

2007 DRAFTING REQUEST

Bill

Received: 05/23/2007

Received By: jkuesel

Wanted: As time permits

Identical to LRB:

For: Fred Risser (608) 266-1627

By/Representing: Wes Webendorfer

This file may be shown to any legislator: NO

Drafter: jkuesel

May Contact:

Addl. Drafters:

Subject: Elections - campaign finance

Extra Copies:

Submit via email: YES

Requester's email: Sen.Risser@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Religious or charitable gifts from candidates

Instructions:

Per LRBa0303/1.

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 05/29/2007	bkraft 06/21/2007		_____			
/1			rschluet 06/21/2007	_____	lparisi 06/21/2007	cduerst 12/03/2007	

FE Sent For:

none

<END>

2007 DRAFTING REQUEST

Bill

Received: 05/23/2007

Received By: jkuesel

Wanted: As time permits

Identical to LRB:

For: Fred Risser (608) 266-1627

By/Representing: Wes Webendorfer

This file may be shown to any legislator: NO

Drafter: jkuesel

May Contact:

Addl. Drafters:

Subject: Elections - campaign finance

Extra Copies:

Submit via email: YES

Requester's email: Sen.Risser@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Religious or charitable gifts from candidates

Instructions:

Per LRBa0303/1.

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 05/29/2007	bkraft 06/21/2007					
/1			rschluet 06/21/2007		lparisi 06/21/2007		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 05/23/2007

Received By: jkuesel

Wanted: As time permits

Identical to LRB:

For: Fred Risser (608) 266-1627

By/Representing: Wes Webendorfer

This file may be shown to any legislator: NO

Drafter: jkuesel

May Contact:

Addl. Drafters:

Subject: Elections - campaign finance

Extra Copies:

Submit via email: YES

Requester's email: Sen.Risser@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Religious or charitable gifts from candidates ✓

Instructions:

Per LRBa0303/1.

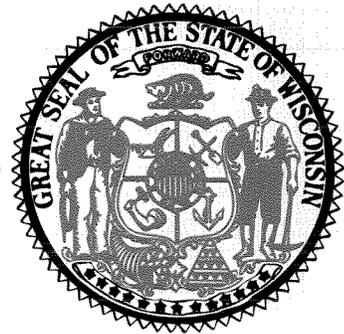
Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/1	jkuesel 5/29/07	1 bjk 6/14 1 wlj 6/19					

FE Sent For:

<END>

FRED A. RISSER
President
Wisconsin State Senate



DATE: February 1, 2007

TO: Jeff Kuesel
LRB

FROM: Dianne
Senator Risser's office
266-1627

RE: Campaign Finance Legislation
11.25, 11.65 and 11.34

A constituent of Senator Risser's has brought to his attention a contradiction in the statutes listed above as they relate to a candidate, registrant or the campaign depository account and their ability to make a charitable contribution. Senator Risser was unaware of this contradiction and thinks it would be a good idea to correct it.

I'm thinking this has come out of the 2004 Legislative Council Study Committee on Election Law Reform.

I have attached correspondence from Lisa Goldman who brought this to Sen. Risser's attention. Please draft legislation that would correct the contradiction outlined in her correspondence.

Thank you and please feel free to contact this office for any reason. You may also call Lisa Goldman.

Attachment: 1

Cieslewicz, Dianne

From: Lisa Goldman [lgoldman@lawtoncates.com]
Sent: Thursday, January 25, 2007 9:37 PM
To: Cieslewicz, Dianne
Subject: Campaign Finance 11.25, 11.34, and 11.65

Diane,

In addressing a client question I discovered contradictions with the above-referenced statutes. Specifically, 11.25 and 11.65 seem to say a candidate or registrant or the campaign depository account can make a charitable contribution. However, 11.34 specifically forbids the charity from accepting the contribution.

I have spoken with G. Dunst of the Elections Board, Russ Whitesel of the Legislative Council who also spoke with Jeffrey Kuesel of the Legislative Reference Bureau, and Ray Taffora of DOJ. G. Dunst has stated that these provisions are in direct conflict with each other. And, quite frankly, I would agree.

I think everybody on the committee just missed it.

It seems to me there are really only 2 situations where contributions to a charity should be legal: to deplete a campaign depository account after an election and to rid a campaign of tainted funds. Then a candidate would have the options of giving money back to a donor, to a charity, or to the school fund.

Have a great weekend.

Respectfully,

Lisa C. Goldman
Attorney
Lawton & Cates, S.C.
10 East Doty St., Suite 400
Madison, WI 53703
Phone: (608) 282-6200
Fax: (608) 282-6252

The information contained in this transmission is intended only for the personal and confidential use of the designated recipient named above. This transmission may be an attorney-client communication, and as such is privileged and confidential. If the receiver of this transmission is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited.

-----Original Message-----

From: Dunst, George [mailto:George.Dunst@seb.state.wi.us]
Sent: Friday, January 26, 2007 2:16 PM
To: 'Lisa Goldman'
Subject: RE: 11.25, 11.65, and 11.34

My feeling is that s.11.34, Stats., has to be read to apply to a candidate's committee and NOT to the candidate individually or in his/her personal capacity. Otherwise, the statute is blatantly unconstitutional, (at the very least violating the 1st Amendment Freedom of Association) if it isn't unconstitutional any way.

