

2007 DRAFTING REQUEST

Bill

Received: **09/18/2007**

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Joseph Parisi (608) 266-5342**

By/Representing: **him**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Legislature - miscellaneous**

Extra Copies: **RAC -1**

Submit via email: **YES**

Requester's email: **Rep.Parisi@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

False representations of views of legislators

Instructions:

Per LRB-3091/2.

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 09/18/2007 | bkraft 09/18/2007 | | _____ | | | |
| /1 | | | nmatzke 09/18/2007 | _____ | cduerst 09/18/2007 mbarman 11/14/2007 | cduerst 11/15/2007 | |

FE Sent For: **NONE**

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| | | | | _____ | mbarman 11/14/2007 | | |
| | | | | _____ | | | |

*e-mail only
per JTK*

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Instructions:

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|--------------|--------------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1/1 | jkuesel 9/17/07 | 1 bjk 9/18 | nwn 9/18 | nwn/rs 9/18 | | | |

FE Sent For:

<END>

→ Wanted by Wed. 9/19

2007 - 2008 LEGISLATURE

LRB-31790

...
JTK
bjk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2007 Bill

SAV
X-ref ✓

Gen Cat.

1 AN ACT ...; relating to: ??? — INSERT R

Analysis by the Legislative Reference Bureau

→ INSERT A

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

→ 2 INSERT B

(END) ✓

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: ^{ejs for} JTK) (Date: 9/18/2007)



Please transfer the drafting file for
2005 LRB _____ to the drafting file
for 2007 LRB _____

☞ The final version of the 2005 draft and the final Request Sheet will copied on yellow paper, and returned to the original 2005 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

☞ For research purposes, because the 2005 draft was incorporated into a 2007 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the 2007 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

---OR---

Please copy the drafting file for
2007 LRB 3091 / 1 (include the version) and place it in the
drafting file for 2007 LRB 3179

☞ For research purposes, because the original 2007 draft was incorporated into another 2007 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the new 2007 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

☞ The original drafting file will then returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

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✓ 5.05 (1) GENERAL AUTHORITY. (intro.) The government accountability board shall have the responsibility for the administration of chs. 5 to 12, other laws relating to elections and election campaigns, subch. III of ch. 13, ~~and~~ subch. III of ch. 19. Pursuant to such responsibility, the board may:

and so
13.42

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128.

✓ (c) Bring civil actions to require a forfeiture for any violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19 ^{or s. 13.42} or a license revocation for any violation of subch. III of ch. 13 for which the offender is subject to a revocation. The board may compromise and settle any civil action or potential action brought or authorized to be brought by it which, in the opinion of the board, constitutes a minor violation, a violation caused by excusable neglect, or which for other good cause shown, should not in the public interest be prosecuted under such chapter. Notwithstanding s. 778.06, a civil action or proposed civil action authorized under this paragraph may be settled for such sum as may be agreed between the parties. Any settlement made by the board shall be in such amount as to deprive the alleged violator of any benefit of his or her wrongdoing and may contain a penal component to serve as a deterrent to future violations. In settling civil actions or proposed civil actions, the board shall treat comparable situations in a comparable manner and shall assure that any settlement bears a reasonable relationship to the severity of the offense or alleged offense. Except as otherwise provided in sub. (2m) (c) 15. and 16. and ss. 5.08, 5.081, 19.535, and 19.59 (8), forfeiture and license revocation actions brought by the board shall be brought in the circuit court for the county where the defendant resides, or if the defendant is a nonresident of this state, in circuit court for the county wherein the violation is alleged to occur. For purposes of this paragraph, a person other than a natural person resides within a county if the person's principal place of operation

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is located within that county. Whenever the board enters into a settlement agreement with an individual who is accused of a civil violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19 ^{or s. 13.42} or who is investigated by the board for a possible civil violation of one of those provisions, the board shall reduce the agreement to writing, together with a statement of the board's findings and reasons for entering into the agreement and shall retain the agreement and statement in its office for inspection.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128.

SECTION 2. 5.05 (2m) (c) 2. a. of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

5.05 (2m) (c) 2. a. Any person may file a complaint with the board alleging a violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42. If the board finds, by a preponderance of the evidence, that a complaint is frivolous, the board may order the complainant to forfeit not more than the greater of \$500 or the expenses incurred by the division in investigating the complaint.

SECTION 3. 5.05 (2m) (g) 1. of the statutes, as affected by 2007 Wisconsin Act 1, is amended to read:

5.05 (2m) (g) 1. Except as provided in subd. 2., no action may be taken on any complaint that is filed later than 3 years after a violation of subch. III of ch. 13 or subch. III of ch. 19 is alleged to have occurred.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128.

SECTION 4. 5.05 (2m) (h) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

5.05 (2m) (h) If the defendant in an action for a civil violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19 ^{or s. 13.42} is a district attorney or a circuit judge or

comma stays



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a candidate for either such office, the action shall be brought by the board. If the

* defendant in an action for a civil violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. ✓

* III of ch. 19 ^{A OR S 3042} is the attorney general or a candidate for that office, the board may ✓

appoint special counsel to bring suit on behalf of the state.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128.

