

2005 DRAFTING REQUEST

Bill

Received: 02/12/2005

Received By: jkuesel

Wanted: As time permits

Identical to LRB:

For: Mark Gottlieb (608) 267-2369

By/Representing: Ron Sklansky- LCS

This file may be shown to any legislator: NO

Drafter: jkuesel

May Contact:

Addl. Drafters:

Subject: Elections - campaign finance
Administrative Law

Extra Copies:

Submit via email: YES

Requester's email: Rep.Gottlieb@legis.state.wi.us

Carbon copy (CC:) to: ron.sklansky@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Use of federal campaign committee funds for state purposes

Instructions:

Ratify suspension of ELBd 1.395 by Joint Committee for Review of Administrative Rules.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 02/17/2005	lkunkel 02/17/2005		_____			
/1			jfrantze 02/18/2005	_____	lnorthro 02/18/2005		
/2	jkuesel 02/21/2005	jdyer 02/21/2005	pgreensl 02/21/2005	_____	lnorthro 02/21/2005	mbarman 02/28/2005	

FE Sent For:

<END>

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17/1	jkuesel	2/17 2/17/1 lmk	2/17	h/pg 2/18			

FE Sent For:

<END>

Gruthman
Gottlieb

2/9/05

Motion

The Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 1. and 6. and 227.26 (2) (d), Stats., suspends Emergency Rule EIBd 1.395, which took effect on February 3, 2005.

Agency name: State Elections Board
Notice contact name: George A. Dunst, Legal Counsel
Notice contact phone: (608) 266-0136

NOTICE OF ORDER
OF THE
STATE ELECTIONS BOARD

To adopt an emergency rule creating EIBd 1.395, relating to the use of funds in a federal campaign committee that has been converted to a state campaign committee and relating to the use of those converted funds whose contribution to the federal committee would not have been in compliance with Wisconsin law if the contribution had been made directly to a state campaign committee.

ANALYSIS:

Statutory authority: ss.5.05(1)(f), (10m) and 227.11(2)(a)

Statutes interpreted: ss.11.01(1), (6), (15), (16), 11.05(1), (7), 11.06(1), (3), (4), (12), 11.07), 11.10(4), 11.24(2), 11.26(4), (10), 11.38(1)

This rule interprets ss.11.01(1), (6), (15), (16), 11.05(1), (7), 11.06(1), (3), (4), (12), 11.07), 11.10(4), 11.24(2), 11.26(4), (10), 11.38(1), Stats. The rule prohibits the use, for political purposes in Wisconsin, of funds that have been converted by a federal campaign committee to a state campaign committee, if those funds were the result of contributions to the federal campaign committee that could not have been given directly to a state campaign committee under Wisconsin law

} purpose

The Elections Board finds that an emergency exists in the recent change in federal law that permits the transfer of the funds in a federal candidate campaign committee's account to the candidate's state campaign committee account and finds that the attached rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is as follows:

Since the Bi-Partisan Campaign Reform Act of 2002 (BICRA), transfers of funds from a federal campaign committee to a state campaign committee had not been authorized under federal law. In November, 2004, Congress amended the Federal Election Campaign Act, (H.R. 4818, s.532(3) and 532(4), to permit the transfer of a federal candidate's campaign committee's funds to the candidate's state campaign committee, if state law permitted, and subject to the state law's requirements and restrictions.

BICRA = no transfer
BICRA am = transfer
subj. to state law

Agency name: *State Elections Board*
Notice contact name: *George A. Dunst, Legal Counsel*
Notice contact phone: *(608) 266-0136*

Because of Congress' action in November, 2004, money which had not been available to a state committee under BICRA, and which might not have qualified for use for political purposes in a state campaign because of its source or because of other noncompliance with state law, could now be transferred to a state committee, if state law permitted. Wisconsin law, under the Board's current rule, EIBd 1.39, Wis. Adm. Code, allows for conversion of federal campaign committees, and their funds, to a state campaign committee without regard to the source of those funds and without regard to contribution limitations.

Restricting the use of such money to that money which has been contributed to the candidate's federal committee, under circumstances in which the contribution would have complied with Wisconsin law if it had been given directly to the Wisconsin campaign committee, is found to be in the public interest.

Pursuant to the authority vested in the State of Wisconsin Elections Board by ss.5.05(1)(f) and 227.(11)(2)(a), Stats., the Elections Board hereby creates Rule EIBd 1.395 interpreting ss.11.01(1), (6), (15), (16), 11.05(1), (7), 11.06(1), (3), (4), (12), 11.(07), 11.10(4), 11.24(2), 11.26(4), (10), 11.38(1), Stats., as follows:

SECTION 1. EIBd 1.395 is created to read:

ELBD 1.395 USE OF FUNDS TRANSFERRED BY A FEDERAL CAMPAIGN COMMITTEE TO A STATE COMMITTEE RESTRICTED

EIBd 1.395 Use of funds transferred by a federal campaign committee to a state committee restricted.