George Dunst

Kuesel, Jeffery

From: Kuesel, Jeffery
Sent: Thursday, March 15, 2007 9:01 AM
To: Webendorfer, Wes
Subject: RE: Section 11.34, stats.

Wes,
I will take care of the amendment for you. Because AB-155 is still in the assembly, it would need to be an assembly amendment at this point. You can either give it to a representative or hold onto it until the bill reaches the senate. We would then redraft as a senate amendment.

Jeffery Kuesel
Managing Attorney
Wisconsin Legislative Reference Bureau
P.O.Box 2037
Madison WI 53701-2037
(608) 266-6778
jeffery.kuesel@legis.state.wi.us

From: Webendorfer, Wes
Sent: Thursday, March 15, 2007 8:48 AM
To: Kuesel, Jeffery
Cc: 'lgoldman@lawtoncates.com'
Subject: RE: Section 11.34, stats.

Jeff,
I finally had a chance to speak with Sen. Risser about the changes to statutes 11.34. He agreed with the changes you suggested. We were thinking of adding the change as an amendment onto AB 155. If you could please prepare a draft of the changes you outlined below it would be greatly appreciated. Thanks very much

Wes

From: Kuesel, Jeffery
Sent: Saturday, February 03, 2007 11:44 AM
To: Webendorfer, Wes
Subject: Section 11.34, stats.

Wes,
In our phone conversation on Friday, I told you I would check to determine whether religious organizations are considered to be charitable organizations for purposes of the Internal Revenue Code and the Wisconsin campaign finance law, which employs the I.R.C. definition [s. 11.01 (2), stats.]. The answer is yes. As I indicated, however, fraternal organizations are not considered to be charitable organizations. Therefore, in s. 11.34 (1), stats. the reference to a "religious" cause might be viewed as redundant.

I suggest in s. 11.34 (1), stats. we remove the words "religious" and "charitable" and then create a new subsection (1m) that would prohibit demanding, soliciting or inviting (but not taking or receiving) a religious or charitable contribution from a candidate. With respect to the second sentence of s. 11.34 (1), I think I would continue to prohibit candidates from intimating or promising a gift to a religious or charitable cause (perhaps in return for election support) but would not prohibit candidates from making such a gift.

As I mentioned, s. 11.34 is dusty. The section dates back to Wisconsin's original Corrupt Practices Act (campaign finance law), which was enacted in 1911.

Jeffery Kuesel
Managing Attorney
Wisconsin Legislative Reference Bureau
P.O.Box 2037
Madison WI 53701-2037

(608) 266-6778

jeffery.kuesel@legis.state.wi.us

Date (time) needed _____

LRB - 2775 / 1

BILL

JTK:bjk: _____
Wlj

Use the appropriate components and routines developed for bills.

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:** ^{religious or charitable gifts} **religious or charitable gifts** _{from candidates} **from candidates** . . .

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

Analysis by the Legislative Reference Bureau

→ Insert

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**

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

SECTION #.



**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2775/1ins

JTK.....

bjk

Currently, no person may demand, solicit, take, invite, or receive from a candidate any gift of anything of value for a religious or charitable cause. No candidate may make, intimate, or promise such a gift.

This bill permits a person to take or receive a gift of anything of value from a candidate for a religious or charitable organization. The bill also permits a candidate to make, intimate, or promise such a gift.

end of insert

**ASSEMBLY AMENDMENT ,
TO 2007 ASSEMBLY BILL 155**

At the locations indicated, amend the bill as follows:

1
2 **1.** Page 1, line 3: after "law" insert "and religious or charitable gifts from
3 candidates".

4 **2.** Page 4, line 7: after that line insert:

5 ~~SECTION 46:~~ 11.34 (1) of the statutes is amended to read:

6 ✓ 11.34 (1) No person may demand, solicit, take, invite or receive from a
7 candidate any gift of anything of value for a religious, charitable or fraternal cause
8 or for any organization other than a political committee or group, except that a
9 person may take or receive a gift of anything of value from a candidate for a religious
10 or charitable organization. No candidate may make, intimate or promise such a gift
11 that is prohibited under this subsection.

12 ~~SECTION 46:~~ 11.34 (1m) of the statutes is created to read:

Duerst, Christina

From: Webendorfer, Wes
Sent: Monday, December 03, 2007 10:22 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-2775/1 Topic: Religious or charitable gifts from candidates

Please Jacket LRB 07-2775/1 for the SENATE.



Stephen R. Miller
Chief

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

One East Main Street, Suite 200
P. O. Box 2037
Madison, WI 53701-2037
www.legis.state.wi.us/lrb/

Legal Section: (608) 266-3561
Legal Fax: (608) 264-6948
Library Circulation: (608) 266-7040
Reference Section: (608) 266-0341
Reference Fax: (608) 266-5648

February 1, 2008

MEMORANDUM

To: Sen. Fred Risser
Room 220 South, Capitol

From: Jeff Kuesel *JK*
Managing Attorney

Subject: Senate Bill 359 relating to religious or charitable gifts from candidates

It has come to my attention that the above bill has an error in the analysis. In the last line, the words “, intimate or promise” should be deleted so that the sentence reads “The bill also permits a candidate to make such a gift.” This accords with the last sentence of proposed s. 11.34 (1m) in the draft and reflects the drafting instructions.

I regret this error. I am placing a copy of this information in the bill drafting file for the information of all concerned.

Ron Slansky, Leg. Council Staff
Bill file