

## Campaign Finance Alert: Corporate Contributions to Ballot Committees

Posted by [Tammera R. Diehm](#) on June 16, 2011

### **Minnesota Campaign Finance & Public Disclosure Board Considers Revocation of Advisory Opinion Related to Disclosure of Corporate Contributions to Ballot Committees**

On June 14, 2011, the Minnesota Campaign Finance & Public Disclosure Board ("Board") considered an action that would revoke a 1997 advisory opinion issued to the Minnesota Environmental Trust Fund Coalition. The advisory opinion (AO257), addresses the requirements of Minnesota Statutes Chapter 10A relating to disclosure by unregistered associations in the context of ballot committees and ballot funds. Under Chapter 10A, associations that transfer dues or membership fees to a political fund must disclose the source of the money being transferred. However, AO257 expresses the opinion that the disclosure requirements for unregistered associations do not apply to corporations contributing to ballot initiatives.

As a result, two different sets of rules apply to non-personal funds used to support or defeat a statewide ballot question: corporate funds may be used with little or no disclosure while funds contributed by non-corporate entities such as partnerships or limited liability companies require disclosure.

Staff urged the revocation of AO257 because despite the fact that advisory opinions are not binding on the Board in any action other than the subject of the opinion, staff feels that the regulated community is inappropriately relying on statements in the opinion which suggest that disclosure is not required. Specifically, Board staff thinks that AO257 oversimplifies the corporate contribution exception. Staff interprets Chapter 10A to require registration and reporting by corporations in certain circumstances. For example, if a business league solicits funds from its members for purposes of contributing to a ballot question committee, staff interprets state law as requiring the business league itself to register a ballot fund and report the underlying source of contributions - regardless of the corporate structure of the business league and despite the fact that the business league itself ultimately makes the contribution to the ballot committee.

The Board discusses implementing guidance for ballot committees and ballot funds that would be similar to the Board issued guidance for independent expenditure committees. In addition, the Board discussed potential changes to the registration threshold for ballot committees and funds. Staff encouraged the Board to consider a higher threshold in order to avoid constitutional

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challenges to the current law, noting that courts in other jurisdictions have recently ruled as unconstitutional and over-burdensome, registration thresholds at levels higher than those currently in place in Minnesota. While proposed legislative changes to Chapter 10A received hearings in both the House and Senate this spring, they were not adopted. As a result, and unless something is approved during a special session, the Board will consider whether a rulemaking process would be appropriate. Alternatively, the Board discussed the possibility of issuing a Statement of Guidance on which regulated entities may rely.

The Board directed staff to prepare additional guidance documents to present at the June 30 Board meeting when the Board will also vote on the revocation of AO257.

## **Additional Information**

Feel free to contact us if you have any questions.