

Senate Study Bill 1093

Bill Text

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1 1 Section 1. Section [56.2](#), subsection 14, paragraph c, Code
1 2 2001, is amended by striking the paragraph.
1 3 Sec. 2. Section [56.12A](#), unnumbered paragraph 1, Code 2001,
1 4 is amended to read as follows:
1 5

~~The state and the governing body of a county, city, or~~

1 6

~~other political subdivision of the state~~

~~A person shall not~~

1 7 expend or permit the expenditure of public moneys for
1 8 political purposes, including expressly advocating the passage
1 9 or defeat of a ballot issue.

1 10 Sec. 3. Section [56.13](#), Code 2001, is amended by striking
1 11 the section and inserting in lieu thereof the following:

1 12 56.13 INDEPENDENT EXPENDITURES.

1 13 1. Any individual who meets all of the following criteria
1 14 shall file an independent expenditure statement with the board
1 15 or commissioner with whom the benefited committee files
1 16 statements and reports under this chapter:

1 17 a. The individual is not a candidate.

1 18 b. The individual is acting independently and not in
1 19 coordination with another individual, organization, or
1 20 committee.

1 21 c. The individual makes one or more expenditures in excess
1 22 of five hundred dollars in the aggregate, or incurs
1 23 indebtedness in excess of five hundred dollars in the
1 24 aggregate, to expressly advocate the election or defeat of a
1 25 clearly identified candidate or the passage or defeat of a
1 26 ballot issue.

1 27 2. Any combination of two or more individuals, or a person
1 28 other than an individual, that makes one or more expenditures
1 29 in excess of five hundred dollars in the aggregate, or incurs
1 30 indebtedness in excess of five hundred dollars in the
1 31 aggregate, to expressly advocate the election or defeat of a
1 32 clearly identified candidate or the passage or defeat of a
1 33 ballot issue, shall file an independent expenditure statement
1 34 with the board or commissioner where the benefited committee
1 35 files statements and reports under this chapter.

2 1 3. An independent expenditure statement shall be filed
2 2 within ten days of the making of any expenditure or incurring
2 3 of indebtedness that exceeds the five hundred dollar aggregate
2 4 threshold.

2 5 4. The independent expenditure statement shall contain all
2 6 of the following information:

2 7 a. Identification of the individuals or persons filing the
2 8 statement.

2 9 b. Description of the position advocated by the
2 10 individuals or persons with regard to the clearly identified
2 11 candidate or ballot issue.

2 12 c. Identification of the candidate or ballot issue
2 13 benefited by the independent expenditure.

2 14 d. The dates on which the expenditures or incurrence of
2 15 indebtedness took place.

2 16 e. Description of the nature of the action taken that
2 17 resulted in the expenditures or debts.
2 18 f. The fair market value of the expenditures.
2 19 5. The filing requirements of this section shall apply in
2 20 addition to any other applicable filing requirements under
2 21 this chapter.
2 22 6. The board shall develop, prescribe, furnish, and
2 23 distribute forms for the independent expenditure statements
2 24 required by this section.
2 25 Sec. 4. Section 56.14, Code 2001, is amended to read as
2 26 follows:
2 27 56.14

~~POLITICAL~~
- ATTRIBUTION STATEMENT ON PUBLISHED
2 28 MATERIAL

~~YARD SIGNS~~

2 29 1.

~~a.~~

- A person who causes the publication or distribution
2 30 of published material designed to expressly advocate the
2 31 nomination, election, or defeat of a candidate for public
2 32 office or the passage or defeat of a constitutional amendment
2 33 or

~~public measure~~

- ballot issue shall include conspicuously on
2 34 the published material the identity and address of the person
2 35 responsible for the material.
3 1 a. If the person responsible is an organization, the name
3 2 of one officer of the organization shall appear on the
3 3 material. However, if the organization is a registered
3 4 committee

~~which has filed a statement of organization under~~

3 5

~~this chapter~~

- , only the name of the committee is required to be
3 6 included on the published material.
3 7 b. Published material designed to expressly advocate the
3 8 nomination, election, or defeat of a candidate for public
3 9 office or the passage or defeat of a constitutional amendment
3 10 or

~~public measure~~

- ballot issue which contains language or
3 11 depictions which a reasonable person would understand as
3 12 asserting that an entity which is incorporated or is a
3 13 registered committee had authored the material shall, if the
3 14 entity is not incorporated or a registered committee, include
3 15 conspicuously on the published material a statement that the
3 16 apparent organization or committee is not incorporated or a
3 17 registered committee in addition to the attribution statement
3 18 required by this section.
3 19 2. For purposes of this section

~~, "registered~~

~~;~~

3 20 a. "Registered committee" means a committee which has an
3 21 active statement of organization filed under section 56.5.
3 22 b. "Published material" means any newspaper, magazine,
3 23 shopper, outdoor advertising facility, poster, direct mailing,

3 24 brochure, or any other form of printed general public
3 25 political advertising; however, the identification need not be
3 26 conspicuous on posters. This subsection does not apply to
3 27 yard signs, bumper stickers, pins, buttons, pens, matchbooks,
3 28 and similar small items upon which the inclusion of the
3 29 attribution statement would be impracticable or to published
3 30 material which is subject to federal regulations regarding an
3 31 attribution requirement.
3 32

~~b.~~

- 3. This

~~subsection~~

- section does not apply to the
3 33 editorials or news articles of a newspaper or magazine which
3 34 are not political advertisements.

