

ANNUAL REPORT

1976-77

Public Disclosure: The Third Year

LEGISLATIVE REFERENCE LIBRARY
STATE OF MINNESOTA



MINNESOTA STATE ETHICAL PRACTICES BOARD

November 8, 1977

INTRODUCTION

TO: Governor Rudy Perpich, The Honorable Edward J. Gearty, President of the Senate, and the Honorable Martin O. Sabo, Speaker of the House, and the People of Minnesota.

The Ethical Practices Board respectfully submits its annual report for 1976 - 1977. On April 27, 1976 the Ethical Practices Board outlined four major goals, which, in the opinion of the Board, are the purposes of the Ethics In Government Act as provided for by the Minnesota Legislature. These goals are:

1. to facilitate public access to filed reports at the state and at the local level;
2. to provide timely summary reports for the public on information filed with the Board;
3. to analyze and evaluate the Ethics In Government law in order to make recommendations to the Governor and Legislature for changes in the law;
4. and, when necessary, to enforce the compliance portions of the law as enacted by the Legislature.

The Board's attention has increasingly focused on public disclosure as the primary purpose of the law. The Board considers public awareness of the law and its application through public disclosure essential ingredients in maintaining public confidence in government.

Roger Noreen
Chairman

LEGISLATIVE REFERENCE LIBRARY
STATE OF MINNESOTA

State Ethical Practices Board
41 State Office Building
St. Paul, Minnesota 55155
612-296-5148

PUBLIC DISCLOSURE 1976 - 1977

Campaign Finance Reporting Program 1976 - 1977 (M.S. 10A.12 - 10A.29)

The campaign finance reporting system of the Ethics In Government Act began its third year of operation during 1976. 1976 was also a general election year for both the State House of Representatives and the State Senate, and the first general election year in which senate candidates filed campaign finance reports on their campaign finance activities.

Based on the experience of managing a campaign finance disclosure program during the 1974 general elections, the Board directed staff to provide all possible assistance to persons required to comply with provisions of the campaign finance disclosure law. The Board's staff then held training seminars for interested persons on the campaign finance reporting program. An estimated 800 persons attended seminars in the Twin Cities, Duluth, Bemidji and Hibbing. The Board's staff was also invited to attend and provide training at political party training conferences in St. Paul, Collegetown, Mankato and Cannon Falls.

As a result of the Board's concerted efforts to upgrade the quality of the campaign finance reporting for registered political committees and funds, the Board is able, for the first time, to compile summary reports concerning the 1976 elections, however, there remains a substantial problem of late reporting.

The following chart provides an indication of the number of registered political committees and funds as well as the number of registered delinquent committees on particular days. The delinquency rate among political committees and funds, in the judgement of the Board, is entirely too great. During 1977 greater attention is being placed in this area, however, in an effort to increase compliance with reporting deadlines, the Board has suggested to the legislature a civil fine or late filing fee as an administrative remedy in addition to the current criminal penalties for failing to file documents. In the judgement of the Board, a civil fine or late filing fee may increase the incentive to file on the appropriate filing date.

Delinquency Rate 1976

Reporting Date	Number of Registered Committees	Number Delinquent	Date Delinquent
	Principal Campaign Committees (Candidates)		
September 7, 1976	485	17	September 17, 1976
October 25, 1976	488	50	October 27, 1976
		21	November 2, 1976
		3	November 19, 1976
January 31, 1977	495	51	February 4, 1977
		38	February 8, 1977
		15	February 18, 1977
		8	March 10, 1977
	Political Committees and Funds (Political Party Units and other associates)		
September 7, 1976	413	51	September 27, 1976
		16	October 12, 1976
October 25, 1976	409	49	November 4, 1976
		14	November 17, 1976
January 31, 1977	423	52	February 8, 1977
		27	February 27, 1977
		8	March 10, 1977

Legislative Session 1977

Although the Board submitted fifteen policy areas to the Governor and Legislature for review and legislative action, only one policy recommendation was incorporated in a bill and passed during the 1977 Legislative Session. A change to M.S. 10A.20, subd. 10 permits the Board to grant an exemption from disclosure for any political committee or political fund or any of its members or contributors without a formal contested case hearing if no individual or association chooses to object to the request.

