



2007 ASSEMBLY BILL 355

May 24, 2007 - Introduced by Representatives POCAN, BERCEAU, BLACK, BOYLE, GARTHWAITE, HEBL, HINTZ, PARISI, POPE-ROBERTS, SEIDEL, SINICKI, SMITH, TRAVIS, TURNER and ZEPNICK, cosponsored by Senators RISSER, HANSEN, LASSA, LEHMAN, MILLER, SULLIVAN and WIRCH. Referred to Committee on Elections and Constitutional Law.

1 **AN ACT to repeal** 11.21 (15), 11.26 (9) (c), 11.26 (10), 11.26 (13), 11.31 (2) and (2m),
2 11.31 (3), 11.31 (3m), 11.31 (6), 11.50, 20.855 (4) (b), 25.17 (1) (ys) and 71.10 (3);
3 **to renumber and amend** 11.12 (6); **to amend** 5.02 (18), 5.62 (5), 7.08 (2) (c)
4 and (cm), 7.70 (3) (e) 1., 8.16 (1), 8.16 (5), 8.35 (4) (a) 1. a. and b., 8.35 (4) (b), 8.50
5 (1) (d), 8.50 (3) (b), 10.02 (3) (b) 2m., 10.06 (1) (e), 10.06 (1) (i), 11.06 (1) (a), 11.06
6 (1) (g), 11.06 (1) (jm), 11.06 (2), 11.16 (5), 11.26 (2) (a), 11.26 (9) (a), 11.26 (9) (b),
7 11.26 (17) (a), 11.31 (title), 11.31 (1) (intro.), 11.31 (4), 11.31 (7) (b), 11.31 (7) (c),
8 11.31 (8), 11.31 (10), 11.38 (6), 14.58 (20) and 14.58 (20); **to repeal and**
9 **recreate** 20.510 (1) (q), 20.511 (1) (q) and 25.42; and **to create** 11.01 (4m), 11.01
10 (16) (a) 3., 11.05 (3) (s), 11.12 (6) (b), 11.31 (9), 11.51, 20.855 (4) (ba) and 25.17
11 (1) (aw) of the statutes; **relating to:** the scope of regulated activity under the
12 campaign finance law, public financing of elections for certain state offices,

ASSEMBLY BILL 355

1 providing an exemption from emergency rule procedures, granting
2 rule-making authority, providing a penalty, and making appropriations.

Analysis by the Legislative Reference Bureau***Scope of regulated activity***

Currently, individuals who accept contributions, organizations that make or accept contributions, and individuals who or organizations that incur obligations or make disbursements for the purpose of influencing an election for state or local office are generally required to register with the appropriate filing officer and to file financial reports with that officer, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed.

With certain exceptions, this bill imposes registration and reporting requirements, in addition, upon any individual who and organization that, within 60 days of an election and by means of communications media, makes any communication that includes a reference to a candidate for state office, other than court of appeals judge, circuit judge, or district attorney, at that election, a state office, other than court of appeals judge, circuit judge, or district attorney, to be filled at that election, or a political party. The bill also requires an individual who or organization that becomes subject to a registration requirement by making such a communication to report, upon registration, the information that would have been required to be reported if the individual or organization had been registered with respect to any obligation incurred or disbursement made for the purpose of making such a communication prior to registration. The bill, however, does not require registration and reporting if the communication is made by a corporation, cooperative, or nonpolitical voluntary association and is limited to the corporation's, cooperative's, or association's members, shareholders, or subscribers.

The change in the scope of reportable activity under the bill also applies to contribution and disbursement (spending) limitations and restrictions by causing reportable “contributions,” “obligations,” and “disbursements” to include the cost of all reportable communications.

Public financing of elections for certain state offices

Currently, a candidate for state office other than court of appeals judge, circuit judge, or district attorney may qualify to receive a grant from the Wisconsin election campaign fund for use in an election campaign. No funding is provided for primary campaigns. To qualify for a grant, a candidate must qualify to have his or her name appear on the general or spring election ballot and must have an opponent who qualifies to have his or her name appear on that ballot. In addition, a candidate for a partisan office at the general election must receive at least 6 percent of the total vote cast on all ballots at the September primary election, and a candidate for a partisan office at a special election must either represent a political party whose candidate for the office that the candidate seeks received at least 6 percent of the total vote cast for that office at the most recent general election at which the office

ASSEMBLY BILL 355

was contested or must receive at least 6 percent of the total vote cast for that office at the special election.

Currently, the maximum amount of a grant that a candidate may receive is 45 percent of the disbursement (spending) level or limit for the office that the candidate seeks. This amount is not subject to any cost-of-living adjustment. In addition, this amount is reduced by the total amount of contributions received by a candidate from committees other than political party or legislative campaign committees; it is possible that this amount may be reduced in a particular year if there are not sufficient moneys in the Wisconsin election campaign fund to provide full funding for all qualifying candidates. Grants may be used only to purchase services from a communications medium, printing, graphic arts, or advertising services, office supplies, or postage. A candidate must agree to abide by disbursement and self-contribution limits to receive a grant, but this agreement does not apply if the candidate has an opponent who could have qualified for a grant but declines to do so and declines to file an affidavit of voluntary compliance with disbursement and self-contribution limits. A candidate must return to the state grant moneys that are not spent by the candidate after the date of an election.

