



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4156/1
JK:emw

2021 SENATE BILL 511

August 11, 2021 - Introduced by Senators WIRCH, AGARD, CARPENTER, LARSON, ROYS, SMITH and L. TAYLOR, cosponsored by Representatives OHNSTAD, BALDEH, NEUBAUER, SHANKLAND, SINICKI and VRUWINK. Referred to Committee on Elections, Election Process Reform and Ethics.

1 **AN ACT** *to repeal and recreate* 11.1112 of the statutes; **relating to:** political
2 expenditures by corporations and cooperative associations.

Analysis by the Legislative Reference Bureau

This bill prohibits corporations and cooperative associations from making any contribution or expenditure, or incurring any obligation to make a contribution or expenditure, for the purpose of influencing an election for state or local office. The bill does, however, allow a corporation or cooperative association to make expenditures or incur obligations for such a purpose under certain circumstances.

Current law prohibits corporations, cooperative associations, labor organizations, and American Indian tribes from making contributions to any candidate committee, legislative campaign committee, political action committee, political party, or recall committee. Such entities may, however, make contributions to independent expenditure committees and referendum committees. The entities may also make contributions to a segregated fund established by a political party or legislative campaign committee to use for purposes other than making contributions to a candidate committee or making disbursements for express advocacy. In addition, consistent with U.S. Supreme Court cases, these entities may make independent expenditures for political purposes. See *Citizens United v. Fed. Election Comm'n*, 130 S. Ct. 876 (2010).

Under the bill, if a court with jurisdiction in this state finds that a law prohibiting corporations and cooperative associations from making expenditures and incurring obligations to influence an election for state or local office is not enforceable for constitutional reasons, the Ethics Commission must publish a

SENATE BILL 511

finding to that effect. The bill then provides that, during a period when a finding of unenforceability is in effect, before a corporation or cooperative association may make an expenditure or incur an obligation for the purpose of influencing an election for state or local office, the corporation or association must register as a political action committee and file with its registration statement a document that indicates that the corporation or association received the approval of a majority of its voting shareholders to make expenditures or incur obligations or a document that indicates that the corporation or association has no shareholders.

The bill also provides that no owner, officer, employee, or agent of a corporation or cooperative association may cause or authorize the corporation or association to make an expenditure or incur an obligation prohibited under the bill. If an owner, officer, employee, or agent causes or authorizes such a violation, an action for the violation must be brought against the owner, officer, employee, or agent personally, and the corporation or association is not financially liable for the violation. In addition, no corporation or cooperative association is permitted to reimburse an owner, officer, employee, or agent for any financial liability incurred by the owner, officer, employee, or agent.

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

1 **SECTION 1.** 11.1112 of the statutes is repealed and recreated to read:

2 **11.1112 Contributions and expenditures by corporations and**
3 **cooperative associations.** (1) Except as provided in sub. (3), no foreign or
4 domestic corporation and no association organized under ch. 185 or 193 may make
5 any contribution, disbursement, or expenditure or incur any obligation, directly or
6 indirectly, either independently or through any committee, candidate, or individual
7 for the purpose of influencing an election for state or local office.

8 **(2)** (a) As a part of its registration as a political action committee under subch.
9 V, each corporation and association that wishes to make disbursements or
10 expenditures, or to incur obligations, for the purpose of influencing an election for
11 state or local office during a period when a finding of unenforceability under sub. (3)
12 is in effect shall provide a copy of a document that is satisfactory to the commission,
13 reflecting actions taken not more than 2 years previous to the time that any such

SENATE BILL 511

1 disbursement or expenditure is made or any such obligation is incurred,
2 demonstrating that the corporation or association has received the approval of a
3 majority of the voting shares, exclusive of any proxy votes cast, for the corporation
4 or association to make such disbursements or expenditures or incur such obligations
5 or a statement that the corporation or association has no shareholders. No foreign
6 or domestic corporation and no association organized under ch. 185 or 193 may make
7 any disbursement or expenditure or incur any obligation, directly or indirectly, or
8 through any committee, candidate, or individual for the purpose of influencing an
9 election for state or local office unless the corporation or association has a current,
10 accurate statement under this paragraph on file with the commission.

11 (b) No owner, officer, employee, or agent of a corporation or association
12 described under sub. (1) may cause or authorize the corporation or association to
13 make a disbursement or expenditure or to incur an obligation in violation of this
14 subsection. If such an owner, officer, employee, or agent causes or authorizes a
15 violation of this subsection, action for the violation shall be brought against the
16 owner, officer, employee, or agent personally, and the corporation or association is not
17 financially liable for the violation. No such corporation or association may reimburse
18 an owner, officer, employee, or agent for any financial liability incurred by the owner,
19 officer, employee, or agent under this subsection.

20 (3) If a court with jurisdiction in this state finds in a reported decision, whether
21 or not applicable in this state, that a prohibition against the making of political
22 disbursements or expenditures by the entities described under sub. (1) is not
23 enforceable for constitutional reasons, or if any such court later finds in a reported
24 decision that such a prohibition is enforceable, the commission shall promptly
25 publish a finding to that effect in the Wisconsin Administrative Register. The

SENATE BILL 511

SECTION 1

1 prohibition against making disbursements and expenditures and incurring
2 obligations under sub. (1) does not apply whenever a finding of unenforceability is
3 in effect if the corporation or association making disbursements or expenditures or
4 incurring obligations complies with sub. (2) (a).

5

(END)