Funds which have been converted by a federal campaign committee to a Wisconsin state campaign committee may not be used for political purposes in Wisconsin if the contribution of those funds to the federal campaign committee would not have complied with Wisconsin law if the contribution had been made directly to a Wisconsin campaign committee. The state campaign committee shall divest itself of such money in compliance with s.11.26(11), Stats.

INITIAL REGULATORY FLEXIBILITY ANALYSIS:

The creation of this rule does not affect business.

FISCAL ESTIMATE:

The creation of this rule has no fiscal effect.

Agency name: *State Elections Board*
Notice contact name: *George A. Dunst, Legal Counsel*
Notice contact phone: *(608) 266-0136*

The creation of this rule prohibits the use of money that has been transferred by federal campaign committees to state campaign committees if that money was not contributed to the federal campaign committee in compliance with Wisconsin law.

The creation of this rule will take effect upon its publication in the official state newspaper, the Wisconsin State Journal, pursuant to s.227.24, Stats.

Dated January 28, 2005

KEVIN J. KENNEDY
Executive Director
State Elections Board

Finding of Emergency

The State Elections Board adopts this rule to implement S. 11.24(2) Wis. Stats. That statutory provision prohibits the acceptance or receipt of any contribution made in violation of ch.11 of the Wisconsin Statutes.

Since the Bi-Partisan Campaign Reform Act of 2002 (BICRA), transfers of funds from a federal campaign committee to a state campaign committee had not been authorized under federal law. In November, 2004, the United States Congress amended the Federal Election Campaign Act to permit the transfer of a federal candidate's campaign committee's funds to the candidate's state campaign committee – regardless of the source of those funds - if state law permitted, and subject to the state law's requirements and restrictions. (See H.R. 4818, s.532(3) and 532(4).

Because of Congress' action in November, 2004, money which had not been available to a state committee under BICRA, and which might not have qualified for use for political purposes in a state campaign because of its source or because of other noncompliance with state law, could now be transferred to a state committee, if state law permitted. Wisconsin law, under the Board's current rule, ElBd 1.39, Wis. Adm. Code, allows for conversion of a federal campaign committee, and its funds, to a state campaign committee without regard to source of those funds and without regard to Wisconsin contribution limitations.

The Elections Board finds that an emergency exists in this change in federal law that permits the transfer of the funds in a federal candidate campaign committee's account to the candidate's state campaign committee account notwithstanding that the contribution of some or all of those funds to the federal campaign committee would not have complied with Wisconsin campaign finance law, ch.11, Stats., if the contribution had been made to a Wisconsin campaign committee; and also finds that the acceptance by the Wisconsin campaign committee may violate s.11.24, Stats.;

The Board further finds that restricting the use of such converted money to that money which has been contributed to the candidate's federal committee in compliance with Wisconsin law is in the public interest and that the attached rule is necessary for the immediate preservation of the public peace, health, safety or welfare.

Effective Date. This rule takes effect upon publication in the official state newspaper as provided in S. 227.24 (1)(c) Wis. Stats.

2005

Date (time) needed

Mon 2/21

LRB - 2088, 1

JJK : lmk :

BILL

Use the appropriate components and routines developed for bills.

BenCat

AN ACT ... [generate catalog] to repeal ... ; to renumber ... ; to consolidate and renumber ... ; to renumber and amend ... ; to consolidate, renumber and amend ... ; to amend ... ; to repeal and recreate ... ; and to create ... of the statutes; relating to: rule making with respect to use of certain funds for political purposes.

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

- For the main heading, execute: create -> anal: -> title: -> head
For the subheading, execute: create -> anal: -> title: -> sub
For the sub-subheading, execute: create -> anal: -> title: -> sub-sub

For the analysis text, in the component bar:

- For the text paragraph, execute: create -> anal: -> text

attached

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

SECTION #.

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2088/lins
JTK.....

mk

X
SECTION 1. 11.41 of the statutes is created to read:

11.41 **Certain rule making prohibited.** The board shall not promulgate any rule which provides that funds which have been converted by a federal campaign committee to a Wisconsin state campaign committee may not be used for political purposes in Wisconsin if the contribution of those funds to the federal campaign committee would not have complied with Wisconsin law if the contribution had been made directly to a Wisconsin campaign committee, and which directs the state campaign committee to divest itself of such money in compliance with s. 11.26 (11). ✓

(END)

do
not
change
text

SENATE BILL 12

ANALYSIS

for state or local office or one or more state or local referenda exceeding \$25 cumulatively within a calendar year is potentially subject to requirements to register with the appropriate filing officer and to file campaign finance reports.

Currently, with certain limited exceptions, any individual who accepts and makes or transfers political contributions, or who incurs obligations or makes disbursements for political purposes, and any organization that makes or transfers contributions, or that incurs obligations or makes disbursements for political purposes, must register and file reports with the appropriate filing officer or agency identifying contributions received and disbursements made and providing certain other information.

in connection with a campaign for state or local office

This bill provides that no individual who or organization which is subject to a registration requirement may make any contribution prior to the date of registration. The bill also provides that no registrant may accept any contribution from any individual who or organization which is subject to a registration requirement prior to the date of registration of that individual or organization.