Advisory Opinions - Campaign Financing

In Fiscal Year 1977, the Board issued three advisory opinions on campaign finance questions. The Syllabus of each opinion follows:

Advisory Opinion No. 30
September 8, 1976
Syllabus

30. Debts

Contributions made in 1975 by an individual to the principal campaign committee of a candidate in the 1974 election for the purpose of repaying a debt reported outstanding on the Report of Receipts and Expenditures on December 31, 1974, are subject to a limit of 10% of the combined expenditure limits of both 1974 and 1975.

Advisory Opinion No. 31
October 20, 1976
Syllabus

31. Fundraisers

The costs of fundraisers held by political party committees for several candidates are considered to be on behalf of and charged against the expenditure limits of the candidates if the fundraisers are authorized by the candidates, *and the candidates are specifically referred to in advance publicity, and if the candidates receive proceeds; if any.*

The costs of a fundraiser held for a single candidate are charged against the expenditure limit of the candidate if authorized by the candidate *and if the candidate receives proceeds; if any.*

Advisory Opinion No. 34
January 5, 1977
Syllabus

34. Legislative Aide

A legislative aide to a legislator may be paid by the principal campaign committee of the legislator for services during a legislative session. Such expenses are reportable as non-campaign expenditures.

Summary Information - 1976

The Board directed staff in the fall of 1976 to develop a comprehensive summary information program including a computerization proposal for summarization of campaign finance reports. The summary information plan was approved in December 1976 and is currently being implemented. The Board again reviewed several policy options related to preparation and use of summary information. Those options included using compiled summary data as source documents for potential audits and for compliance monitoring. Additionally, the Board discussed analyzing and relating data among the Board's various programs. After

discussion, the Board reaffirmed its policy of summarizing the reports filed with it as the end product and basic purpose of the law. A summarization program is not intended to be used as an audit tool, or for the primary purpose of monitoring compliance with the law. The Board does not, as a matter of policy, believe its role to be an analyzer of or interrelator of data between the various Board programs. That responsibility rightfully belongs to other organizations. The summary information prepared by the Board is for purposes of facilitating public access to filed information. The first comprehensive reports on the 1976 elections were released during the fall of 1977. A proposal to computerize Board records and summary preparation was dropped for lack of financial authorization by the legislature in the Board's 1978 - 79 Biennial Budget.

Legal Challenge To Sections Of Ethics In Government Act Bang, et. al. V Chase, et. al.

In August 1976, the Ethical Practices Board, the State Treasurer and the Commissioner of Revenue were served with a lawsuit challenging the constitutionality of M.S. 10A.27, subd. 1, 10A.30-32, and 10A.17, subd. 2 and subd. 5. The case is being heard in U. S. District Court, District of Minnesota, Third Division. The lawsuit is summarized as follows:

1. This is an action challenging the constitutionality of several Minnesota statutes which relate to the financing of state election campaigns. The provisions include both restrictions on expenditures and the procedure by which state funds are allocated to political parties.

The challenged statutes purport to:

- a) Allocate state revenues to the candidates of political parties based on preferences expressed by state taxpayers on their individual income tax returns (**Minn. Stat.** 10A.30 to 10A.33);
- b) Limit expenditures by non-candidates on behalf of candidates for state office (**Minn. Stat.** 10A.27, subdivision 1);
- c) Prohibit expenditures over \$20 by non-candidates on behalf of a candidate without the candidate's prior written approval if the expenditure is made "with the authorization or consent, express or implied" of the candidate (**Minn. Stat.** 10A.17, subdivision 2); and
- d) Prohibit expenditures, solicitations and advertisements on behalf of candidates by persons who do not have the written authorization of the candidate unless the person discloses his lack of authority within any communication he makes (**Minn. Stat.** 10A.17, subdivision 5).

