relating to time that a faxed report is deemed received)
- 4503.0200, subpart 6 (Requiring a separate depository for a political fund)
- 4503.0500, subpart 8 (Setting a value on automobile use as an in-kind contribution)
- 4503.1700 (Regarding the filing of a no-longer-existent 48-hour notice)
- 4512.0100, subparts 2 and 4 (Removing obsolete definitions related to gifts of plaques)

## **Additional possible recommendations**

Resolve difference in reporting ballot question expenditures for individuals (expressly advocate) and associations (promote or defeat).

Policy change: Modify economic interest disclosure requirements to include disclosure of independent contractor income while protecting the privacy rights involved in doctor-patient, attorney-client, accountant-client, and other similar professional relationships.

Increase the limit on contributions from an individual or a political committee or fund that a candidate may accept.

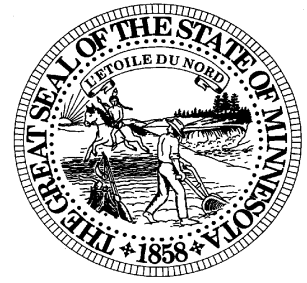
Create a method of protecting candidates who would qualify for public subsidy but for the fact that they filed a Public Subsidy Agreement or an Affidavit of Contributions after the filing deadline.

Policy change: Modify the underlying source disclosure requirement for independent expenditure and ballot question political committees or funds to require pro-ration of money used for independent expenditures or ballot question expenditures across underlying donors.

Policy change: Modify the definition of lobbyist so that all activities to influence officials are included in the \$3,000 threshold; not only the limited activities of actually communicating with or urging others to communicate with officials.

Minnesota

*Campaign Finance and  
Public Disclosure Board*



**Date:** November 1, 2012

**To:** Board members

**From:** Gary Goldsmith, Executive Director

**Telephone:** 651-539-1190

**Re:** Advisory Opinion 431

The request for this advisory opinion was received from Susan Trammell, attorney in the Minneapolis Ethics Office on October 29, 2012. Initially the request was going to be nonpublic and the various entities were referred to in the original request by generic names.

Later the city decided to make the request public. Still later the city was joined by the Minneapolis Park Board and the Minneapolis School District #1 as requesters. All three requesters have agreed that the request and the resulting opinion may be public.

Because the form of the request and the identities of the requesters changed over time, there is no single statement of facts from one requester. Rather, staff worked with the three requesters to develop assumed facts on which they all agreed and on the basis of which the Board could provide an answer.

The request relates to conflicts of interest under Minnesota Statutes section 10A.07. Officials must take certain measures to avoid conflicts of interest. A conflict of interest arises when an official takes a vote on a matter that would affect the official's own financial interests or the financial interests of an associated business differently than it would affect other similarly situated businesses.

In the immediate case, the officials taking the vote are members of the Minneapolis Planning Commission. The members of the Commission include one Minneapolis School Board member and one Minneapolis Park Board member. The commission may vote on matters that would substantially affect the interests of the School Board or the Park Board.

There is no claim that an individual Commission member's own financial interests would be affected by a vote. Thus, a conflict of interest arises only if the School Board or the Park Board is an associated business of the Commission member representing the respective entity.

The advisory opinion takes the position that an "associated business" must, in fact, be a "business." The reasoning for that conclusion is laid out in the draft. Because we commonly understand government and businesses to be two different things, the opinion concludes that governmental entities are not associated businesses that will trigger application of the § 10A.07 requirements.

This is a significant conclusion and it answers a question never before directly reached by the Board. As noted in the draft, Advisory Opinion 325 skirted around the issue, apparently assuming by implication that a municipality could be an associated business. To the extent that

the conclusions of Advisory Opinion 431 conflict with Advisory Opinion 325, the latter opinion will be revoked if Advisory Opinion 431 is adopted.

The conclusion is significant because it would mean that if an official votes on a matter that affects another governmental entity, a conflict of interest will not exist under Chapter 10A even if the voting official is an official or employee of the entity that will benefit from the vote.