~~For the purpose of this~~

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3 35

~~subsection, "published material" means any newspaper,~~

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4 1

~~magazine, chopper, outdoor advertising facility, poster,~~

-
4 2

~~direct mailing, brochure, or any other form of printed general~~

-
4 3

~~public political advertising; however, the identification need~~

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4 4

~~not be conspicuous on posters. This subsection does not apply~~

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~~to yard signs, bumper stickers, pins, buttons, pens,~~

-
4 6

~~matchbooks, and similar small items upon which the inclusion~~

-
4 7

~~of the attribution statement would be impracticable or to~~

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~~published material which is subject to federal regulations~~

-
4 9

~~regarding an attribution requirement.~~

-
4 10

~~c.~~

- 4. This

~~subsection~~

- section shall not be construed to

4 11 require the inclusion on published material of information
4 12 which discloses the identity or address of any individual who
4 13 is acting independently and

~~using the individual's own modest~~

4 14

~~resources~~

~~expends five hundred dollars or less to publish or~~

4 15 distribute the material that expressly advocates the passage

4 16 or defeat of a ballot issue.

4 17

~~2. a. Yard signs shall not be placed on any property~~

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~~which adjoins a city, county, or state roadway sooner than~~

4 19

~~forty five days preceding a primary or general election and~~

4 20

~~shall be removed within seven days after the primary or~~

4 21

~~general election in which the name of the particular candidate~~

4 22

~~or ballot issue described on the yard sign appears on the~~

4 23

~~ballot. Yard signs are subject to removal by highway~~

4 24

~~authorities as provided in section 319.13, or by county or~~

4 25

~~city law enforcement authorities in a manner consistent with~~

4 26

~~section 319.13. The placement or erection of yard signs shall~~

4 27

~~be exempt from the requirements of chapter 480. Notice may be~~

4 28

~~provided to the chairperson of the appropriate county central~~

4 29

~~committee if the highway authorities are unable to provide~~

4 30

~~notice to the candidate, candidate's committee, or political~~

4 31

~~committee regarding the yard sign.~~

4 32

~~b. This subsection does not prohibit the placement of yard~~

4 33

~~signs on agricultural land owned by individuals or by a family~~

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~~farm operation as defined in section 9H.1, subsections 8, 8A,~~

4 35

~~9, and 10; does not prohibit the placement of yard signs on~~

5 1

~~property owned by private individuals who have rented or~~

5 2

~~leased the property to a corporation, if the prior written~~

5 3

~~permission of the property owner is obtained; and does not~~

5 4

~~prohibit the placement of yard signs on residential property~~

5 5

~~owned by a corporation but rented or leased to a private~~

5 6

~~individual if the prior permission of the renter or lessee is~~

5 7

~~obtained. For the purposes of this chapter, "agricultural~~

5 8

~~land" means agricultural land as defined in section 9H.1.~~

5 9 Sec. 5. NEW SECTION. 56.14A YARD SIGNS.

5 10 1. a. Yard signs shall only be placed upon residential
5 11 property with the permission of the property owner.

5 12 b. This subsection does not prohibit placement of yard
5 13 signs on any of the following property:

5 14 (1) Agricultural land owned by individuals or by a family
5 15 farm operation as defined in section 9H.1, subsections 8, 8A,
5 16 9, and 10. For the purposes of this subsection, "agricultural
5 17 land" means agricultural land as defined in section 9H.1.

5 18 (2) Property owned by private individuals who have rented
5 19 or leased the property to a corporation, if the prior written
5 20 permission of the renter or lessee is obtained.

5 21 (3) Residential property owned by a corporation but rented
5 22 or leased to a private individual, if the prior permission of

5 23 the renter or lessee is obtained.

5 24 2. a. Yard signs with dimensions of sixteen square feet
5 25 or less that are posted on real property are exempt from the
5 26 attribution statement requirements in section 56.14.

5 27 b. The following signs shall bear the attribution
5 28 statement required by section 56.14:

5 29 (1) Campaign signs in excess of sixteen square feet.

5 30 (2) Any sign affixed to a building or vehicle.