Plaintiffs assert those statutes deny them freedom of speech, freedom of association, due process of law and equal protection of the laws guaranteed by the First and Fourteenth Amendments to the United States Constitution. Plaintiffs ask the Court to declare them unconstitutional and enjoin their enforcement and application.

A hearing was held on October 1, 1976, in U.S. District Court, Ramsey County, Minnesota. On October 12, 1976, the three judge panel released an order enjoining the Board's enforcement of the independent expenditure limit and indicating substantial doubt about the public financing sections of the law.

As of November 7, 1977, the court has not handed down its decision in this case.

LOBBYIST DISCLOSURE (M.S. 10A.03-05)

The lobbyist reporting system is a permanent system of registration of lobbyists and reporting of lobbying disbursements. The purpose of which is to enable public officials and the general public to know who is being represented by whom, and how much is being spent to influence the legislative process and executive branch rule making activities.

Legislative Session - 1977

No changes were made in the 1977 Session of the Legislature in the lobbying program. A bill requiring disclosure of lobbyists' compensation was introduced in both the House and Senate. The Board took no position on the bill. It passed the Senate Elections Committee, but was referred to the Senate Judiciary Committee for further study during senate floor debate. No hearings were held in the House of Representatives.

Lobbyist Summary Information

October 1, 1976 — September 30, 1977

Number	Filing Date	Period Covered	Amount Disclosed*
1274	February 15, 1977	October 1, 1976- January 31, 1977	\$121,256.04
1359	March 15, 1977	February 1, 1977- February 8, 1977	\$ 73,158.40
1437	April 15, 1977	March 1 - March 31	\$ 79,416.12
1497	June 15, 1977	April 11, - May 31	\$102,165.69
1353	October 15, 1977	June 1 - Sept. 30	\$ 55,611.27

*A complete report on lobbying disbursements for calendar year 1976-1977 will be published in December 1977.

Delinquency Rate

Filing Date	Registered Lobbyists	Number Delinquent Seven days after filing deadline
February 15	1274	88
March 15	1359	71
April 15	1437	51
June 15	1497	86
October 15	1353	104

Advisory Opinions

During Fiscal Year 1977, two advisory opinions on lobbying were issued.

Advisory Opinion No. 32

January 5, 1977

Syllabus

32. Lobbyists

Clarifies registration and reporting requirements for lobbying under the 1976 Amendments to Minn. Stat. 10A, Ethics In Government Act, as related to indirect lobbying, and lobbyist registration requirements.

Advisory Opinion No. 33
January 5, 1977
Syllabus

33. Contested Case Hearing Representative

A representative of a party to a contested case rate proceeding before a state hearing examiner is required to register and report as a lobbyist providing other qualifying requirements have been met.

PERSONAL ECONOMIC DISCLOSURE PROGRAM (M.S. 10A.09)

The Personal Economic Disclosure Program requires economic interest disclosure from candidates and state public officials. The purpose of the program is to provide the public with information to aid in evaluation of candidates and to reassure the public that public officers are not personally profiting from their role as decision makers.

Legislative Amendments

There were no substantial legislative changes to the Ethics In Government Act, however, the legislature, by virtue of giving additional appointed boards rule making power, as well as adding executive branch positions to legislative mandated salary limits, increased the number of persons subject to financial disclosure.

Board Activities

The Board undertook a substantial review of those state agencies whose public officials might be required to file statements of economic interest. Members of fifty-six state boards and four metropolitan agencies are subject to personal financial disclosure. A complete list is available upon request.

CONFLICT OF INTEREST AND REPRESENTATION DISCLOSURE PROGRAM

(M.S. 10A.07, 10A.08)

The conflict of interest provisions provide a method for state public officials to disclose potential conflict of interest to the public by filing a notice with the Board.

The representation disclosure provisions of the Ethics In Government Act requires a public official who represents a client before a state agency, board or commission to disclose the representation when the public official is paid a fee.