The conclusion makes sense, however, from both a legal and a policy decision, although the draft relies only on the legal basis. From a policy standpoint, one could reason that if an official's vote affects a business that the official is associated with, that business would have the ability to directly reward the official. If the official is an owner, officer, director, or partner, that reward possibility increases. On the other hand it is difficult for a governmental entity to funnel the financial benefits of a vote back to the individual who cast the vote. Thus, if the purpose of the conflict of interest statute is to prevent officials from making votes that will lead to financial benefit for the official, that purpose isn't particularly applicable when the entity benefitting from the vote is a unit of government.

From a legal standpoint, the arguments for the conclusion in the draft are strong. First, it would be a stretch of the meaning of the word "business" to say that a school district, the Park Board, or some other governmental unit is a business. As members know, when interpreting statutes, words are generally to be given their ordinary and common meaning.

The second rule, which is cited in the draft, requires general terms in lists to be interpreted to be consistent with more narrow elements in the same list. The definition of associated business provides a list of included entities. The list includes typical and recognized forms of business such as corporations and partnerships. Although the definition also includes "other organized legal entity", it would be a big stretch of the list to suggest that this general phrase expands the definition to units of government.

Staff reached the conclusions in the draft by applying the accepted rules of statutory construction rather than by trying to reach a particular result. This process led to the conclusion that, as written, § 10A.07 does not result in a conflict of interest when the entity benefitting from an official's vote is another governmental entity.

Assuming that the staff analysis correctly applies the rules of statutory interpretation, it would be up to the legislature to amend the statute if it wishes to recognize a conflict of interest resulting from a vote that benefits another governmental entity.

Please call me if you have questions, comments, or concerns.

Attachment: Draft Advisory Opinion 431



**State of Minnesota**  
**Campaign Finance & Public Disclosure Board**  
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN55155-1603

**THIS ADVISORY OPINION IS PUBLIC DATA**  
pursuant to a consent for release of information  
provided by each of the requesters

**RE: Disclosure related to ballot question committees**

To: Susan L. Trammell  
Office of the Minneapolis City Attorney  
350 South 5th Street, Room 210  
Minneapolis, MN 55415

Ann E. Walther  
Rice, Michels & Walther, LLP  
10 Second Street N.E. Suite 206  
Minneapolis, MN 55413

Steven Liss  
District General Counsel  
Minneapolis Public Schools

**ADVISORY OPINION 431**

**SUMMARY**

A governmental entity is not a "business" and is not an "associated business" of its elected officials for the purposes of Minnesota Statutes section 10A.07.

**FACTS**

As the representatives of the City of Minneapolis, Minneapolis School District #1, and the Minneapolis Parks and Recreation Board, you ask for an advisory opinion on behalf of local officials based on the following facts which were developed by the requesters in consultation with Board staff:

1. Individuals are elected by citizens to serve on the Minneapolis School District #1 Board (the School Board), which is the governing board for the school district. Other individuals are elected by citizens to serve on the Minneapolis Park and Recreation

Board (the Park Board) which has jurisdiction over the Minneapolis park system.

2. Members of the School Board and members of the Park Board are compensated by the School District or by the Park Board for their work as members of their respective Boards. Each member receives compensation of more than \$50 per month from the respective governmental entity.
3. The Planning Commission of the City of Minneapolis (the Planning Commission) is a commission established by the City of Minneapolis charter. The charter requires that a member of the School Board and a member of the Park Board be Planning Commission members.
4. The Planning Commission makes, recommends, or votes on major decisions related to development, zoning, and economic development.
5. Members of the Planning Commission are local officials of Minneapolis, which is itself a metropolitan governmental unit under Minnesota Statutes section 10A.01, subdivision 24.
6. As a member of the Planning Commission, the School Board member may be called upon to vote on planning decisions that would substantially affect the financial interests of the School District and the Park Board member may be called upon to vote on planning decisions that would substantially affect the financial interests of the Park Board.
7. The decisions of the Planning Commission may constitute recommendations to the governing body of the City of Minneapolis, in which case the governing body of the city makes the final decision.
8. Alternately, the decisions of the Planning Commission may constitute final decisions subject only to appeal through an established appeals process.

Based on the above facts, you ask the following question:

### **Question**

If the School Board member or the Park Board member is called upon to vote on a matter that would substantially affect the financial interests of the School District or of the Park Board, respectively, does the School Board member or the Park Board member have a potential conflict of interest that would require the member to take action under Minnesota Statutes section 10A.07?