This bill replaces the Wisconsin election campaign fund with a new fund called the clean elections fund. Under the bill, a candidate for any state office other than court of appeals judge, circuit judge, or district attorney may qualify to receive a grant from the clean elections fund. Separate grants are provided for primary and election campaigns. To qualify for a grant, a candidate must qualify to have his or her name appear on the ballot at a spring, September, or special primary or a spring, general, or special election for which the grant money will be used. To qualify for a grant at a general or partisan special election, a candidate must be the nominee of a political party that currently qualifies to have its candidates appear on a separate ballot, or in a separate column or row on the ballot, or must receive at least 1 percent of the total vote cast on all ballots for the office that the candidate seeks at the September primary, or at the special primary, if a special primary is held. In addition, a candidate must raise and deposit with the state treasurer a specified number of qualifying contributions in the amount of \$5 each. Each qualifying contribution must be received from an elector of this state and, for a candidate seeking legislative office, from an elector of the district in which the candidate seeks office; the name and address of the contributor must be reported to the Elections Board (Government Accountability Board sometime on or after August 31, 2007). The number of qualifying contributions ranges from 3,000 to 100, depending on the office sought by the candidate.

Under the bill, the maximum amount of a grant that a candidate may receive ranges from \$1,000,000 in the primary and \$2,000,000 in the election to \$25,000 in the primary and \$50,000 in the election, depending on the office sought by the candidate, except if a candidate has no opponent whose name is certified to appear on the ballot. Under the bill, an unopposed candidate at a primary election receives a grant equal to the average total disbursements made per candidate in primary elections for the office that the candidate seeks during the four-year period preceding the date of the primary election; an unopposed candidate at a spring,

ASSEMBLY BILL 355

general, or special election receives a grant equal to the average total disbursements made per candidate in spring, general, and special elections for the office that the candidate seeks during the four-year period preceding the date of the spring, general, or special election, except that a candidate for the office of governor receives a grant of \$100,000 for a primary election and \$200,000 for a general election. Grant amounts are subject to a biennial cost-of-living adjustment.

To receive a grant, a candidate must affirm that he or she has not accepted and agrees not to accept a contribution from any source other than qualifying contributions or seed money contributions, which may be accepted by a candidate before the candidate qualifies to receive a grant. The total seed money contributions accepted by a candidate from one contributor, including contributions by a candidate to his or her own campaign, may not exceed \$100. The total seed money contributions accepted by a candidate from all contributors range from \$50,000 to \$1,500, depending on the office sought by the candidate. A candidate must deposit with the Elections Board (Government Accountability Board sometime after August 31, 2007) any unencumbered seed money contributions held by the candidate on the day the candidate receives notification of qualification for a grant. If any person makes a disbursement (expenditure) for a communication that is reportable under the bill (see “scope of regulated activity,” above) independently of a candidate or incurs an obligation to make such a disbursement, each candidate who accepts a grant qualifies to receive an additional grant equal to the amount of the disbursements and outstanding obligations made in opposition to that candidate or in support of his or her opponent. If a candidate who accepts a grant is opposed by a candidate who does not accept a grant or who violates his or her agreement, any candidate for the same office who accepts a grant qualifies to receive an additional grant equal to the amount by which disbursements by the other candidate exceed the original amount of the grant received by that candidate. The sum of all additional grants made to a single candidate may not exceed 2.5 times the original amount of a candidate’s grant. The bill permits grants to be spent for any lawful purpose. To facilitate matching of independent expenditures made and obligations incurred in opposition to a candidate or in support of a candidate’s opponent, the bill revises current special reporting requirements for individuals and committees making independent disbursements: instead of requiring the reporting of disbursements exceeding \$20 cumulatively if they are made within 15 days of an election, the bill requires reporting of all independent disbursements made and obligations to make independent disbursements incurred for reportable communications in support of or in opposition to a candidate.

The bill deletes the disbursement and self-contribution limitations currently applicable to candidates who accept grants from the Wisconsin election campaign fund, as well as the provision that permits submission of an affidavit of voluntary compliance with those limitations. Under the bill, a candidate must return to the state grant moneys that are not spent by the candidate on the day after an election.

The bill provides that if a candidate does not adhere to the agreement required to obtain a grant, the candidate is subject to a forfeiture (civil penalty) equivalent to the amount of the grant that the candidate received, and may be fined an amount

ASSEMBLY BILL 355

equal to not more than three times the amount of any contributions received by the candidate excluding the amount of any grant and any qualifying or seed money contributions that are permitted to be received under the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 5.02 (18) of the statutes is amended to read:

2 5.02 (18) "September primary" means the primary held the 2nd Tuesday in
3 September to nominate candidates to be voted for at the general election, and to
4 determine which candidates for state offices other than district attorney may
5 participate in the Wisconsin election campaign receive grants from the clean
6 elections fund.

7 **SECTION 2.** 5.62 (5) of the statutes is amended to read:

8 5.62 (5) At the September primary, an elector may vote for the candidates of
9 only one party, or the elector may vote for any of the independent candidates for state
10 office listed; but the elector may not vote for more than one candidate for a single
11 office. A space shall be provided on the ballot for an elector to write in the name of
12 his or her choice as a party candidate for any office, including a party candidate of
13 a recognized political party whose name appears on the ballot, column or row
14 designated for independent candidates, as provided in sub. (1) (b) 2 or (2) (b), but no
15 space shall be provided to write in the names of independent candidates.

16 **SECTION 3.** 7.08 (2) (c) and (cm) of the statutes are amended to read:

17 7.08 (2) (c) As soon as possible after the canvass of the spring and September
18 primary votes, but no later than the first Tuesday in March and the 4th Tuesday in
19 September, transmit to the state treasurer a certified list of all eligible candidates

ASSEMBLY BILL 355**SECTION 3**

1 for state office who have filed applications under s. ~~11.50 (2)~~ 11.51 (7) and whom the
2 board determines to be eligible to receive ~~payments~~ grants from the Wisconsin
3 ~~election campaign~~ clean elections fund. The list shall contain each candidate's name,
4 the mailing address indicated upon the candidate's registration form, the office for
5 which the individual is a candidate and the party or principle which he or she
6 represents, if any.

