



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-3993/1  
MPG&JK:amn

## 2023 SENATE BILL 408

September 8, 2023 - Introduced by Senators KNODL, MARKLEIN and NASS, cosponsored by Representatives STEFFEN, MURPHY, O'CONNOR, PRONSCHINSKE, SINICKI and WICHGERS. Referred to Committee on Shared Revenue, Elections and Consumer Protection.

1     **AN ACT to amend** 11.1205 (1) (a) (intro.); and **to create** 11.1205 (1) (am), 11.1205  
2           (1) (ar), 11.1205 (1) (c) and 11.1205 (1) (d) of the statutes; **relating to:** public  
3           funds for substantially identical materials distributed by state senators and  
4           representatives to the assembly prior to a general election and providing a  
5           penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, no person elected to state or local office who becomes a candidate for national, state, or local office may use public funds for the cost of materials or distribution for 50 or more pieces of substantially identical material distributed after the following:

1. In the case of a candidate who is nominated by nomination papers, the first day authorized by law for circulation of nomination papers as a candidate.

2. In the case of a candidate who is nominated at a primary election by write-in votes, the day the board of canvassers issues its determination that the person is nominated.

3. In the case of a candidate who is nominated at a caucus, the date of the caucus.

4. In the case of any other candidate who is nominated solely by filing a declaration of candidacy, the first day of the month preceding the month that includes the last day for filing the declaration.

Under this bill, that 50-piece limitation applies to a representative to the assembly who becomes a candidate at an election for partisan office only after the last

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day authorized by law for filing nomination papers for that election. Additionally, under the bill, with respect to any election for partisan office, a state senator, regardless of whether the senator becomes a candidate at that election, may not use public funds for the cost of materials or distribution for 150 or more pieces of substantially identical material distributed after the last day authorized by law for filing nomination papers for that election.

The bill establishes penalties for violation of all of the above requirements, whether under current law or under the bill.

The bill also provides that all of the above requirements, whether under current law or under the bill, do not apply during a state of emergency declared by the federal government, the governor, or a local government with respect to any elective office representing any part of the territory that is subject to the emergency declaration if the materials distributed are substantially related to the emergency or a government order issued in connection with the emergency.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 11.1205 (1) (a) (intro.) of the statutes is amended to read:

2           11.1205 (1) (a) (intro.) Except as provided in pars. (am) and (ar) and sub. (2),  
3 no person elected to state or local office who becomes a candidate for national, state,  
4 or local office may use public funds for the cost of materials or distribution for 50 or  
5 more pieces of substantially identical material distributed after:

6           **SECTION 2.** 11.1205 (1) (am) of the statutes is created to read:

7           11.1205 (1) (am) 1. The 50-piece limitation under par. (a) applies to a  
8 representative to the assembly who becomes a candidate at an election for partisan  
9 office only after the last day authorized by law for filing nomination papers for that  
10 election.

11           2. With respect to any election for partisan office, a state senator, regardless  
12 of whether the senator becomes a candidate at that election, may not use public funds  
13 for the cost of materials or distribution for 150 or more pieces of substantially

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1 identical material distributed after the last day authorized by law for filing  
2 nomination papers for that election.

3 **SECTION 3.** 11.1205 (1) (ar) of the statutes is created to read:

4 11.1205 (1) (ar) This subsection does not apply during a state of emergency  
5 declared by the federal government, by the governor under s. 323.10, or by a local  
6 government under s. 323.11 with respect to any elective office representing any part  
7 of the territory that is subject to the emergency declaration if the materials  
8 distributed are substantially related to the emergency or a government order issued  
9 in connection with the emergency.

10 **SECTION 4.** 11.1205 (1) (c) of the statutes is created to read:

11 11.1205 (1) (c) No legislative rule may impose limits on the use of public funds  
12 by members of the legislature for the cost of materials or distribution of pieces of  
13 substantially identical material that are more restrictive than the limits imposed  
14 under pars. (a) and (am).

15 **SECTION 5.** 11.1205 (1) (d) of the statutes is created to read:

16 11.1205 (1) (d) Notwithstanding s. 11.1401 (1) (a), violations of this section  
17 shall be punished as follows:

18 1. A violation that occurs on or before the 7th business day after the applicable  
19 deadline is punishable by a formal warning of the commission, which the commission  
20 shall publish on its Internet site.

21 2. A violation that occurs after the 7th business day and on or before the 14th  
22 business day after the applicable deadline is punishable by a \$100 forfeiture. A  
23 forfeiture under this subdivision may not be paid from a candidate's campaign  
24 account.

