

HOUSE RESEARCH

Bill Summary

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Overview

This bill moves from county attorneys to the Campaign Finance and Public Disclosure Board (board) primary responsibility for handling complaints of violations of the Fair Campaign Practices Act and violations of campaign finance reporting requirements for local elections. It repeals the mandate that a county attorney investigate every complaint and creates an administrative procedure for these complaints to be considered first by the board. The board would be expanded by three members and given additional staff. It would be required to evaluate each complaint within one to three business days after it was received. Complaints filed close to an election about false statements in campaign material would have to be heard by a panel of three board members within three days after it was filed. If the panel found probable cause to believe there had been a violation, the complaint would be referred to the full board for a hearing within ten days. The board could then impose a civil penalty of up to \$3,000 or could refer the matter to the county attorney for prosecution. Other complaints would have to be heard within 30 days, if filed close to an election, or within 90 days, if not filed close to an election.

The administrative procedure established by the bill is modeled on one created by Ohio in 1995 (Ohio Revised Code, sections 3517.151 to 3517.157).

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- 1 **Citation.** May be cited as the Fair Campaign Reform Act.
- 2 **Membership.** Adds three members to the board. Requires that no more than three of the nine members of the board may support the same political party and that there must be at least four different political parties represented on the board.
- 3 **Vacancy; terms.** Provides \$100 per day fee for board members handling an expedited hearing. (The current fee for attending regular meetings is \$55.)
- 4 **Vote required.** Continues the current policy that action by the board requires the concurring vote of two-thirds of the board members, increasing the number from four to six.
- 5 **Political activity.** Prohibits a board member or employee from (1) serving on a committee for or against a candidate or ballot question, or (2) making a contribution to or soliciting a contribution on behalf of a candidate, political committee, political fund, party unit, or ballot question.
- 6 **Advisory opinions.** Authorizes the board to issue advisory opinions on Minnesota Statutes, chapter 211A (local government campaign finance reports) and 211B (fair campaign practices). The board already has authority to issue advisory opinions on the campaign finance reporting law in local elections in Hennepin County.
- 7 **Unfair campaign practices complaints.** Requires complaints under chapters 211A and 211B, or local election campaign finance reporting in Hennepin County to be filed with the board. The complaint must be disposed of by the board or a panel of the board before the alleged violation may be prosecuted by a county attorney. The statute of limitations on filing a complaint is one year.

The burden of proof is on the complainant. The standard of proof of false statements in campaign material is clear and convincing evidence. The standard of proof for any other violation is a preponderance of evidence. The complaint must be accompanied by a filing fee of \$50 unless the complainant is a filing officer reporting failure to file under section 211A.05. The fee may be waived if the complainant is indigent.

- 8 **Review by executive director.** Requires that, when practicable, board staff must review the complaint between one business day, after the complaint was filed and make a recommendation to the board for disposition. Allows a recommendation to dismiss the complaint, give it an expedited hearing, or give it a regular hearing. If the complaint was filed within 60 days before the primary or special election or within 90 days before the general election and involves false statements in campaign material, the recommendation must be for an expedited hearing.
- 9 **Expedited hearing.** Requires the board chair to have an expedited hearing on complaints regarding false statements filed close to an election. For any other complaint where the staff recommends an expedited hearing, the board chair or any three other board members may require an expedited hearing. The hearing is before a panel of at least three members selected by the board chair by lot. No more than half of these may support the same political party. For a three-member panel, no two members of the panel may support the same political party. The expedited hearing must be held within two business days after the staff made the recommendation for it, except that for good cause the panel may hold the hearing no later than seven days after the recommendation. All parties to the complaint may agree to extend the deadline no later than 90 days after the complaint was filed.

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The hearing may be conducted by conference call. The panel may vote to dismiss the complaint. If the vote is unanimous, the complaint is dismissed. Otherwise, the recommendation must be forwarded to the entire board for its action. If the panel finds probable cause to believe that the alleged violation has occurred, the board must hear the complaint within ten days. If the panel finds the evidence insufficient to make a decision, it may request an investigation before making its determination or may refer the matter to the board for a regular hearing following the conclusion of an investigation.

- 10 **Board hearing.** Provides the procedure for regular hearings by the board. If the complaint was filed within 60 days before the primary or special election or within 90 days before the general election, it must be heard within 30 days after it was filed. Otherwise, it must be heard within 90 days after it was filed. For good cause shown, the board may extend either of these deadlines by 60 days. The hearing must be in public.

The board has 14 days after the hearing to make a decision. It may:

- dismiss the complaint,
- ask for a further investigation,
- issue a reprimand,
- find that a false statement made in a paid advertisement or campaign material violated section 211B.06,
- impose a civil penalty of up to \$3,000, or
- refer the complaint to the appropriate county attorney for prosecution.

In certain cases, the board must refund the filing fee to the complainant and assess the amount of the filing fee against the respondent.

- 11 **Procedures.** Allows a complainant to withdraw a complaint (1) at any time before the hearing without board permission or (2) at any time after the hearing begins with board permission. The board may at any time dismiss a complaint pending either before it or before a panel. If the board finds the complaint frivolous, it may order the complainant to pay the respondent's reasonable attorney fees and to pay the board's costs. While a complaint is pending before the board or a panel, the members must not discuss it with the parties or investigators except at an open meeting. The board, but not a panel of the board, may close a meeting to deliberate on a complaint. All votes must be made part of the public record and all other proceedings on the complaint must be open.
- 12 **Investigations; prosecutions.** Amends the current statute that requires county attorneys to prosecute voter eligibility crimes. Eliminates the criminal penalty for not prosecuting.
- 13 **Amount; dishonored check.** Imposes a new fair campaign fee on all candidates who file for federal, state, or local office. Fees are \$50 for federal, statewide, legislative, judicial, and

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county candidates; \$10 for school and city candidates; and \$5 for township candidates.

The fee is transmitted to the Commissioner of Finance and deposited in the general fund. The purpose of the fee is to pay the board's increased costs as a result of the new duties in the bill.

14 Campaign finance board duties. This is the first of several sections that transfer enforcement responsibilities for local campaign finance report laws from the secretary of state to the board.

Requires local filing officers to notify the board of candidates who fail to file their campaign finance reports on time. The notice is currently given to the county attorney.

15 Failure to file statement. Same as section 14.

16 County attorney authority. Authorizes a county attorney to prosecute any violation of chapter 211A, relating to campaign finance reporting for local elections. The current authority is repealed by section 18.

17 Digest of laws. Same as section 14.

18 Report required. Same as section 14.

19 County attorney authority. Lets a county attorney prosecute any violation of chapter 211B, the Fair Campaign Practices Act. The current authority is repealed by section 18.

20 Same as section 14.

21 Repealers. Section 211A.08, subdivisions 1 and 2, require the county attorney to investigate every complaint of a violation of chapter 211A (local campaign finance reporting).

Section 211B.16, subdivisions 1 and 2, require the county attorney to investigate every complaint of a violation of chapter 211B (Fair Campaign Practices Act).

22 Revisor's instruction. Directs the revisor to re-locate the current law restricting soliciting near polling places. The relocation means this law will be subject to county attorney investigation rather than under the board's fair campaign practices jurisdiction.

23 Effective date. July 1, 2005.