7 (cm) As soon as possible after the canvass of a special primary, or the date that
8 the primary would be held, if required, transmit to the state treasurer a certified list
9 of all eligible candidates for state office who have filed applications under s. ~~11.50 (2)~~
10 11.51 (7) and whom the board determines to be eligible to receive a grant from the
11 ~~Wisconsin election campaign~~ clean elections fund prior to the election. ~~The board~~
12 ~~shall also transmit a similar list of candidates, if any, who have filed applications~~
13 ~~under s. 11.50 (2) and whom the board determines to be eligible to receive a grant~~
14 ~~under s. 11.50 (1) (a) 2. after the special election.~~ The list shall contain each
15 candidate's name, the mailing address indicated upon the candidate's registration
16 form, the office for which the individual is a candidate and the party or principle
17 which he or she represents, if any.

18 **SECTION 4.** 7.70 (3) (e) 1. of the statutes is amended to read:

19 7.70 (3) (e) 1. After each September primary and special primary for a partisan
20 state office other than the office of district attorney, the name of each candidate not
21 defeated in the primary who receives at least ~~6%~~ 1 percent of the total vote cast for
22 all candidates on all ballots at the primary for ~~each separate state office except~~
23 ~~district attorney~~ each state office other than the office of district attorney, and the
24 percentage of the total vote received by that candidate. Such percentage shall be
25 calculated within each district in the case of legislative candidates.

ASSEMBLY BILL 355

1 **SECTION 5.** 8.16 (1) of the statutes is amended to read:

2 8.16 (1) Except as provided in sub. (2), the person who receives the greatest
3 number of votes for an office on a party ballot at any partisan primary, regardless of
4 whether the person's name appears on the ballot, shall be the party's candidate for
5 the office, and the person's name shall so appear on the official ballot at the next
6 election. All independent candidates shall appear on the general election ballot or
7 on any special election ballot regardless of the number of votes received by such
8 candidates at the September or at any special primary.

9 **SECTION 6.** 8.16 (5) of the statutes is amended to read:

10 8.16 (5) Any candidate for a partisan state office except district attorney may
11 also qualify for payments a grant under s. ~~11.50~~ 11.51 if the candidate meets the
12 requirements specified in s. ~~11.50~~ 11.51; however, a candidate who qualifies under
13 this section for placement on the official ballot at the general election or a special
14 election shall appear on such ballot regardless of whether he or she qualifies for
15 payments a grant under s. ~~11.50~~ 11.51.

16 **SECTION 7.** 8.35 (4) (a) 1. a. and b. of the statutes are amended to read:

17 8.35 (4) (a) 1. a. ~~Donated~~ If the former candidate was a partisan candidate,
18 donated to the former candidate's local or state political party if the former candidate
19 ~~was a partisan candidate,~~ or donated to the a charitable organization of, as
20 instructed by the former candidate's ~~choice~~ candidate or, if the charitable
21 ~~organization chosen by the former candidate is deceased and left no instruction, as~~
22 instructed by the former candidate's next of kin ~~if the former candidate is deceased,~~
23 ~~or if no choice is made returned to the donors on a proportional basis; or~~

24 b. If the former candidate was a nonpartisan candidate, donated to the a
25 charitable organization of the former candidate's ~~choice~~ or the charitable

ASSEMBLY BILL 355**SECTION 7**

1 ~~organization chosen, as instructed by the former candidate or, if the former candidate~~
2 ~~is deceased and left no instruction, as instructed~~ by the former candidate's next of
3 kin if the former candidate is deceased; or

4 **SECTION 8.** 8.35 (4) (b) of the statutes is amended to read:

5 8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys
6 received by a candidate from the ~~Wisconsin election campaign~~ clean elections fund
7 shall be immediately transferred to any candidate who is appointed to replace such
8 candidate, ~~upon filing of a proper application therefor under s. 11.50 (2).~~ If there is
9 no candidate appointed or if no proper application is filed within 7 days of the date
10 on which the vacancy occurs, such moneys shall revert to the state as provided in s.
11 11.50 (8).

12 **SECTION 9.** 8.50 (1) (d) of the statutes is amended to read:

13 8.50 (1) (d) When the election concerns a national or state office, the board shall
14 transmit to each county clerk at least 22 days before the special primary a certified
15 list of all persons for whom nomination papers have been filed in its office. If no
16 primary is required, the list shall be transmitted at least 42 days prior to the day of
17 the election. If a special primary for a state office to the assembly is held, the board
18 shall send a certified list of candidates who are eligible to receive grants under s.
19 11.51 to the state treasurer pursuant to s. 7.08 (2) (cm). Immediately upon receipt
20 of the certified list of candidates from the board, the county clerk shall prepare his
21 or her ballots. For a county special election, the county clerk shall certify the
22 candidates and prepare the ballots. If there is a primary, the county clerk shall
23 publish one type B notice in a newspaper under ch. 10. When a primary is held, as
24 soon as possible after the primary, the county clerk shall certify the candidates and

ASSEMBLY BILL 355

1 prepare the ballots for the following special election. The clerk shall publish one type
2 B notice in a newspaper under ch. 10 for the election.

3 **SECTION 10.** 8.50 (3) (b) of the statutes is amended to read:

4 8.50 (3) (b) Except as otherwise provided in this section, the provisions for
5 September primaries under s. 8.15 are applicable to all partisan primaries held
6 under this section, and the provisions for spring primaries under s. 8.10 are
7 applicable to all nonpartisan primaries held under this section. In a special partisan
8 primary or election, the order of the parties on the ballot shall be the same as
9 provided under s. 5.62 (1) or 5.64 (1) (b). Independent candidates for a partisan state
10 office at a special partisan election shall ~~not~~ appear on the primary ballot. No
11 primary is required for a nonpartisan election in which not more than 2 candidates
12 for an office appear on the ballot or for a partisan election in which not more than one
13 candidate for an office appears on the ballot of each recognized political party. In
14 every special election except a special election for nonpartisan state office where no
15 candidate is certified to appear on the ballot, a space for write-in votes shall be
16 provided on the ballot, regardless of whether a special primary is held.