### **Opinion**

Potential conflicts of interest are defined in terms of the types of action that give rise to such conflicts. Minnesota Statutes section 10A.07 provides that a potential conflict arises if:

A public official or a local official elected to or appointed by a metropolitan governmental unit who in the discharge of official duties would be required to take an action or make a decision that would substantially affect the official's financial interests or those of an

associated business, unless the effect on the official is no greater than on other members of the official's business classification, profession, or occupation . . .

Minneapolis is a metropolitan governmental unit and Planning Commission members are local officials in that metropolitan governmental unit. Thus, Planning Commission members are officials governed by the requirements of Section 10A.07. The facts specify that the local official receives compensation of more than \$50 in a month from the School District or from the Park Board and that a vote by either member may substantially affect the financial interests of the governmental unit with which the member is associated.

The requirements of § 10A.07 are triggered if the official's vote would affect the financial interests of an "associated business" of the official. Thus, if the School District is an associated business of the School Board member or if the Park Board is an associated business of the Park Board member, the official may be required to take the steps specified in §10A.07 to avoid a conflict of interest.

The phrase "associated business" is specifically defined in Minnesota Statutes section 10A.01, subdivision 5. When applying statutes, the Board follows the rules of statutory construction as set forth in Minnesota Statutes, including Minnesota Statutes section 645.08. One of the principles of § 645.08 is that unless it is inconsistent with the intent of the statute, words must be given their common meaning. The common meaning of "business" is understood by most without resort to a dictionary. Typically a business is an endeavor in which one or more persons engage to generate a profit or provide a livelihood. In the common understanding, "business" on the one hand, is separate from "government" on the other.

The statutory definition of "associated business" provides additional support for the understanding that a governmental entity, such as a school district or the Park Board is not a business. Section 10A.01, subdivision 5, defines an associated business as "an association, corporation, partnership, limited liability company, limited liability partnership, or other organized legal entity."

The statute specifically lists types of entities that are commonly understood to be forms of organization under which persons may do business. Corporations, partnerships, limited liability companies, and limited liability partnerships are all statutorily defined legal forms for business organizations. The inclusion of the general phrase "other organized legal entities" does not provide a basis to extend the definition of business to include governmental entities. Minnesota Statutes section 645.08, clause 3, provides that general words are construed to be restricted in their meaning by preceding particular words. As a result, the Board construes "other organized legal entity" to refer to other forms of business organizations that may be recognized from time to time.

Based on the above analysis the Board concludes that neither the School District nor the Park Board are included in the scope of entities that may be associated businesses under Minnesota Statutes section 10A.07. As a result, votes by the School Board member or the Park Board member do not give rise to potential conflicts of interest based on the relationship between the School Board member and the School District or between the Park Board member to the Park Board.

### **Comment on Advisory Opinion 325**

In Advisory Opinion 325, the Board was asked if a person appointed to a position with a Minnesota municipality was prevented from serving in the legislature. The Board concluded that the municipal appointment did not prevent the individual from also serving in the legislature.

However, although the question was not presented or discussed in the opinion, Advisory Opinion 325 appears to assume that a municipality could be an associated business. The present opinion recognizes that a governmental entity, including a municipality, is not a business and, thus, is never an "associated business". To the extent that Advisory Opinion 325 implied a different conclusion, it is hereby revoked.

Issued November 7, 2012

---

Andrew M. Luger, Vice Chair  
Campaign Finance and Public Disclosure Board

## Relevant Statutes

### 10A.01 DEFINITIONS

. . .

Subd. 5. **Associated business.** "Associated business" means an association, corporation, partnership, limited liability company, limited liability partnership, or other organized legal entity from which the individual receives compensation in excess of \$50, except for actual and reasonable expenses, in any month as a director, officer, owner, member, partner, employer or employee, or whose securities the individual holds worth \$2,500 or more at fair market value.

. . .

### 10A.07 CONFLICTS OF INTEREST.

Subdivision 1. **Disclosure of potential conflicts.** A public official or a local official elected to or appointed by a metropolitan governmental unit who in the discharge of official duties would be required to take an action or make a decision that would substantially affect the official's financial interests or those of an associated business, unless the effect on the official is no greater than on other members of the official's business classification, profession, or occupation, must take the following actions:

- (1) prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest;
- (2) deliver copies of the statement to the official's immediate superior, if any; and
- (3) if a member of the legislature or of the governing body of a metropolitan governmental unit, deliver a copy of the statement to the presiding officer of the body of service.

