2013 DRAFTING REQUEST

Bill

Received:	**4/19/2013**	Received By:	**jkuesel**
Wanted:	**As time permits**	Same as LRB:	
For:	**Chris Taylor (608) 266-5342**	By/Representing:	**Craig Trost**
May Contact:		Drafter:	**jkreye**
Subject:	**Elections - campaign finance**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Rep.Taylor@legis.wisconsin.gov**
Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Scope of regulated activity; public financing of campaigns for state office

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Instructions:

Per 2011 AB-642.

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	jkreye 4/22/2013	scalvin 4/25/2013	jmurphy 4/26/2013	_____ _____			
/1				_____ _____	sbasford 4/26/2013	sbasford 8/8/2013	State Crime

FE Sent For:

at intro

<END>

per JK

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	jkreye	/1 sac 04/25/2013	jm 4/25	jm+PH 4/26			

FE Sent For:

<END>

State of Wisconsin
2011 – 2012 LEGISLATURE

LRB–2304/2
JTK:med:rs

2011 ASSEMBLY BILL 642

February 28, 2012 – Introduced by Representatives POCAN, BERCEAU, BERNARD SCHABER, DOYLE, GRIGSBY, HEBL, JORGENSEN, KESSLER, POPE-ROBERTS, ROYS and C. TAYLOR, cosponsored by Senators RISSER, HANSEN and C. LARSON. Referred to Committee on Election and Campaign Reform.

AN ACT ***to repeal*** 10.02 (3) (b) 2.; ***to renumber and amend*** 7.70 (3) (e); ***to amend*** 5.02 (12s), 5.35 (6) (b), 5.37 (4), 5.62 (1) (a), 5.62 (3), 5.81 (4), 5.91 (1), 5.91 (6), 8.15 (7), 8.16 (1), 8.20 (8) (a), 8.20 (9), 8.35 (4) (a) 1. a. and b., 8.50 (1) (d), 8.50 (3) (b), 10.06 (1) (e), 10.06 (1) (i), 11.06 (1) (a), 11.06 (1) (g), 11.06 (2), 11.26 (2) (a), 11.26 (9) (a), 11.26 (9) (b), 11.31 (1) (intro.) and 11.38 (6); and ***to create*** 5.62 (6), 7.08 (2) (ca) and (cn), 7.70 (3) (em) 1., 8.16 (5m), 8.35 (4) (ba), 10.02 (3) (b) 2n., 11.01 (4m), 11.01 (16) (a) 3., 11.05 (3) (s), 11.31 (9), 11.52, 14.58 (20a), 20.511 (1) (qa), 20.855 (4) (bc), 25.17 (1) (aw) and 25.426 of the statutes; **relating to:** the scope of regulated activity under the campaign finance law, public financing of elections for certain state offices, extending the time limit for emergency rule procedures, providing an exemption from emergency rule

1 procedures, granting rule–making authority, making appropriations, and
2 providing a penalty.

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, no public grants are available to finance the campaigns of any candidate for state or local office in this state. This bill creates a clean elections fund to provide grants to qualifying candidates for campaign expenses. 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, partisan, or special primary or a spring, general, or special election for which the grant 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 partisan 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 Government Accountability Board (GAB). The number of qualifying contributions ranges from 3,000 to 100, depending on the office sought by the candidate. Prior to notification that a candidate has qualified to receive a grant, the candidate may also accept seed money contributions in amounts of not more than $100 cumulatively from a single contributor subject to aggregate limitations that vary from $50,000 to $1,500 depending upon the office sought by the candidate. The bill permits a candidate to expend the proceeds of seed money contributions for any lawful purpose.

Under the bill, a candidate may receive two kinds of grants: a basic grant and matching grants. The maximum amount of a basic 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 may receive a basic 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, and an unopposed candidate at a spring, general, or special election may receive a basic 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 may receive a basic grant of $100,000 for a primary election and $200,000 for a general election. Basic grant amounts are subject to a biennial cost–of–living adjustment.

In addition to a basic grant, a qualifying candidate may receive a matching grant from the clean elections fund for each contribution up to $25 cumulatively that the candidate receives from an individual in an amount equal to three times the amount of the contribution. To receive a matching grant, a candidate must report certain information concerning the contribution to GAB. There is no limitation on the total amount of matching contributions that a candidate may qualify to receive under the bill.