17 **SECTION 11.** 10.02 (3) (b) 2m. of the statutes is amended to read:

18 10.02 (3) (b) 2m. At the September primary, the elector shall select the party
19 ballot of his or her choice or the ballot containing the names of the independent
20 candidates for state office, and make a cross (X) next to or depress the lever or button
21 next to the candidate's name for each office for whom the elector intends to vote or
22 insert or write in the name of the elector's choice for a party candidate, if any. In order
23 to qualify for ~~participation in the Wisconsin election campaign~~ a grant from the clean
24 elections fund, a candidate for a state office, other than the office of district attorney,
25 at the September primary, ~~other than a candidate for district attorney, or a special~~

ASSEMBLY BILL 355**SECTION 11**

1 primary, if a special primary is held, must receive at least ~~6%~~ 1 percent of all votes
2 cast on all ballots for the office for which he or she is a candidate, in addition to other
3 requirements.

4 **SECTION 12.** 10.06 (1) (e) of the statutes is amended to read:

5 10.06 (1) (e) As soon as possible following the state canvass of the spring
6 primary vote, but no later than the first Tuesday in March, the board shall send a
7 type B notice certifying to each county clerk the list of candidates for the spring
8 election. When no state spring primary is held or when the only primary held is the
9 presidential preference primary, this notice shall be sent under par. (c). The board
10 shall also in any case send a certified list of candidates under s. ~~11.50~~ 11.51 to the
11 state treasurer pursuant to s. 7.08 (2) (c). When there is a referendum, the board
12 shall send type A and C notices certifying each question to the county clerks as soon
13 as possible, but no later than the first Tuesday in March.

14 **SECTION 13.** 10.06 (1) (i) of the statutes is amended to read:

15 10.06 (1) (i) As soon as possible after the state canvass, but no later than the
16 4th Tuesday in September, the board shall send a type B notice certifying the list of
17 candidates and type A and C notices certifying each question for any referendum to
18 each county clerk for the general election and a certified list of candidates under s.
19 ~~11.50~~ 11.51 to the state treasurer pursuant to s. 7.08 (2) (c).

20 **SECTION 14.** 11.01 (4m) of the statutes is created to read:

21 11.01 (4m) "Communication" means a message transmitted by means of a
22 printed advertisement, billboard, handbill, sample ballot, radio or television
23 advertisement, telephone call, or any medium that may be utilized for the purpose
24 of disseminating or broadcasting a message, but not including a poll conducted solely

ASSEMBLY BILL 355

1 for the purpose of identifying or collecting data concerning the attitudes or
2 preferences of electors.

3 **SECTION 15.** 11.01 (16) (a) 3. of the statutes is created to read:

4 11.01 (16) (a) 3. A communication that is made by means of one or more
5 communications media, other than a communication that is exempt from reporting
6 under s. 11.29, that is made during the period beginning on the 60th day preceding
7 an election and ending on the date of that election, and that includes a reference to
8 a candidate for state office, other than court of appeals judge, circuit judge, or district
9 attorney, whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the
10 ballot at that election, a reference to a state office, other than court of appeals judge,
11 circuit judge, or district attorney, to be filled at that election, or a reference to a
12 political party.

13 **SECTION 16.** 11.05 (3) (s) of the statutes is created to read:

14 11.05 (3) (s) In the case of a registrant that has made a communication
15 identified in s. 11.01 (16) (a) 3., a report containing the information specified in s.
16 11.06 (1) with respect to any obligation to make a disbursement incurred or any
17 disbursement made for the purpose of making such a communication prior to
18 registration.

19 **SECTION 17.** 11.06 (1) (a) of the statutes is amended to read:

20 11.06 (1) (a) ~~An~~ Except as required under s. 11.51 (2), an itemized statement
21 giving the date, full name and street address of each contributor who has made a
22 contribution in excess of \$20, or whose contribution if \$20 or less aggregates more
23 than \$20 for the calendar year, together with the amount of the contribution and the
24 cumulative total contributions made by that contributor for the calendar year.

25 **SECTION 18.** 11.06 (1) (g) of the statutes is amended to read:

ASSEMBLY BILL 355**SECTION 18**

1 11.06 (1) (g) ~~An~~ Except as required under s. 11.51 (9), an itemized statement
2 of every disbursement exceeding \$20 in amount or value, together with the name and
3 address of the person to whom the disbursement was made, and the date and specific
4 purpose for which the disbursement was made.

5 **SECTION 19.** 11.06 (1) (jm) of the statutes is amended to read:

6 11.06 (1) (jm) A copy of any separate schedule prepared or received pursuant
7 to an escrow agreement under s. 11.16 (5). ~~A candidate or personal campaign~~
8 ~~committee receiving contributions under such an agreement and attaching a~~
9 ~~separate schedule under this paragraph may indicate the percentage of the total~~
10 ~~contributions received, disbursements made and exclusions claimed under s. 11.31~~
11 ~~(6) without itemization, except that amounts received from any contributor pursuant~~
12 ~~to the agreement who makes any separate contribution to the candidate or personal~~
13 ~~campaign committee during the calendar year of receipt as indicated in the schedule~~
14 ~~shall be aggregated and itemized if required under par. (a) or (b).~~

15 **SECTION 20.** 11.06 (2) of the statutes is amended to read:

16 11.06 (2) DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS. Notwithstanding
17 sub. (1), if a disbursement is made or obligation incurred by an individual other than
18 a candidate or by a committee or group which is not primarily organized for political
19 purposes, and the disbursement does not constitute a contribution to any candidate
20 or other individual, committee, or group, and the disbursement is not made or the
21 obligation is not incurred for the purpose of making a communication specified in s.
22 11.01 (16) (a) 3., the disbursement or obligation is required to be reported only if the
23 purpose is to expressly advocate the election or defeat of a clearly identified
24 candidate or the adoption or rejection of a referendum. The exemption provided by

ASSEMBLY BILL 355

1 this subsection shall in no case be construed to apply to a political party, legislative
2 campaign, personal campaign or support committee.