5 31 3. A person shall not alter, remove, move, vandalize,
5 32 deface, or destroy any sign that expressly advocates the
5 33 election or defeat of a clearly identified candidate or the
5 34 passage or defeat of a ballot issue without the prior
5 35 permission of the owner of the sign.

6 1 Sec. 6. Section 56.22, subsection 2, Code 2001, is amended
6 2 to read as follows:

6 3 2. Funds distributed to statutory political committees
6 4 pursuant to this chapter shall not be used to expressly
6 5 advocate the nomination, election, or defeat of any candidate
6 6 during the primary election. Nothing in this subsection shall
6 7 be construed to prohibit a statutory political committee from
6 8 using such funds to pay expenses incurred in arranging and
6 9 holding a nominating convention.

6 10 Sec. 7. Section 56.43, subsection 1, Code 2001, is amended
6 11 to read as follows:

6 12 1. Equipment, supplies, or other materials purchased with
6 13 campaign funds or received in-kind are campaign property.
6 14 Campaign property belongs to the candidate's committee and not
6 15 to the candidate. Campaign property which has a value of five
6 16 hundred dollars or more at the time it is acquired by the
6 17 committee shall be separately disclosed as committee inventory
6 18 on reports filed pursuant to section 56.6, including a
6 19 declaration of the approximate current value of the property.
6 20 Such property shall continue to be reported as committee
6 21 inventory until it is disposed of by the committee or until
6 22 the property has a residual value of less than one hundred
6 23 dollars. Once the property is reported as having a residual
6 24 value of less than one hundred dollars, the property is no
6 25 longer required to be reported. However, consumable campaign
6 26 property is not required to be reported as committee
6 27 inventory, regardless of the initial value of the consumable
6 28 campaign property. "Consumable campaign property" means
6 29 stationery, yard signs, and other campaign materials which
6 30 have been permanently imprinted to be specific to a candidate
6 31 or election.

6 32 Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection
6 33 3, shall not apply to this Act.

6 34 EXPLANATION

6 35 This bill amends certain provisions of Code chapter 56
7 1 pertaining to campaign finance law.

7 2 The bill strikes part of the definition of "express
7 3 advocacy" in Code section 56.2, subsection 14. The United
7 4 States court of appeals for the eighth circuit has held that
7 5 the language in that portion of the definition is
7 6 unconstitutional.

7 7 The bill amends Code section 56.12A to prohibit any person
7 8 from using public moneys for political purposes. The current
7 9 statute prohibits only the state and political subdivisions
7 10 from making such expenditures.

7 11 The bill replaces language in Code section 56.13 relating
7 12 to independent expenditures and removes certain provisions
7 13 held to be unconstitutional by the United States court of
7 14 appeals for the eighth circuit. The new language requires the
7 15 filing by individuals or certain persons of an independent
7 16 expenditure statement within 10 days of making an expenditure
7 17 or incurring an indebtedness exceeding \$500 in the aggregate
7 18 to expressly advocate the election or defeat of a clearly
7 19 identified candidate or the passage or defeat of a ballot

7 20 issue. The new language specifies the criteria for filing, as
7 21 well as the contents of the statement.

7 22 The bill amends and reorganizes Code section 56.14 relating
7 23 to attribution statements on political material and to yard
7 24 signs. The bill specifies a \$500 limit for political material
7 25 that can be distributed by an individual to expressly advocate
7 26 the passage or defeat of a ballot issue, rather than the
7 27 current limit of the individual's "modest resources" regarding
7 28 candidates or ballot issues.

7 29 The bill removes restrictions on the placement of yard
7 30 signs held to be unconstitutional by the United States court
7 31 of appeals for the eighth circuit.

7 32 The bill also places current provisions pertaining to
7 33 placement of yard signs on certain types of property in a
7 34 separate Code section, 56.14A. The new Code section also
7 35 provides that certain signs are not required to bear the
8 1 attribution statement required by Code section 56.14.

8 2 The bill prohibits the movement or destruction of yard
8 3 signs without the sign owner's permission. Violations of this
8 4 provision are punishable as a serious misdemeanor under Code
8 5 section 56.16. A serious misdemeanor is punishable by
8 6 confinement for no more than one year and a fine of at least
8 7 \$250 but not more than \$1,500.

8 8 The bill adds language to Code section 56.22 to prohibit
8 9 parties from using funds received pursuant to the income-tax
8 10 checkoff under Code section 56.18 only during the primary
8 11 election.

8 12 The bill also specifies that campaign property having a
8 13 residual value of less than \$100 does not need to be reported.

8 14 This bill may include a state mandate as defined in Code
8 15 section 25B.3. The bill makes inapplicable Code section
8 16 25B.2, subsection 3, which would relieve a political
8 17 subdivision from complying with a state mandate if funding for
8 18 the cost of the state mandate is not provided or specified.
8 19 Therefore, political subdivisions are required to comply with
8 20 any state mandate included in this bill.

8 21 LSB 1237DP 79

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