If a potential conflict of interest presents itself and there is insufficient time to comply with clauses (1) to (3), the public or local official must orally inform the superior or the official body of service or committee of the body of the potential conflict.

. . .

### 645.08 Canons of Construction

In construing the statutes of this state, the following canons of interpretation are to govern, unless their observance would involve a construction inconsistent with the manifest intent of the legislature, or repugnant to the context of the statute:

(1) words and phrases are construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a special meaning, or are defined in this chapter, are construed according to such special meaning or their definition;

. . .

(3) general words are construed to be restricted in their meaning by preceding particular words;

. . .

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**Findings and Order in the Matter of Contributions to the 37<sup>th</sup> Senate District Democratic  
Farmer Labor Party from the Volunteers for Mary Nelson Committee**

**Summary of the Facts**

Pursuant to Minnesota Statutes section 10A.27, subdivision 13, candidates, political party units, and political committees registered with the Campaign Finance and Public Disclosure Board (the Board) may not accept a contribution in excess of \$100 from an association that is not registered with the Board unless the contribution is accompanied by financial disclosure of the donating association's receipts and expenditures in the form specified by statute. Acceptance of a contribution in excess of \$100 without the required disclosure is punishable by civil penalty of up to four times the amount of the contribution over \$100.

An unregistered association that makes a contribution of more than \$100 without the required disclosure is in violation of Minnesota Statutes section 10A.27, subdivision 13(b). Failure to provide the appropriate disclosure with a contribution of more than \$100 is punishable by civil penalty of up to \$1,000.

In the 2012 pre-primary-election Report of Receipts and Expenditures filed with the Board, the 37<sup>th</sup> Senate District Democratic Farmer Labor Party (the 37<sup>th</sup> SD DFL) disclosed receipt of a contribution on June 25, 2012, in the amount of \$300 from the Volunteers for Mary Nelson committee. The Volunteers for Mary Nelson committee was formed to support a candidate for local office. A local office candidate does not register their committee with the Board. Therefore, the Volunteers for Mary Nelson committee is an unregistered association that was required to provide the appropriate disclosure with the contribution to the 37<sup>th</sup> SD DFL. No financial disclosure was provided with the contribution.

In a letter dated October 17, 2012, Daniel Peitso, treasurer for the 37<sup>th</sup> SD DFL, explains that he received a compliance warning when he entered the contribution into the Campaign Finance Reporter Software and thought that entering a note that the contributor was a school board committee would take care of the issue. Mr. Peitso further states, "Please accept my apology for this oversight and not calling your office to take care of this issue."

In response to a Board notification of the potential violation, Mary Nelson states, "The omission of my disclosure statement was an unfortunate oversight on my part. This is the first time that I had been a candidate and was not familiar as I should have been with all the rules. I had no intention to circumvent Minnesota Statute 10 A.27 subd. 13 and 13 (b)."

This matter was considered by the Board in executive session on November 7, 2012. The Board's decision is based on the correspondence and information received from Daniel Peitso and Mary Nelson and on Board records.

**Based on the information outlined in the above Summary of the Facts and Relevant Statutes, the Board makes the following:**

**Findings Concerning Probable Cause**

1. There is probable cause to believe that the 37th Senate District Democratic Farmer Labor Party violated Minnesota Statutes section 10A.27, subdivision 13, when it accepted a contribution in excess of \$100 from an unregistered association without receiving the appropriate disclosure with the contribution.
2. There is probable cause to believe that the Volunteers for Mary Nelson committee violated Minnesota Statutes section 10A.27, subdivision 13 (b), when it made a contribution in excess of \$100 to the 37th Senate District Democratic Farmer Labor Party without providing the required disclosure.
3. There is no probable cause to believe that the violations by the 37th Senate District Democratic Farmer Labor Party or the Volunteers for Mary Nelson committee were intentional or were done with the intent to circumvent the provisions of Chapter 10A.