To receive a grant, a candidate must affirm that he or she has not accepted and agrees not to accept, before the candidate qualifies to receive a grant, a contribution from any source other than qualifying contributions or seed money contributions. The candidate must also agree that he or she will not accept any other contributions after the candidate qualifies to receive a basic grant except matching contributions, subject to the limitations provided in the bill. (The agreement does not apply to contributions accepted before the bill becomes law.) 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 that may be accepted by a candidate from all contributors ranges from $50,000 to $1,500, depending on the office sought by the candidate. The bill permits grants to be spent for any lawful purpose. Under the bill, a candidate must return to the state grant moneys that are not spent by the candidate after an election except that a candidate who is nominated in a primary election need not return any grant moneys after the primary if the candidate qualifies to receive a grant for the succeeding 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 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, seed money, or matching contributions that are permitted to be accepted under the bill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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 (12s) of the statutes, as affected by 2011 Wisconsin Acts 32 and
2 75, is amended to read:

3 5.02 **(12s)** "Partisan primary" means the primary held the 2nd Tuesday in
4 August to nominate candidates to be voted for at the general election, and to
5 determine which candidates for state offices other than district attorney may receive
6 grants from the clean elections fund.

7 **SECTION 2.** 5.35 (6) (b) of the statutes, as affected by 2011 Wisconsin Act 32, is
8 amended to read:

9 5.35 **(6)** (b) At each polling place in the state where a consolidated ballot under
10 s. 5.655 is used or an electronic voting system is utilized at a partisan primary
11 election incorporating a ballot upon which electors may mark votes for candidates

of more than one recognized political party or for candidates of a recognized political party and independent candidates, the municipal clerk or board of election commissioners shall prominently post a sign in the form prescribed by the board warning electors in substance that on any ballot with votes cast for candidates of more than one recognized political party or any ballot with votes cast for candidates of a recognized political party and independent candidates, no votes cast for any candidates for partisan office will be counted unless a preference for a party or for the independent candidates is made. If the elector designates a preference, only votes cast for candidates of that preference will be counted.

SECTION 3. 5.37 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

5.37 **(4)** Voting machines may be used at primary elections when they comply with subs. (1) and (2) and the following provisions: All candidates' names entitled to appear on the ballots at the primary shall appear on the machine; the elector cannot vote for candidates of more than one party, whenever the restriction applies, and an elector who votes for candidates of any party may not vote for independent candidates at the partisan primary; the elector may secretly select the party for which he or she wishes to vote, or the independent candidates in the case of the partisan primary; the elector may vote for as many candidates for each office as he or she is lawfully entitled to vote for, but no more.

SECTION 4. 5.62 (1) (a) of the statutes, as affected by 2011 Wisconsin Acts 32 and 75, is amended to read:

5.62 **(1)** (a) At the partisan primary, the following ballot shall be provided for the nomination of candidates of recognized political parties for national, state and county offices and independent candidates for state office in each ward, in the same

form as prescribed by the board under s. 7.08 (1) (a), except as authorized in s. 5.655. The ballots shall be made up of the several party tickets with each party entitled to participate in the primary under par. (b) or sub. (2) having its own ballot, except as authorized in s. 5.655. The independent candidates for state office other than district attorney shall have a separate ballot for all such candidates as under s. 5.64 (1) (e), except as authorized in s. 5.655. The ballots shall be secured together at the bottom. The party ballot of the party receiving the most votes for president or governor at the last general election shall be on top with the other parties arranged in descending order based on their vote for president or governor at the last general election. The ballots of parties qualifying under sub. (2) shall be placed after the parties qualifying under par. (b), in the same order in which the parties filed petitions with the board. Any ballot required under par. (b) 2. shall be placed next in order. The ballot listing the independent candidates shall be placed at the bottom. At polling places where voting machines are used, each party and the independent candidates shall be represented in one or more separate columns or rows on the ballot. At polling places where an electronic voting system is used other than an electronic voting machine, each party and the independent candidates may be represented in separate columns or rows on the ballot.