3 **SECTION 21.** 11.12 (6) of the statutes is renumbered 11.12 (6) (a) and amended
4 to read:

5 11.12 (6) (a) If any disbursement of more than \$20 cumulatively is made to
6 advocate the election or defeat of a clearly identified candidate by an individual or
7 committee later than 15 days prior to a primary or election in which the candidate's
8 name appears on the ballot without cooperation or consultation with a candidate or
9 agent or authorized committee of a candidate who is supported or opposed, and not
10 in concert with or at the request or suggestion of such a candidate, agent or
11 committee, the individual or treasurer of the committee shall, within 24 hours of
12 making the disbursement, inform the appropriate filing officer of the information
13 required under s. 11.06 (1) in such manner as the board may prescribe. The
14 information shall also be included in the next regular report of the individual or
15 committee under s. 11.20. For purposes of this subsection paragraph, disbursements
16 cumulate beginning with the day after the last date covered on the preprimary or
17 preelection report and ending with the day before the primary or election. Upon
18 receipt of a report under this subsection paragraph, the filing officer shall, within 24
19 hours of receipt, mail a copy of the report to all candidates for any office in support
20 of or opposition to one of whom a disbursement identified in the report is made. This
21 paragraph does not apply to any disbursement that is required to be reported under
22 par. (b).

23 **SECTION 22.** 11.12 (6) (b) of the statutes is created to read:

24 11.12 (6) (b) 1. If any person makes a communication identified in s. 11.01 (16)
25 (a) 3., or incurs an obligation to make such a communication, the person shall, within

ASSEMBLY BILL 355**SECTION 22**

1 24 hours of making the communication or incurring the obligation to make the
2 communication, report to the board the information required under this paragraph
3 in such manner as the board may prescribe.

4 2. Each report under this paragraph shall contain the following information:

5 a. The name of each candidate who is identified in each communication or
6 obligation to make a communication.

7 b. A statement as to whether the communication is intended to support or
8 oppose that candidate.

9 c. The total amount or value of the disbursement made or obligation incurred
10 to make the communication and the cumulative disbursements made and
11 obligations incurred by the person with respect to that election.

12 3. The person shall also include the information reported under subd. 2. in the
13 next regular report of the person under s. 11.20. Upon receipt of a report under this
14 paragraph, the board shall, within 24 hours of receipt, mail a copy of the report to
15 all candidates for any office in support of or opposition to one of whom a
16 communication identified in the report is made.

17 **SECTION 23.** 11.16 (5) of the statutes is amended to read:

18 11.16 (5) ESCROW AGREEMENTS. Any personal campaign committee, political
19 party committee or legislative campaign committee may, pursuant to a written
20 escrow agreement with more than one candidate, solicit contributions for and
21 conduct a joint fund raising effort or program on behalf of more than one named
22 candidate. The agreement shall specify the percentage of the proceeds to be
23 distributed to each candidate by the committee conducting the effort or program.
24 The committee shall include this information in all solicitations for the effort or
25 program. All contributions received and disbursements made by the committee in

ASSEMBLY BILL 355

1 connection with the effort or program shall be received and disbursed through a
2 separate depository account under s. 11.14 (1) that is identified in the agreement.
3 For purposes of s. 11.06 (1), the committee conducting the effort or program shall
4 prepare a schedule in the form prescribed by the board supplying all required
5 information under s. 11.06 (1) ~~and items qualifying for exclusion under s. 11.31 (6)~~
6 for the effort or program, and shall transmit a copy of the schedule to each candidate
7 who receives any of the proceeds within the period prescribed in s. 11.06 (4) (c).

8 **SECTION 24.** 11.21 (15) of the statutes is repealed.

9 **SECTION 25.** 11.26 (2) (a) of the statutes is amended to read:

10 11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state,
11 state treasurer, attorney general, state superintendent or justice, 4 percent of the
12 value of the disbursement level specified in the schedule under s. 11.31 (1), as
13 adjusted under s. 11.31 (9).

14 **SECTION 26.** 11.26 (9) (a) of the statutes is amended to read:

15 11.26 (9) (a) No individual who is a candidate for state or local office may receive
16 and accept more than 65 percent of the value of the total disbursement level
17 determined under s. 11.31 (1), adjusted as provided in s. 11.31 (9), for the office for
18 which he or she is a candidate during any primary and election campaign combined
19 from all committees subject to a filing requirement, including political party and
20 legislative campaign committees.

21 **SECTION 27.** 11.26 (9) (b) of the statutes is amended to read:

22 11.26 (9) (b) No individual who is a candidate for state or local office may receive
23 and accept more than 45 percent of the value of the total disbursement level
24 determined under s. 11.31 (1), adjusted as provided in s. 11.31 (9), for the office for
25 which he or she is a candidate during any primary and election campaign combined

ASSEMBLY BILL 355

1 from all committees other than political party and legislative campaign committees
2 subject to a filing requirement.

3 **SECTION 28.** 11.26 (9) (c) of the statutes is repealed.

4 **SECTION 29.** 11.26 (10) of the statutes is repealed.

5 **SECTION 30.** 11.26 (13) of the statutes is repealed.

6 **SECTION 31.** 11.26 (17) (a) of the statutes is amended to read:

7 11.26 (17) (a) For purposes of application of the limitations imposed in subs.
8 (1), (2), and (9) and (10), the “campaign” of a candidate begins and ends at the times
9 specified in this subsection.