**Based on the above Findings Concerning Probable Cause, the Board issues the following:**

**ORDER**

1. The Board imposes a civil penalty of \$200, one times the amount by which the contribution exceeded \$100, on the 37th Senate District Democratic Farmer Labor Party for accepting and depositing a contribution from an unregistered association without the disclosure required by Minnesota Statutes section 10A.27, subdivision 13.
2. The 37th Senate District Democratic Farmer Labor Party is directed to forward to the Board payment of the civil penalty by check or money order payable to the State of Minnesota within thirty days of receipt of this order.
3. The 37th Senate District Democratic Farmer Labor Party is directed to refund \$200 to the Volunteers for Mary Nelson committee and to forward to the Board a copy of the check used to return the excess contribution within thirty days of receipt of this order.
4. The Board imposes a civil penalty of \$200, one times the amount that the contribution exceeded \$100, on the Volunteers for Mary Nelson committee for making a contribution in excess of \$100 without providing the disclosure required by Minnesota Statutes section 10A.27, subdivision 13 (b).
5. The Volunteers for Mary Nelson committee is directed to forward to the Board payment of the civil penalty by check or money order payable to the State of Minnesota within thirty days of receipt of this order.
6. If the 37th Senate District Democratic Farmer Labor Party or the Volunteers for Mary Nelson committee does not comply with the provisions of this order, the Board's Executive Director may request that the Attorney General bring an action for the remedies available under Minnesota Statutes section 10A.34.

7. The Board investigation of this matter is hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11, and upon the return of the excess contribution and payment by the civil penalties imposed herein, this matter is concluded.

Dated: November 7, 2012

---

Andrew M. Luger, Vice Chair  
Campaign Finance and Public Disclosure Board

### **Relevant Statutes**

**Minnesota Statutes section 10A.27, subdivision 13. Unregistered association limit; statement; penalty.** (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$100 from an association not registered under this chapter unless the contribution is accompanied by a written statement that meets the disclosure and reporting period requirements imposed by section 10A.20. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy of the statement with the report that discloses the contribution to the board. This subdivision does not apply when a national political party contributes money to its affiliate in this state.

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

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

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

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of \$100 from an unregistered association without the required written disclosure statement is subject to a civil penalty up to four times the amount in excess of \$100.



**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**Findings In The Matter of the Acceptance of  
a Prohibited Contribution During the 2012 Legislative Session from Trudy Richter,  
Registered Lobbyist, to the Judy Ohly Campaign Fund**

**Summary of the Facts**

Minnesota Statutes section 10A.273, subdivision 1(a), prohibits a candidate for legislative office or the candidate's principal campaign committee from soliciting or accepting a contribution from a registered lobbyist during a regular legislative session. A candidate that violates this section is subject to a civil penalty imposed by the Campaign Finance and Public Disclosure Board of up to \$1,000.

Minnesota Statutes section 10A.273, subdivision 1(b), prohibits a registered lobbyist from making a contribution to a candidate for legislative office or to the candidate's principal campaign committee during a regular legislative session. A lobbyist who violates this section is subject to a civil penalty of up to \$1,000.

The 2012 pre-primary-election Report of Receipts and Expenditures filed with the Board by the Judy Ohly Campaign Fund (the Committee) disclosed a \$200 contribution from Trudy Richter, a registered lobbyist, on March 30, 2012. The 2012 legislative session was held from January 24 through May 10, 2012.

In a letter dated October 8, 2012, Mary Jo Fiebiger, treasurer of the Committee, states "There was no intent on Judy's or my part to violate any election laws."

In a letter dated October 10, 2012, Trudy Richter confirmed making the contribution during the legislative session. Ms. Richter states "When making the contribution, I did not consider the prohibition for lobbyists supporting someone for the legislature that was not currently in the legislature."

This matter was considered by the Board in executive session on November 7, 2012. The Board's decision is based on the correspondence received from Mary Jo Fiebiger and Trudy Richter, and Board records.

**Based on the information outlined in the above Summary of the Facts and Relevant Statutes, the Board makes the following:**

**Finding Concerning Probable Cause**

1. There is probable cause to believe that Trudy Richter violated Minnesota Statutes section 10A.273, subdivision 1(b), by contributing to the (Judy) Ohly Campaign Fund during the 2012 regular legislative session.
2. There is probable cause to believe that the (Judy) Ohly Campaign Fund violated Minnesota Statutes section 10A.273, subdivision 1(a), when the committee accepted the contribution from Ms. Richter during the 2012 regular legislative session.