Currently, a new registrant is generally prohibited from making a contribution or disbursement from property or funds received prior to the date of registration, except that, if a registrant holds property or funds at the time of registration that were not intended for political purposes in connection with an election for state or local office at the time that they were received, the registrant may report the property or funds as received on the date of registration and may then use the property or funds to make a contribution or disbursement.

to be used

This bill deletes that exception.

None of the above changes was included in Act 109.

Currently, a nonresident registrant need report only contributions and other income received from sources in this state and disbursements made and obligations incurred with respect to an election for state or local office in this state. This bill deletes this exception.

This change was included in Act 109.

Currently, with certain exceptions, a registrant who or which is required to register with a filing officer in this state must file regular reports identifying contributions received and disbursements made and providing certain other information. However, a committee of a candidate for the U.S. Senate or House of Representatives or a national political party committee need not file reports for any period covered in a report filed by the committee with the Federal Election Commission. In addition, a state political party committee which is registered with the Federal Election Commission and which makes contributions to candidates for national office, as well as contributions to other state political party committees, need not file reports for any period covered by a report filed by the committee with the Federal Election Commission if the Elections Board receives a copy of that report and the committee makes no contributions to any individual who or organization which is required to register with a filing officer under Wisconsin law. This bill deletes these exceptions to state reporting requirements.

The above changes were not included in Act 109.

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2088/lins2
JTK.....

~~NOA~~ If a candidate adopts a preexisting committee as his or her personal campaign committee in connection with a campaign for state or local office, statutory limitations on committee contributions to candidates and personal campaign committees do not apply to the committee contribution that results from the adoption.

Ins A

* ~~NOA~~ The bill is introduced as required by s. 227.26¹⁹ (2) (c),^{5e} in support of the objection of the Joint Committee for Review of Administrative Rules on February 9, 2005, to the promulgation of Emergency Rule ~~see~~ ElBd 1.395 by the Elections Board. The emergency rule contained the same provisions with respect to which rule making is prohibited by this bill.

Wis Adm Codes

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2088/lins
JTK.....

(PWS A)

¶ This bill prohibits the Election Board from promulgating
~~SECTION 1. 11.41 of the statutes is created to read:~~

~~11.41 Certain rule making prohibited.~~ The board shall not promulgate any rule which provides that funds which have been converted by a federal campaign committee to a Wisconsin state campaign committee may not be used for political purposes in Wisconsin if the contribution of those funds to the federal campaign committee would not have complied with Wisconsin law if the contribution had been made directly to a Wisconsin campaign committee, and which directs the state campaign committee to divest itself of such money in compliance with s. 11.26 (11).
by donating the money to the common school fund or a charitable organization
~~(END)~~



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2088/1

JTK:lmk:jf

Wanted merged

2005 BILL

- 1 *Regen* AN ACT *to create* 11.41 of the statutes; **relating to:** rule making with respect to
- 2 use of certain funds for political purposes.

Analysis by the Legislative Reference Bureau

Currently, with limited exceptions, any organization that makes or transfers contributions, or that incurs obligations or makes disbursements in connection with a campaign for state or local office, must register and file reports with the appropriate filing officer or agency identifying contributions received and disbursements made and providing certain other information. A new registrant is generally prohibited from making a contribution or disbursement from property or funds received prior to the date of registration, except that, if a registrant holds property or funds at the time of registration that were not intended to be used in connection with an election for state or local office at the time that they were received, the registrant may report the property or funds as received on the date of registration and may then use the property or funds to make a contribution or disbursement. If a candidate adopts a preexisting committee as his or her personal campaign committee in connection with a campaign for state or local office, statutory limitations on committee contributions to candidates and personal campaign committees do not apply to the committee contribution that results from the adoption.

This bill prohibits the Elections Board from promulgating any rule which provides that funds which have been converted by a federal campaign committee to a Wisconsin state campaign committee may not be used for political purposes in Wisconsin if the contribution of those funds to the federal campaign committee would

Northrop, Lori

From: Solie, Denise
Sent: Monday, February 28, 2005 1:35 PM
To: Kuesel, Jeffery; Northrop, Lori
Cc: Sklansky, Ron; Emerson, James
Subject: Attached JCRAR report

Importance: High

Jeff (& Lori),

Attached is the JCRAR report as required by 227.26(2)(g) for LRB 05-2087/2 and LRB 2088/2.
Please jacket the bills. Thank you. Call if questions.



JCRAR Report
2.28.05.doc

Denise Kuchta Solie
Committee Clerk, JCRAR
Rep. Mark Gottlieb
(608) 267-2369

Barman, Mike

From: Solie, Denise
Sent: Monday, February 28, 2005 2:02 PM
To: LRB.Legal
Subject: Draft review: LRB 05-2088/2 Topic: Use of federal campaign committee funds for state purposes

It has been requested by <Solie, Denise> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2088/2 Topic: Use of federal campaign committee funds for state purposes