10 **SECTION 32.** 11.31 (title) of the statutes is amended to read:

11 **11.31 (title) Disbursement levels and limitations; calculation.**

12 **SECTION 33.** 11.31 (1) (intro.) of the statutes is amended to read:

13 11.31 (1) SCHEDULE. (intro.) The following levels of disbursements are
14 established with reference to the candidates listed below. ~~Except as provided in sub.~~
15 ~~(2), such~~ The levels are subject to adjustment under sub. (9). The levels do not
16 operate to restrict the total amount of disbursements which are made or authorized
17 to be made by any candidate in any primary or other election.

18 **SECTION 34.** 11.31 (2) and (2m) of the statutes are repealed.

19 **SECTION 35.** 11.31 (3) of the statutes is repealed.

20 **SECTION 36.** 11.31 (3m) of the statutes is repealed.

21 **SECTION 37.** 11.31 (4) of the statutes is amended to read:

22 11.31 (4) ALLOCATION. ~~Except as provided in sub. (3m), whenever~~ Whenever a
23 separate disbursement level is specified for a primary and election under sub. (1), a
24 candidate who disburses less than the authorized level in the primary may not
25 reallocate the balance to increase the level in the election. Whenever a separate

ASSEMBLY BILL 355

1 disbursement level is not specified for a primary and election under sub. (1), a
2 candidate may allocate disbursements between the primary and election campaign
3 within the total level of disbursements specified in sub. (1) in any proportion desired,
4 and may carry over unexpended contributions from a primary campaign to an
5 election campaign.

6 **SECTION 38.** 11.31 (6) of the statutes is repealed.

7 **SECTION 39.** 11.31 (7) (b) of the statutes is amended to read:

8 11.31 (7) (b) Disbursements which are made before a campaign period for goods
9 to be delivered or services to be rendered in connection with the campaign are
10 charged against the disbursement ~~limitation~~ level for that campaign.

11 **SECTION 40.** 11.31 (7) (c) of the statutes is amended to read:

12 11.31 (7) (c) Disbursements which are made after a campaign to retire a debt
13 incurred in relation to a campaign are charged against the disbursement ~~limitation~~
14 level for that campaign.

15 **SECTION 41.** 11.31 (8) of the statutes is amended to read:

16 11.31 (8) CERTAIN CONTRIBUTIONS EXCLUDED. The ~~limitations imposed levels~~
17 specified under this section do not apply to a gift of anything of value constituting
18 a contribution made directly to a registrant by another, but the ~~limitations~~ levels
19 shall apply to such gift when it is received and accepted by the recipient or, if received
20 in the form of money, when disbursed.

21 **SECTION 42.** 11.31 (9) of the statutes is created to read:

22 11.31 (9) ADJUSTMENT OF DISBURSEMENT LEVELS. (a) In this subsection,
23 “consumer price index” means the average of the consumer price index over each
24 12-month period, all items, U.S. city average, as determined by the bureau of labor
25 statistics of the U.S. department of labor.

ASSEMBLY BILL 355**SECTION 42**

1 (b) The dollar amounts of the levels specified in sub. (1) are subject to a biennial
2 adjustment to be determined by rule of the board in accordance with this paragraph.
3 To determine the adjustment, the board shall, in each year that the adjustment is
4 made, calculate the percentage difference between the consumer price index for the
5 12-month period ending on December 31 of the preceding year and the consumer
6 price index for calendar year 2009. For each biennium, the board shall multiply the
7 amount of each level specified under sub. (1) by the percentage difference in the
8 consumer price indexes. The board shall then add that product to the applicable level
9 under sub. (1), round each sum to the nearest multiple of \$5, and adjust the amount
10 of each level to substitute the resulting amount. The amount so determined shall
11 then be in effect until a subsequent rule is promulgated under this paragraph.
12 Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), determinations under this
13 paragraph may be promulgated as an emergency rule under s. 227.24 without
14 providing evidence that the emergency rule is necessary for the public peace, health,
15 safety, or welfare and without a finding of emergency.

16 **SECTION 43.** 11.31 (10) of the statutes is amended to read:

17 11.31 (10) SURPLUS MATERIALS EXCLUDED. Disbursements constituting surplus
18 materials acquired in connection with a previous campaign of a candidate are not
19 ~~subject to limitation by~~ included in the levels specified in this section, if the materials
20 were previously reported as a disbursement by that candidate.

21 **SECTION 44.** 11.38 (6) of the statutes is amended to read:

22 11.38 (6) Any individual or campaign treasurer who receives funds in violation
23 of this section shall promptly return such funds to the contributor, or donate the
24 funds to the common school fund or a charitable organization, at the individual's or
25 treasurer's option.

ASSEMBLY BILL 355

1 **SECTION 45.** 11.50 of the statutes is repealed.

2 **SECTION 46.** 11.51 of the statutes is created to read:

3 **11.51 Clean elections fund grants. (1)** Any candidate for a state office, other
4 than the office of court of appeals judge, circuit judge, or district attorney, whose
5 name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at an
6 election may qualify to receive a grant from the clean elections fund by fulfilling the
7 requirements of this section.

8 **(2) (a)** To qualify to receive a grant from the clean elections fund, a candidate
9 shall obtain and deposit with the state treasurer the number of qualifying
10 contributions specified in this subsection, in the amount of \$5 each, each of which
11 shall be received from an elector of this state and, in the case of a candidate for
12 legislative office, an elector of the district in which the candidate seeks office. The
13 name and address of each elector making a qualifying contribution shall be identified
14 in a report filed with the board as provided in s. 11.06 (1) (a). The number of required
15 qualifying contributions for a candidate for each office is:

- 16 1. Governor, 3,000.
- 17 2. Lieutenant governor, 750.
- 18 3. Attorney general, 1,050.
- 19 4. State treasurer, 375.
- 20 5. Secretary of state, 375.
- 21 6. State superintendent, 375.
- 22 7. Justice, 450.
- 23 8. State senator, 150.
- 24 9. Representative to the assembly, 100.