3. There is no probable cause to believe that the violations by Trudy Richter or the (Judy) Ohly Campaign Fund were intentional or were done with the intent to circumvent the provisions of Chapter 10A.

**Based on the above Findings Concerning Probable Cause, the Board issues the following:**

**ORDER**

1. The Board imposes a civil penalty of \$200, which is one times the amount of the contribution, on the Judy Ohly Campaign Fund for acceptance of a contribution from Trudy Richter during the regular 2012 legislative session.
2. The Judy Ohly Campaign Fund is directed to forward to the Board payment of the \$200 civil penalty, by check or money order payable to the State of Minnesota, within 30 days of receipt of this order.
3. The Judy Ohly Campaign Fund is directed to refund \$200 to Trudy Richter and forward to the Board a copy of the check returning the contribution within 30 days of receipt of this order.
4. The Board imposes a civil penalty of \$200, which is one times the amount of the contribution, on Trudy Richter, for contributing to a principal campaign committee during the 2012 legislative session in violation of Minnesota Statutes section 10A.273, subdivision 1(b).
5. Trudy Richter is directed to forward to the Board payment of the \$200 civil penalty, by check or money order payable to the State of Minnesota, within 30 days of receipt of this order.
6. If Trudy Richter or the Judy Ohly Campaign Fund does not comply with the provisions of this order, the Board's Executive Director may request that the Attorney General bring an action for the remedies available under Minnesota Statute section 10A.34.
7. The Board investigation of this matter is entered into the public record in accordance with Minnesota Statutes section 10A.02, subdivision 11 and, upon the return of the contribution and payment of the civil penalties imposed herein, the matter is concluded.

Dated: November 7, 2012

\_\_\_\_\_  
Andrew M. Luger, Vice Chair  
Campaign Finance and Public Disclosure Board

### **Relevant Statutes**

Minnesota Statutes section 10A.273, subdivision 1. **Contributions during legislative session.**

(a) A candidate for the legislature or for constitutional office, the candidate's principal campaign committee, or a political committee or party unit established by all or a part of the party organization within a house of the legislature, must not solicit or accept a contribution from a registered lobbyist, political committee, political fund, or dissolving principal campaign committee, or from a party unit established by the party organization within a house of the legislature, during a regular session of the legislature.

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**Findings and Order in the Matter of the Complaint of Michael Krause regarding the  
Minneapolis Democrats for Truth committee**

**The Allegations in the Complaint**

On August 29, 2012, Michael Krause filed a complaint with the Campaign Finance and Public Disclosure Board regarding the actions of Minneapolis Democrats for Truth. Minneapolis Democrats for Truth is a political committee that registered with the Board on August 7, 2012. The complaint alleges that Minneapolis Democrats for Truth violated the campaign finance laws by not reporting to the Board within 24 hours a contribution or loan totaling \$1,000 or more received from a single source between July 24, 2012, and August 14, 2012.

Attached to the complaint are copies of two literature pieces mailed by Minneapolis Democrats for Truth before the August 14, 2012, primary. The mailings oppose the selection of Ian Alexander as the Democratic nominee for the District 59B seat in the Minnesota House of Representatives and state that they are independent expenditures. The complaint also includes copies of two literature pieces mailed by two labor unions in support of another candidate in the primary. The font, layout, and some of the wording on the four literature pieces are nearly identical. The four literature pieces also use the same bulk mail permit.

The complaint also includes additional evidence of telephone calls made to voters shortly before the primary election. The complaint alleges that these calls were paid for by the Minneapolis Democrats for Truth committee.

The complaint argues that the cost of the two mailed pieces and the telephone calls had to have been more than \$1,000 yet Minneapolis Democrats for Truth reported no large contributions between the date of its registration and the date of the August primary.

**The Response to the Complaint**

In its response, Minneapolis Democrats for Truth agrees that it was responsible for the two mailed literature pieces and the telephone calls identified in the complaint. The committee, however, argues that it did not receive contributions of more than \$1,000 until after the primary election.