SECTION 5. 5.05 (2m) (h) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

5.05 (2m) (h) If the defendant in an action for a civil violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19 ^{OR S 13.42} is a district attorney or a circuit judge or a candidate for either such office, the action shall be brought by the board. If the defendant in an action for a civil violation of chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19 ^{OR S 13.42} is the attorney general or a candidate for that office, the board may appoint special counsel to bring suit on behalf of the state.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128.

SECTION 6. 5.05 (2s) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

✓ 5.05 (2s) ETHICS AND ACCOUNTABILITY DIVISION. The ethics and accountability division has the responsibility for administration of ch. 11, subch. III of ch. 13, and subch. III of ch. 19, and s. 13.42. ✓

SECTION 7. 5.05 (5s) (b) of the statutes, as affected by 2007 Wisconsin Act 1, is amended to read:

✓ 5.05 (5s) (b) Investigatory records of the board may be made public in the course of a prosecution initiated under chs. 5 to 12, subch. III of ch. 13, ~~or~~ subch. III of ch. 19, or s. 13.42. ✓



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SECTION 8. 5.05 (5s) (d) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

* 5.05 (5s) (d) If the board commences a civil prosecution of a person for an alleged violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 as the result of an investigation, the person who is the subject of the investigation may authorize the board to make available for inspection and copying under s. 19.35 (1) records of the investigation pertaining to that person if the records are available by law to the subject person and the board shall then make those records available.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 82; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128.

SECTION 9. 5.05 (6a) of the statutes, as affected by 2007 Wisconsin Act 1, is amended to read:

5.05 (6a) ADVISORY OPINIONS. Any individual, either personally or on behalf of an organization or governmental body, may make a written or electronic request of the board for an advisory opinion regarding the propriety under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or s. 13.42 of any matter to which the person is or may become a party; and any appointing officer, with the consent of a prospective appointee, may request of the board an advisory opinion regarding the propriety under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or s. 13.42 of any matter to which the prospective appointee is or may become a party. The board shall review a request for an advisory opinion and may issue a formal written or electronic advisory opinion to the person making the request. Except as authorized or required for opinions specified in sub. (5s) (f) 2., the board's deliberations and actions upon such requests shall be in meetings not open to the public. No person acting in good faith upon an advisory opinion issued by the board is subject to criminal or civil prosecution for so acting, if the material facts are as stated in the opinion request.



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To have legal force and effect, each advisory opinion issued by the board must be supported by specific legal authority under a statute or other law, or by specific case or common law authority. Each advisory opinion shall include a citation to each statute or other law and each case or common law authority upon which the opinion is based, and shall specifically articulate or explain which parts of the cited authority are relevant to the board's conclusion and why they are relevant. The board may authorize its legal counsel to issue an informal written advisory opinion or to transmit an informal advisory opinion electronically on behalf of the board, subject to such limitations as the board deems appropriate. Every informal advisory opinion shall be consistent with applicable formal advisory opinions issued by the board. If the board disagrees with an informal advisory opinion that has been issued on behalf of the board, the board may withdraw the opinion or issue a revised advisory opinion and no person acting after the date of the withdrawal or issuance of the revised advisory opinion is exempted from prosecution under this subsection if the opinion upon which the person's action is based has been withdrawn or revised in relevant degree. Except as authorized or required under sub. (5s) (f) 2., no member or employee of the board may make public the identity of the individual requesting a formal or informal advisory opinion or of individuals or organizations mentioned in the opinion. Any person receiving a formal or informal advisory opinion under this subsection who disagrees with the opinion may request a public or private hearing before the board to discuss the opinion. The board shall grant a request for a public or private hearing under this subsection. After hearing the matter, the board may reconsider its opinion and may issue a revised opinion to the person. Promptly upon issuance of each formal advisory opinion that is not open to public access, the board



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shall publish a summary of the opinion that is consistent with applicable requirements under sub. (5s) (f).

SECTION 10. 12.13 (5) (a) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

12.13 (5) (a) Except as specifically authorized by law and except as provided in par. (b), no investigator, prosecutor, employee of an investigator or prosecutor, or member or employee of the board may disclose information related to an investigation or prosecution under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or s. 13.42 or any other law specified in s. 978.05 (1) or (2) or provide access to any record of the investigator, prosecutor, or the board that is not subject to access under s. 5.05 (5s) to any person other than an employee or agent of the prosecutor or investigator or a member, employee, or agent of the board prior to presentation of the information or record in a court of law.

SECTION 11. 13.42 of the statutes is created to read:

13.42 False representations in communications with legislators.

(1) No person may transmit or deliver a communication to a member of the legislature which represents that a constituent of the member supports or opposes a specific numbered introduced proposal unless the person has a written or electronic document which proves that the named constituent has taken a position in support of or in opposition to the proposal that is identified in the communication.

(2) Any person who violates sub. (1) may be required to forfeit not more than \$10,000. Each day of violation constitutes a separate offense.