ASSEMBLY BILL 355**SECTION 46**

1 (b) In addition to the requirements imposed under par. (a), a candidate for a
2 state office does not qualify to receive a grant for a general or partisan special election
3 unless the candidate is the nominee of a recognized political party for that office or
4 the candidate receives at least 1 percent of the total vote cast for all candidates on
5 all ballots for the same office at the September primary, or at a special primary if a
6 special primary is held.

7 **(3)** Prior to notification that a candidate has qualified to receive a grant from
8 the clean elections fund under sub. (7), a candidate may accept seed money
9 contributions from individuals. The total seed money contributions accepted by a
10 candidate from one contributor, including any seed money contributions made by a
11 candidate to his or her own campaign, may not exceed \$100. The total seed money
12 contributions accepted by a candidate during the candidate's campaign, as defined
13 in s. 11.26 (17), may not exceed, in the aggregate, the following amount for the office
14 sought by candidate:

15 (a) Governor, \$50,000.

16 (b) Lieutenant governor, \$12,500.

17 (c) Attorney general, \$17,500.

18 (d) State treasurer, \$6,250.

19 (e) Secretary of state, \$6,250.

20 (f) State superintendent, \$6,250.

21 (g) Justice, \$7,500.

22 (h) State senator, \$2,500.

23 (i) Representative to the assembly, \$1,500.

24 **(4)** A contributor who makes a qualifying contribution may also make a seed
25 money contribution in the full amount authorized under sub. (3).

ASSEMBLY BILL 355

1 **(5)** A candidate shall remit to the state treasurer all seed money contributions
2 received by the candidate that are unencumbered on the day the candidate receives
3 notification of qualification for a grant under sub. (7). The state treasurer shall
4 deposit all seed money contributions received under this subsection into the clean
5 elections fund.

6 **(6)** No candidate who accepts a grant from the clean elections fund may accept
7 any seed money contribution under sub. (3) after receiving notification of
8 qualification for a grant under sub. (7).

9 **(7)** To qualify to receive a grant from the clean elections fund, a candidate shall
10 file an application with the board, no later than a time specified by the board by rule,
11 in which the candidate shall affirm that he or she has not accepted and agrees not
12 to accept a contribution from any source other than a contribution required under
13 sub. (2), a contribution authorized under sub. (3), and the candidate's grant from the
14 clean elections fund during the campaign of the candidate, as defined in s. 11.31 (7).
15 If the candidate desires to receive grant payments by electronic transfer, the
16 candidate shall include in his or her application sufficient information and
17 authorization for the state treasurer to transfer payments to his or her campaign
18 depository account. The board shall notify each candidate who qualifies to receive
19 a grant from the clean elections fund as promptly as possible following qualification.

20 **(8) (a)** The board shall distribute primary election grants from the clean
21 elections fund to each candidate who qualifies to receive a grant under this section
22 as soon as possible preceding the date on which the primary election is held for the
23 office that the candidate seeks or the date on which the primary election would be
24 held if a primary election were required to be held.

ASSEMBLY BILL 355**SECTION 46**

1 (b) The board shall distribute grants for the spring, general, and any special
 2 election from the clean elections fund to each candidate who qualifies to receive a
 3 grant under this section as soon as possible after the date of the primary election for
 4 the office sought by the candidate, or the date on which the primary election would
 5 be held if a primary election were required to be held.

6 (9) A candidate who receives a grant from the clean elections fund shall file
 7 with the board reports of all disbursements made in the manner provided under s.
 8 11.06 (1) (g), without regard to the amounts thereof.

9 (10) (a) Except as provided in par. (b) and subs. (11) to (13), a candidate who
 10 qualifies to receive a grant from the clean elections fund under this section shall
 11 receive a grant in the following amount for the office sought by the candidate and for
 12 the election specified, less the aggregate amount of contributions accepted by the
 13 candidate under sub. (3):

<i>Office</i>	<i>Primary Election</i>	<i>Spring, General, or Special Election</i>
1. Governor	\$1,000,000	\$2,000,000
17 2. Lieutenant governor	250,000	500,000
18 3. Attorney general	350,000	700,000
19 4. State treasurer	125,000	250,000
20 5. Secretary of state	125,000	250,000
21 6. State superintendent	125,000	250,000
22 7. Justice	150,000	300,000
23 8. State senator	50,000	100,000
24 9. Representative to the assembly	25,000	50,000

25 (b) If a candidate does not have an opponent who has qualified to have his or
 26 her name appear on the ballot at the election for which a grant is to be applied, the
 27 candidate shall receive a grant for a primary election equal to the average total

ASSEMBLY BILL 355

1 disbursements made per candidate in primary election campaign periods, as
2 determined by the board from reports filed by or on behalf of those candidates in
3 accordance with s. 11.31 (5), for the office that the candidate seeks during the 4-year
4 period preceding the date of the primary election, or a grant for a spring, general, or
5 special election equal to the average total disbursements made per candidate in
6 general and special election campaign periods, as determined by the board from
7 reports filed by or on behalf of those candidates in accordance with s. 11.31 (5), for
8 the office that the candidate seeks during the 4-year period preceding the date of the
9 spring, general, or special election, except that a candidate for the office of governor
10 shall receive a grant of \$100,000 for a primary election and a grant of \$200,000 for
11 a general election.

12 (11) (a) In this subsection, “consumer price index” means the average of the
13 consumer price index over each 12-month period, all items, U.S. city average, as
14 determined by the bureau of labor statistics of the U.S. department of labor.