SECTION 5. 5.62 (3) of the statutes, as affected by 2011 Wisconsin Acts 32 and 75, is amended to read:

5.62 **(3)** The board shall designate the official primary ballot arrangement for statewide offices and district attorney within each prosecutorial district by using the same procedure as provided in s. 5.60 (1) (b). On each ballot and on each separate column or row on the ballot, the candidates for office shall be listed together with the offices which they seek in the following order whenever these offices appear on the

partisan primary ballot: governor, lieutenant governor, attorney general, secretary of state, state treasurer, U.S. senator, U.S. representative in congress, state senator, representative to the assembly, district attorney and the county offices. Below the names of the independent candidates shall appear the party or principle of the candidates, if any, in 5 words or less, as shown on their nomination papers.

SECTION 6. 5.62 (6) of the statutes is created to read:

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

SECTION 7. 5.81 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

5.81 **(4)** In partisan primary elections, if a ballot contains the names of candidates of more than one party or the names of party candidates and independent candidates, it shall provide a space for electors to designate a party preference. Failure to designate a preference or a preference for the independent candidates does not invalidate any votes cast by an elector, except as provided in s. 7.50 (1) (d).

SECTION 8. 5.91 (1) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

5.91 **(1)** It enables an elector to vote in secrecy and to select the party for which or the independent candidates for whom an elector will vote in secrecy at a partisan primary election.

SECTION 9. 5.91 (6) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

5.91 **(6)** The voting device or machine permits an elector in a primary election to vote for the candidates of the recognized political party or the independent candidates of his or her choice, and the automatic tabulating equipment or machine rejects any ballot on which votes are cast in the primary of more than one recognized political party, except where a party or independent candidate designation is made or where an elector casts write–in votes for candidates of more than one party on a ballot that is distributed to the elector.

SECTION 10. 7.08 (2) (ca) and (cn) of the statutes are created to read:

7.08 **(2)** (ca) As soon as possible after the canvass of the spring and partisan primary votes, but no later than the first Tuesday in March and the 4th Tuesday in August, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. 11.52 (5) and whom the board determines to be eligible to receive grants from the clean elections fund. The list shall contain each candidate's name, the mailing address indicated upon the candidate's registration form, the office for which the individual is a candidate and the party or principle which he or she represents, if any.

(cn) As soon as possible after the canvass of a special primary, or the date that the primary would be held, if required, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. 11.52 (5) and whom the board determines to be eligible to receive a grant from the clean

elections fund prior to the election. The list shall contain each candidate's name, the mailing address indicated upon the candidate's registration form, the office for which the individual is a candidate and the party or principle which he or she represents, if any.

SECTION 11. 7.70 (3) (e) of the statutes, as affected by 2011 Wisconsin Act 32, is renumbered 7.70 (3) (em) (intro.) and amended to read:

7.70 **(3)** (em) (intro.) The chairperson of the board or the chairperson's designee shall make a special statement to the board ~~as~~ certifying:

2. As soon as possible after the canvass of the general election ~~certifying,~~ the name of each political party which receives at least one percent of the vote cast in such election for any statewide office.

SECTION 12. 7.70 (3) (em) 1. of the statutes is created to read:

7.70 **(3)** (em) 1. As soon as possible after the canvass of each partisan primary and special primary for a partisan state office other than the office of district attorney, the name of each candidate not defeated in the primary who receives at least 1 percent of ~~the total vote~~ all votes cast ~~for all candidates~~ on all ballots ~~at the primary~~ for the office for which he or she is a candidate, ~~for each state office~~ other than the office of district attorney, and the percentage of the total vote received by that candidate. The percentage shall be calculated within each district in the case of legislative candidates.

SECTION 13. 8.15 (7) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

8.15 **(7)** A candidate may not run in more than one party primary at the same time. No filing official may accept nomination papers for the same person in the same election for more than one party. An independent candidate at a partisan primary or other election may not file nomination papers as the candidate of a recognized

political party for the same office at the same election. A person who files nomination papers as the candidate of a recognized political party may not file nomination papers as an independent candidate for the same office at the same election.

SECTION 14. 8.16 (1) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

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

SECTION 15. 8.16 (5m) of the statutes is created to read:

8.16 **(5m)** Any candidate for a partisan state office except district attorney may also qualify for a grant under s. 11.52 if the candidate meets the requirements specified in s. 11.52; however, a candidate who qualifies under this section for placement on the official ballot at the general election or a special election shall appear on such ballot regardless of whether he or she qualifies for a grant under s. 11.52.