SECTION 12. 20.511 (1) (be) of the statutes, as affected by 2007 Wisconsin Act 1, is amended to read:



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✓ 20.511 (1) (be) *Investigations*. A sum sufficient for the purpose of financing the costs of investigations authorized by the board of potential violations of chs. 5 to 12, subch. III of ch. 13, and subch. III of ch. 19, and s. 13.42.

SECTION 13. 801.50 (5t) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

✓ 801.50 (5t) Except as otherwise provided in ss. 801.52 and 971.223 (1) and (2), venue in a civil action to impose a forfeiture upon a resident of this state for a violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or for a violation of any other law arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, shall be in circuit court for the county where the defendant resides. For purposes of this subsection, a person other than a natural person resides within a county if the person's principal place of operation is located within that county. This subsection does not affect which prosecutor has responsibility under s. 978.05 (2) to prosecute civil actions arising from violations under s. 971.223 (1).

NOTE: NOTE: Sub. (5t) is created by 2007 Wis. Act 1 eff. the initiation date as set forth in section 209 (1) of that Act. NOTE:

History: 1983 a. 204, 228, 389, 538; 1985 a. 234, 291; 1987 a. 208; 1993 a. 318, 319; 1997 a. 283; 1999 a. 150 s. 672; 2001 a. 30 s. 108; 2001 a. 109; 2007 a. 1.

SECTION 14. 801.52 of the statutes, as affected by 2007 Wisconsin Act 1, is amended to read:

✓ 801.52 **Discretionary change of venue**. The court may at any time, upon its own motion, the motion of a party or the stipulation of the parties, change the venue to any county in the interest of justice or for the convenience of the parties or witnesses, except that venue in a civil action to impose forfeiture for a violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 or for a violation of any other law arising from or in relation to the official functions of the subject of the investigation



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or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. 13, ^{comma stays} or subch. III of ch. 19, ^{OR S. 13.42} may be changed only as provided in s. 971.223 (1) and (2) or in the same manner that is authorized for a change in the venue of a criminal trial under s. 971.22. This section does not apply to proceedings under ch. 980.

NOTE: NOTE: This section is shown as amended by 2007 Wis. Act 1 eff. the initiation date as set forth in section 209 (1) of that Act. Prior to that date it reads:NOTE:

801.52 Discretionary change of venue. The court may at any time, upon its own motion, the motion of a party or the stipulation of the parties, change the venue to any county in the interest of justice or for the convenience of the parties or witnesses. This section does not apply to proceedings under ch. 980.

History: 1983 a. 228; 2005 a. 434; 2007 a. 1.

SECTION 15. 971.19 (12) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

971.19 (12) Except as provided in s. 971.223, in an action for a violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or s. 13.42, or for a violation of any other law arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, ethics, or lobbying regulation under subch. chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, a defendant who is a resident of this state shall be tried in circuit court for the county where the defendant resides. For purposes of this subsection, a person other than a natural person resides within a county if the person's principal place of operation is located within that county.

SECTION 16. 971.223 (1) of the statutes, as created by 2007 Wisconsin Act 1, is amended to read:

971.223 (1) In an action for a violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or s. 13.42, or for a violation of any other law arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, a defendant who is a resident of this state may move to



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change the place of trial to the county where the offense was committed. The motion shall be in writing.

SECTION 17. 978.05 (2) of the statutes, as affected by 2007 Wisconsin Act 1, is amended to read:

978.05 (2) FORFEITURES. Except as otherwise provided by law, prosecute all state forfeiture actions, county traffic actions and actions concerning violations of county ordinances which are in conformity with state criminal laws in the courts within his or her prosecutorial unit and have joint responsibility, together with the government accountability board, for prosecution of all forfeiture actions arising from violations of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 and from violations of other laws arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 that are alleged to be committed by a resident of his or her prosecutorial unit, or if alleged to be committed by a nonresident of this state, that are alleged to occur within his or her prosecutorial unit unless another prosecutor is substituted under s. 5.05 (2m) (h) or this chapter or by referral of the government accountability board under s. 5.05 (2m) (c) 15. or 16. For purposes of this subsection, a person other than a natural person is a resident of a prosecutorial unit if the person's principal place of operation is located in that prosecutorial unit.

AOY S. 13.42

AOY S. 13.42

NOTE: NOTE: Sub. (2) is shown as amended by 2007 Wis. Act 1 eff. the initiation date as set forth in section 209 (1) of that Act. Prior to that date it reads: NOTE: (2) FORFEITURES. Except as otherwise provided by law, prosecute all state forfeiture actions, county traffic actions and actions concerning violations of county ordinances which are in conformity with state criminal laws in the courts within his or her prosecutorial unit.

History: 1989 a. 31, 117, 336; 1991 a. 16, 32, 39; 1993 a. 98; 1995 a. 27 ss. 7291, 7292, 9116 (5), 9130 (4); 1995 a. 77, 201, 448; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 3, 35, 73; 1999 a. 9; 2001 a. 16; 2005 a. 25, 434; 2007 a. 1.

(END) of INSERT B

Duerst, Christina

From: Parisi, Joe
Sent: Wednesday, November 14, 2007 1:44 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-3179/1 Topic: False representations of views of legislators

Please Jacket LRB 07-3179/1 for the ASSEMBLY.