Specifically, Minneapolis Democrats for Truth says that shortly after it registered with the Board, two volunteers created the literature pieces and sent them to the printer. The printer mailed the pieces on August 7, 2012, and August 8, 2012, using the bulk mail permit of a mailing house. On August 8, 2012, the AFSCME Minn PEOPLE's Committee Council 5 donated \$454.24 in postage to Minneapolis Democrats for Truth for the cost of the first mailing. On August 9, 2012, the MAPE PAC donated \$454.24 in postage for the cost of the second mailing. The printer

billed Minneapolis Democrats for Truth for the remaining cost of the mailings, which was \$1644.94, on August 20, 2012.

Minneapolis Democrats for Truth also states that it used a call house to make the telephone calls to voters on August 12, 2012. The cost of these calls was \$386.32. The call house billed the committee on August 14, 2012. The invoices from the printer and the call house are attached to the Minneapolis Democrats for Truth response. The committee also reported these expenditures on its 42<sup>nd</sup> day pre-general-election report.

Minneapolis Democrats for Truth states that after it received the invoices for the mailings and the telephone calls and had “a full understanding of [its] expenses,” it began fundraising. The committee received \$400 from the AFSCME Minn PEOPLE’s Committee Council 5 on August 22, 2012. Minneapolis Democrats for Truth received \$900 from the MAPE PAC on August 31, 2012, and an additional \$750 from the MAPE PAC on September 10, 2012. All three committees reported these contributions on their 42<sup>nd</sup> day pre-general-election reports.

### **Board Analysis**

Minnesota Statutes section 10A.20, subdivision 5, provides:

Any loan, contribution, or contributions to a political committee or political fund from any one source totaling \$1,000 or more . . . received between the last day covered in the last report before an election and the election must be reported to the board on one of the following ways:

- (1) In person by the end of the next business day after its receipt; or
- (2) By electronic means sent within 24 hours after its receipt.

Here, the complaint alleges that the Minnesota Democrats for Truth committee violated this statute because it received contributions of more than \$1,000 between July 24, 2012, and August 14, 2012, but did not report those contributions within 24 hours. The record, however, shows that Minneapolis Democrats for Truth received only two contributions during the relevant time period and that neither contribution was more than \$1,000. In addition, there is no evidence of any loans made to the committee at any point during its existence. Consequently, the record here does not support a finding that Minneapolis Democrats for Truth received any loans or contributions that triggered the reporting requirements in Minnesota Statutes section 10A.20, subdivision 5.

**Based on the evidence before it and the above analysis the Board makes the following:**

### **Finding Concerning Probable Cause**

There is no probable cause to believe that the Minneapolis Democrats for Truth committee violated Minnesota Statutes section 10A.20, subdivision 5.

**Based on the above Finding, the Board issues the following:**

**ORDER**

The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11.

Dated: November 7, 2012

\_\_\_\_\_  
Andrew M. Luger, Vice Chair  
Campaign Finance and Public Disclosure Board

**Relevant Statute**

**Minn. Stat. § 10A.20, subd. 5. Preelection reports.** Any loan, contribution, or contributions to a political committee or political fund from any one source totaling \$1,000 or more, or in a statewide election for judicial office, any loan, contribution, or contributions from any one source totaling \$2,000 or more, or in any judicial district totaling \$400 or more, and any loan, contribution, or contributions to a candidate for constitutional office or for the legislature from any one source totaling 80 percent or more of the contribution limit for the office, 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 by the end of the next business day after its receipt; or
- (2) by electronic means sent within 24 hours after its receipt.

These loans and contributions must also be reported in the next required report.

This notice requirement does not apply with respect to a primary in which the statewide or legislative candidate is unopposed.

The board must post the report on its Web site by the end of the next business day after it is received.

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**Findings and Order in the Matter of the Complaint of James Carson regarding the (Peter) Fischer for Representative and the (Chuck) Wiger for Senate Volunteer committees**

**The Allegations in the Complaint**

On September 11, 2012, the Campaign Finance and Public Disclosure Board received a complaint from James Carson regarding the (Peter) Fischer for Representative and the (Chuck) Wiger for Senate Volunteer committees. Attached to the complaint were copies of three literature pieces jointly mailed by the Fischer and Wiger committees shortly before the August 14, 2012, primary. The committees' campaign finance reports show that the committees split the cost of the pieces equally. The literature pieces refer to both Mr. Fischer and to Sen. Wiger and directly ask voters to support both candidates at the primary. Sen. Wiger, however, had no primary opponent and his name did not appear on the primary ballot. The complaint therefore alleges that by paying for half of the mailed pieces, the Wiger committee "made an illegal expenditure on behalf of Peter Fischer's primary bid for the Minnesota House."