15 (b) The dollar amounts of the grants specified in sub. (10) (a) and the grants
16 specified for the office of governor in sub. (10) (b) are subject to a biennial
17 cost-of-living adjustment to be determined by rule of the board in accordance with
18 this paragraph. To determine the adjustment, the board shall, as soon as possible
19 after the end of each odd-numbered year, calculate the percentage difference
20 between the consumer price index for the 12-month period ending on December 31
21 of the preceding year and the consumer price index for calendar year 2009. For each
22 biennium, the board shall multiply the amount of each grant specified in sub. (10)
23 by the percentage difference in the consumer price indexes. The board shall then add
24 that product to the applicable grant amount under sub. (10), round each sum to the
25 nearest multiple of \$5, and adjust the amount of each grant to substitute the

ASSEMBLY BILL 355**SECTION 46**

1 resulting amount. The amount so determined shall then be in effect until a
2 subsequent rule is promulgated under this paragraph. Notwithstanding s. 227.24
3 (1) (a), (2) (b), and (3), determinations under this paragraph may be promulgated as
4 an emergency rule under s. 227.24 without providing evidence that the emergency
5 rule is necessary for the public peace, health, safety, or welfare, and without a finding
6 of emergency.

7 **(12)** If any disbursement is made or any obligation to make a disbursement is
8 incurred to make a communication identified in s. 11.01 (16) (a) 3. by any person in
9 opposition to a candidate who receives a grant from the clean elections fund or in
10 support of an opponent of such a candidate whose name is certified to appear on the
11 same ballot, then the candidate who receives a grant shall receive an additional
12 grant in the total amount of the obligations incurred and the disbursements made
13 that were not previously reported as obligations, as reported to the appropriate filing
14 officer under s. 11.12 (6) (b), but not to exceed, in combination with any additional
15 grant payable to that candidate under sub. (13), 2.5 times the amount payable to the
16 candidate under sub. (10), as adjusted under sub. (11).

17 **(13)** If a candidate who receives a grant from the clean elections fund is opposed
18 on a primary or election ballot by another candidate who does not receive a grant or
19 by another candidate who the board determines has violated his or her agreement
20 under sub. (7), the candidate who receives a grant shall receive an additional grant
21 in the amount by which the disbursements made by the other candidate exceed the
22 amount of the grant payable for the office sought by the candidate in that election
23 under sub. (10), as adjusted under sub. (11), but not to exceed, in combination with
24 any additional grant payable to that candidate under sub. (12), 2.5 times the amount
25 payable to the candidate under sub. (10), as adjusted under sub. (11). If a candidate

ASSEMBLY BILL 355

1 who receives a grant from the clean elections fund is opposed on a primary or election
2 ballot by more than one candidate who does not receive a grant or who the board
3 determines has violated his or her agreement under sub. (7), the amount of the grant
4 payable under this subsection is the largest amount that would be payable by reason
5 of any candidate's opposition.

6 (14) If a candidate who makes an agreement under sub. (7) does not adhere to
7 the agreement, the candidate shall forfeit an amount equivalent to any grant from
8 the clean elections fund that is provided to the candidate and the candidate may be
9 fined not more than 3 times the amount of any contributions received by the
10 candidate in his or her campaign, as defined in s. 11.26 (17), exclusive of the amount
11 of any grant or any contributions deposited under sub. (2) or received under sub. (3).

12 (15) No later than the first day of the first month beginning at least 15 days
13 after an election at which a candidate receives a grant from the clean elections fund,
14 the candidate shall return to the state treasurer any amount of the grant remaining
15 in the candidate's campaign depository account, except that a candidate who receives
16 a grant at a primary election need not return any amount under this subsection if
17 the candidate qualifies to receive a grant at the succeeding spring, general, or special
18 election.

19 (16) The board may promulgate rules required to implement this section.

20 **SECTION 47.** 14.58 (20) of the statutes is amended to read:

21 14.58 (20) ~~ELECTION CAMPAIGN~~ CLEAN ELECTIONS FUND. Make disbursements to
22 each candidate certified under s. 7.08 (2) (c) or (cm) by the elections board as eligible
23 to receive moneys a grant from the ~~Wisconsin election campaign~~ clean elections fund.

24 **SECTION 48.** 14.58 (20) of the statutes, as affected by 2007 Wisconsin Acts 1 and
25 (this act), is amended to read:

ASSEMBLY BILL 355**SECTION 48**

1 14.58 (20) CLEAN ELECTIONS FUND. Make disbursements to each candidate
2 certified under s. 7.08 (2) (c) or (cm) by the ~~elections~~ government accountability board
3 as eligible to receive a grant from the clean elections fund.

4 **SECTION 49.** 20.510 (1) (q) of the statutes is repealed and recreated to read:

5 20.510 (1) (q) *Clean elections fund grants.* From the clean elections fund, a sum
6 sufficient to make the grants to candidates required under s. 11.51.

7 **SECTION 50.** 20.511 (1) (q) of the statutes, as affected by 2007 Wisconsin Act 1,
8 is repealed and recreated to read:

9 20.511 (1) (q) *Clean elections fund grants.* From the clean elections fund, a sum
10 sufficient to make the grants to candidates required under s. 11.51.

11 **SECTION 51.** 20.855 (4) (b) of the statutes is repealed.

12 **SECTION 52.** 20.855 (4) (ba) of the statutes is created to read:

13 20.855 (4) (ba) *Clean elections fund supplement.* A sum sufficient equal to the
14 amounts required to make the grants to candidates required under s. 11.51, to be
15 transferred to the clean elections fund.

16 **SECTION 53.** 25.17 (1) (aw) of the statutes is created to read:

17 25.17 (1) (aw) Clean elections fund (s. 25.42);

18 **SECTION 54.** 25.17 (1) (ys) of the statutes is repealed.

19 **SECTION 55.** 25.42 of the statutes is repealed and recreated to read:

20 **25.42 Clean elections fund.** All moneys deposited with the state treasurer
21 under s. 11.51 (2) and (5) or returned to the state treasurer under s. 11.51 (15) and
22 all moneys transferred to the clean elections fund under s. 20.855 (4) (ba) constitute
23 the clean elections fund.

24 **SECTION 56.** 71.10 (3) of the statutes, as affected by 2007 Wisconsin Act 1, is
25 repealed.