During Fiscal Year 1977, the number of notices received were as follows:

Conflict of Interest Notices		Representation Disclosure Notices	
Legislators	0	Legislators	4
Other Public Officers	1	Other Public Officials	0

Legislative Session - 1977

During the 1977 legislative session, no changes were made in these two programs.

PROGRAM OF PUBLIC FINANCING OF POLITICAL CAMPAIGNS (M.S. 10A.30-33)

The public financing program contained in the Ethics In Government Act permits candidates for the state legislature and state constitutional offices of the executive branch to receive public funds from the State Election Campaign Fund as designated by taxpayers through an income tax checkoff. The purpose of the program is to lessen the reliance of candidates on large contributions by providing an alternate source of financing campaigns.

Legislative Session - 1977

The 1976 elections for the state senate and state house was in part funded by public funds provided through the income tax checkoff.

Minnesota is one of 13 states, as of May 31, 1977, which has some form of public financing. It is one of the first states to provide public funding for candidates to the state legislature.

In 1976 the following amounts were disbursed in accordance with Minn. Stat. 10A to eligible candidates from the party and general accounts of the State Election Campaign Fund:

State Elections Campaign Fund

General Account	\$150,937
Democrat Farmer Labor Party	203,256
Independent Republican Party	90,778
American Party	1,660
Liberation Party	560
Socialist Workers Party	1,382
Communist Party	-0-
Industrial Government Party	-0-
Total	\$448,573

According to information provided to the Board by the Secretary of State and County Auditors who are responsible for accepting affidavits of candidacy, there were a total of 497 persons who filed as candidates for either the state senate or the state house of representatives. Based on the 1976 election, it would appear that the vast majority of all candidates desired public financing.

Public Financing Participation

Total candidates in 1976 election	497	
Number of candidates who chose not to participate	(22)	
Number of candidates desiring public financing on Sept. 1st	475	96%
Number of candidates who rescinded public financing agreement on or before Oct. 31, 1976	(21)	
Total number of candidates seeking public financing	454	91%

Public Financing Distribution

The following chart shows the amount distributed to each qualifying candidate in 1976:

	Party Account DISTRIBUTION Oct. 12, 1976	Party Account DISTRIBUTION Dec. 7, 1976	General Account DISTRIBUTION Nov. 24, 1976	TOTAL
DFL Party-Senate	\$1,531.89	\$81.25	\$613.57	\$2,226.71
House	\$ 748.40	\$45.56	\$321.14	\$1,115.10
IR Party-Senate	\$ 707.31	\$88.98	\$613.57	\$1,409.86
House	\$ 356.63	\$75.64	\$321.14	\$ 753.41
American-Senate	\$ 797.70	\$32.30	-	\$ 830.00
House	\$ 797.70	\$32.30	-	\$ 830.00
Libertarian-Senate	\$ 132.50	\$ 7.50	-	\$ 140.00
House	\$ 132.50	\$ 7.50	-	\$ 140.00
Socialist Workers Senate	\$ 442.34	\$18.33	-	\$ 460.67
Non-Party affiliated candidates				
Senate	-	-	\$613.57	\$ 613.57
House	-	-	\$321.14	\$ 321.14

BOARD ORGANIZATION

The decision and policy making body of the Ethical Practices Board is a six-member, citizen board appointed by the Governor and confirmed for four-year terms by the house and senate. The membership of the Board is so constituted as to assure equal political representation from the two major parties. The law also requires that Board members meet certain experience and appointment criteria. A quorum of the Board is four members; and, as such, four votes are required to accomplish any business.

BOARD COMMITTEES:

During 1976 - 1977, the Board established two on-going committees, the Salary & Personnel Committee consisting of Constance Burchett and Roger Noreen, and the Legislative Committee consisting of Harold Chase.

ETHICAL PRACTICES BOARD LEGISLATIVE APPROPRIATION

The legislature authorized through direct appropriation and the Legislative Advisory Committee \$133,014.00 for Fiscal Year 1977.