**The Response to the Complaint**

In their responses, Sen. Wiger and Mr. Fischer agree that their committees jointly mailed the three literature pieces attached to the complaint. Sen. Wiger states that he did not learn until after the primary "that unopposed legislative candidates don't appear on the ballot unless there is a contested race by an opponent in another party."

Each literature piece was 11 inches by 5¾ inches. Although each literature piece discussed a different issue, they had similar layouts. Part of the piece stated the candidates' joint position on the issue and the rest contained pictures of the two men in various settings. The primary election was mentioned three times in the text on each piece and twice in slightly larger, bold print. In total, the references to the primary election comprised less than 2% of the total area of each literature piece.

The committees agree that the \$7,560 cost of mailing the literature pieces was split evenly between them. Mr. Fischer argues that this allocation was reasonable given the small portion of the literature pieces that referred to the primary election.

Sen. Wiger argues that the 50/50 split of the mailing costs was a reasonable allocation because

[t]he mailings were 1) jointly prepared by the Wiger and Fischer campaigns, 2) advocate for the election of both candidates and 3) dedicate equal space and attention to each candidate.

Sen. Wiger also argues that although the Fischer committee received an immediate benefit from the mailing, he received a more certain, long-term benefit because the literature pieces brought

his name and his views before voters who are certain to have the chance to vote for him at the general election. Sen. Wiger claims that this early exposure was particularly beneficial to him because the majority of people who received the mailing were recently added to his legislative district due to redistricting and they therefore are not very familiar with him.

### **Board Analysis**

Minnesota Rules part 4503.1000, subpart 2, provides:

A candidate who produces and distributes campaign materials, including media advertisements, which include images of, appearances by, or references to one or more other candidates, and which mention the candidacy of the other candidates or include a direct or indirect appeal for the support of the other candidates must collect from each of the other candidates a reasonable proportion of the production and distribution costs.

Here, the complaint alleges that the Fischer and Wiger committees violated the campaign finance laws by equally dividing the cost of the pre-primary literature pieces when Sen. Wiger was not on the primary ballot. The portion of each literature piece that refers to the primary, however, is less than 2% of the total area of the entire piece. The rest of the piece states the candidates' joint position on an issue and shows pictures of both candidates.

In addition, although Sen. Wiger may not have benefitted from the literature mailing immediately as did Mr. Fischer, Sen. Wiger received a different, longer-term benefit because the literature brought his name in front of voters who would definitely have the chance to vote for him at the general election. This exposure was particularly valuable because most of the people who received the mailing are new to Sen. Wiger's district and therefore are unfamiliar with him. Given the small portion area of the mailing that discussed the primary and the long-term benefit to Sen. Wiger's campaign, it was not unreasonable here for the Fischer and Wiger committees to allocate the cost of the literature mailings equally between the two committees.

**Based on the evidence before it and the above analysis the Board makes the following:**

### **Finding Concerning Probable Cause**

There is no probable cause to believe that the (Chuck) Wiger for Senate Volunteer committee made a prohibited contribution to the (Peter) Fischer for Representative committee when the two committees allocated the cost of the pre-primary literature mailings equally between themselves.



**Based on the above Finding, the Board issues the following:**

**ORDER**

The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11.

Dated: November 7, 2012

\_\_\_\_\_  
Andrew M. Luger, Vice Chair  
Campaign Finance and Public Disclosure Board

**Relevant Rules**

**Minnesota Rules 4503.1000 Campaign Materials Including Other Candidates**

....

Subp. 2. **Multicandidate materials prepared by a candidate.** A candidate who produces and distributes campaign materials, including media advertisements, which include images of, appearances by, or references to one or more other candidates, and which mention the candidacy of the other candidates or include a direct or indirect appeal for the support of the other candidates must collect from each of the other candidates a reasonable proportion of the production and distribution costs.