“2013 Legislature Adopts Important Amendments to Minnesota Campaign Finance Laws,” GPM Nonprofit Alert

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During the 2013 session, the Minnesota Legislature adopted important changes to Minnesota's campaign finance laws. These laws will go into effect on August 1, 2013. What follows is a summary of the new provisions that will likely have the biggest impact on individuals and organizations that contribute money or engage in independent political speech in connection with candidate and ballot measure elections in Minnesota:

- Reporting and Original Source Disclosure Requirements for Independent Expenditure and Ballot Measure Committees and Funds. The 2013 amendments codify new reporting and original source disclosure requirements that apply to Independent Expenditure (IE) and ballot measure political committees and funds. Under the amendments, unregistered associations (including nonprofits and other corporations) that contribute general treasury money (i.e., membership dues or fees, unrestricted donations, or income from the operation of a business) to IE or ballot measure committees or funds during a calendar year of more than $5,000, in the aggregate, must provide the receiving committee or fund with a statement disclosing the amount of the contribution that it attributes to each person that paid dues or fees or made donations to the association that, in total, aggregate more than $5,000 of the contribution.

However, in disclosing the original source(s) of a contribution, the 2013 amendments require unregistered associations to identify only those individuals or organizations responsible for transferring more than $5,000 to the association's general treasury money. This is an increase over the $1,000 reporting threshold in prior law.

As before, in determining the amount of dues, fees, or donations an association received from any person that later were used to contribute to an IE or ballot measure committee or fund, the association has the option of either: (1) applying a pro rata calculation across all unrestricted dues, fees, and donations it received during the calendar year; or (2) identifying specific individuals or associations whose dues, fees, or donations were responsible for the contribution.

- Reporting Deadlines. The 2013 amendments include a more straightforward description of campaign report filing deadlines for all types of political committees and funds, and they add an additional reporting requirement for committees and funds in the first quarter of a general election year.

- Inactive Status. The 2013 amendments allow associations that previously registered a political fund with the Campaign Finance Board (CFB) to place the fund on "inactive" status, during which time the fund may not accept contributions or make expenditures, contributions, or disbursements. As long as a fund follows proper procedure to obtain and remain on inactive status, it is not required to file any campaign reports with the CFB.

- CFB Authority Expanded. The 2013 amendments expand the CFB's authority to investigate, bring legal action, and negotiate settlements in cases involving alleged violations of the Fair Campaign Practices Act (Chapter 211B), including the Act's limits and prohibitions on corporate campaign contributions, as well as the permissible use of funds raised for a political purpose. Previously, only the Office of Administrative Hearings had authority to respond to potential violations of Chapter 211B.

- Liability For Unlawful Corporate Contributions Expanded. Under the 2013 amendments, an individual acting on behalf of a corporation (including officers, managers, stockholders, members, employees, attorneys, or other representatives) that makes a prohibited contribution to a candidate or political party is subject to civil penalties of up to $10,000. Civil penalties of up to $20,000 and a prison sentence of up to five years are possible if the individual acted knowingly.

- Liability For False Campaign Reporting Expanded. Under the 2013 amendments, any person who knowingly provides false or incomplete information to the treasurer of a political committee or fund, who in turn relies on that information in preparing and certifying a campaign report to be true, may be subject to civil penalties and criminal prosecution.

- Separate Bank Account for Political Funds. An association that maintains a registered political fund or ballot question fund and accepts contributions from others to that fund must maintain a separate bank account for the fund if it accepts more than $1,500 to influence candidate campaigns or $5,000 to influence ballot question campaigns.

- Contribution Limits. Prior to the 2013 amendments, contribution limits applied over the course of each calendar year, with amounts depending on the office sought by the candidate and whether the year was an election or non-election year. With the 2013 amendments, contribution limits will now apply over the course of two-year election segments, with amounts depending on the office sought and whether the segment is an election or non-election segment. For offices with a two-year term, there is only an election segment, which coincides with the term of the office (e.g., January 1 following the most recent election through December 31 of the election year). For offices with a four- or six-year term, the last two years of the term are the election segment, and the remainder of the term is the non-election segment (or two non-election segments, in the case of a six-year term). Contributions received on or after January 1, 2013, count toward the new limits.

The new law also increases the amount that may be contributed to and accepted by candidates for state office. As before, these limits apply to contributions from individuals and political committees/political funds. Corporations, nonprofits, and IE-only committees and funds continue to be prohibited from contributing directly to candidates or political parties. Going forward, the election and non-election segment contribution limits for individuals and political committees and funds are as follows:

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