BOARD PUBLICATIONS

During Fiscal Year 1977, the Board published a list of registered lobbyists, seven informational brochures, and a number of advisory opinions. Publications issued in July and August 1977 included Campaign Expenditures and Contributions for all candidates in 1976 as well as major donors to those candidates. Informational brochures and advisory opinions may be obtained from the Ethical Practices Board at no charge. The summary information and registered lobbyist listing may be obtained through the Documents Division, Department of Administration, Centennial Office Building, St. Paul, Minn. 55155.

Ethical Practices Board
Fiscal 1977 Expenditures
 8-16-77

	Fiscal 1977 Expenditures	Fiscal 1977 Budget	Excess
Full Time Salaries	\$ 74,742.00		
Part-Time Salaries	5,046.00		
Appointed Boards	3,255.00		
Retirement and Insurance	12,094.00		
Total Salaries	\$ 95,137.00	\$ 96,031.00	\$ 894.00
Unemployment Compensation	\$ 2,310.00		
Advertising (employment)	127.00		
Rents (state owned)	3,281.00		
Rents (conference)	75.00		
Rents (xerox)	2,368.00		
Repair Services	263.00		
Printing	8,409.00		
Duplicating	2,953.00		
State Register	642.00		
Consultant Services	-		
Purchase Services (legal)	265.00		
Postage and Inserting	8,663.00		
Telephone and Watts	1,478.00		
Travel In-State	1,081.00		
Travel Out-State	984.00		
Supplies and Material	3,635.00		
Equipment	453.00		
Total Expenses	\$ 36,987.00	\$ 38,600.00	\$ 1,613.00
Total	\$ 132,124.00	\$ 134,631.00	\$ 2,507.00

Ethical Practices Board
Staff Salaries
 June 30, 1977

Position	Staff	Salary
Executive Director	B. Allen Clutter	\$27,504
Asst. Administrator	Elsa Carpenter	\$16,536
Fiscal and Records Manager	Daniel Lundstrom	\$15,300
Lobbyist Technician	Joann Hill	\$ 9,708
Secretary	Kathy Charest	\$ 7,980

Staff

Two part-time employees were hired during the 1976 election campaign period to assist full-time staff in monitoring the 1976 election campaign finance reporting.

COMPLAINTS AND LITIGATION

Complaints - During 1976-1977-the Board investigated four citizen complaints, two cases raised by news media and one case noted by the staff. The Board issued the findings pursuant to its authority under **Minn. Stat. 10A.02, subd. 11**. Six of the seven investigations were in the campaign finance reporting program and one in the personal financial disclosure program. Full text of the previously released public findings is available from the Board on request.

Litigation - The Ethical Practices Board vs. Laura Jane Musser is pending in State District Court, Morrison County. The Board alleges that Laura Jane Musser contributed \$350 in excess of the 1975 contribution limits.

RECOMMENDATIONS FOR LEGISLATIVE ACTION

1978 Session

On August 19, 1977, the Board reaffirmed its legislative recommendations for the 1978 session with the following additions:

Metropolitan Sports Facility Commission

The Board suggests that the Metropolitan Sports Facility Commission members be required to file Statements of Economic Interest.

Political Party Expenditure Limit

The Board suggests that M.S. 10A.27, subd. 2 and subd. 4 require legislative clarification. The statute is unclear and ambiguous in the following areas: 1) What party unit is to be fined in the event that contributions by aggregate party units exceed the 50% contribution limit; 2) What constitutes a party unit. The Board suggests that the state chairman of the major political parties be required to provide the Board with a listing of official party units. The Board also suggests that a penalty for exceeding the party expenditure limit should be placed on the treasurer of the receiving candidate's principle campaign committee.

Buckley vs. Valeo

In conclusion, the Board strongly recommends that Minnesota Statutes be brought into conformity with the U.S. Supreme Court decision in the case of Buckley vs Valeo, 96 Supreme Court Rep. 612, decided on January 30, 1976. This case clearly declares some sections of the Minnesota Ethics In Government Act unconstitutional under the U.S. Constitution.