SECTION 16. 8.20 (8) (a) of the statutes, as affected by 2011 Wisconsin Acts 32 and 75, is amended to read:

8.20 **(8)** (a) Nomination papers for independent candidates for any office to be voted upon at a general election or partisan primary and general election, except president, vice president and presidential elector, may be circulated no sooner than April 15 preceding the election and may be filed no later than 5 p.m. on the June 1

preceding the partisan primary, except as authorized in this paragraph. If an incumbent fails to file nomination papers and a declaration of candidacy by 5 p.m. on June 1 preceding the partisan primary, all candidates for the office held by the incumbent, other than the incumbent, may file nomination papers no later than 72 hours after the latest time prescribed in this paragraph. No extension of the time for filing nomination papers applies if the incumbent files written notification with the filing officer or agency with whom nomination papers are filed for the office which the incumbent holds, no later than 5 p.m. on the 2nd Friday preceding the latest time prescribed in this paragraph for filing nomination papers, that the incumbent is not a candidate for reelection to his or her office, and the incumbent does not file nomination papers for that office within the time prescribed in this paragraph.

SECTION 17. 8.20 (9) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

8.20 **(9)** Persons nominated by nomination papers without a recognized political party designation shall be placed on the official ballot at the general election and at any partisan election to the right or below the recognized political party candidates in their own column or row designated "Independent". At the partisan primary, persons nominated for state office by nomination papers without a recognized political party designation shall be placed on a separate ballot or, if a consolidated paper ballot under s. 5.655 (2), an electronic voting system, or voting machines are used, in a column or row designated "Independent". If the candidate's name already appears under a recognized political party it may not be listed on the independent ballot, column or row.

SECTION 18. 8.35 (4) (a) 1. a. and b. of the statutes are amended to read:

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

b. If the former candidate was a nonpartisan candidate, donated to ~~the~~ a charitable organization ~~of the former candidate's choice or the charitable organization chosen~~, as instructed by the former candidate or, if the former candidate is deceased and left no instruction, as instructed by the former candidate's next of kin ~~if the former candidate is deceased~~; or

SECTION 19. 8.35 (4) (ba) of the statutes is created to read:

8.35 **(4)** (ba) Notwithstanding par. (a), any unspent and unencumbered grant moneys received by a candidate from the clean elections fund shall be immediately transferred to any candidate who is appointed and qualified to replace that candidate. If there is no candidate who is appointed and qualified, the moneys shall revert to the clean elections fund.

SECTION 20. 8.50 (1) (d) of the statutes, as affected by 2011 Wisconsin Act 75, is amended to read:

8.50 **(1)** (d) When the election concerns a national office or a special election for state office is held concurrently with the general election, the board shall transmit to each county clerk a certified list of all persons for whom nomination papers have been filed in its office at least 62 days before the special primary, and in other cases the board shall transmit the list to each county clerk at least 22 days before the

special primary. If no primary is required, the list shall be transmitted at least 42 days prior to the day of the special election unless the special election concerns a national office or is held concurrently with the general election, in which case the list shall be transmitted at least 62 days prior to the day of the special election. If a special primary for a state office is held, the board shall send a certified list of candidates who are eligible to receive grants under s. 11.52 to the state treasurer pursuant to s. 7.08 (2) (cn). Immediately upon receipt of the certified list of candidates from the board, the county clerk shall prepare his or her ballots. For a county special election, the county clerk shall certify the candidates and prepare the ballots. If there is a primary, the county clerk shall publish one type B notice in a newspaper under ch. 10. When a primary is held, as soon as possible after the primary, the county clerk shall certify the candidates and prepare the ballots for the following special election. The clerk shall publish one type B notice in a newspaper under ch. 10 for the election.

SECTION 21. 8.50 (3) (b) of the statutes, as affected by 2011 Wisconsin Acts 32 and 75, is amended to read:

8.50 **(3)** (b) Except as otherwise provided in this section, the provisions for the partisan primary under s. 8.15 are applicable to all partisan primaries held under this section, and the provisions for spring primaries under s. 8.10 are applicable to all nonpartisan primaries held under this section. In a special partisan primary or election, the order of the parties on the ballot shall be the same as provided under s. 5.62 (1) or 5.64 (1) (b). Independent candidates for a partisan state office at a special partisan election shall appear on the primary ballot. No primary is required for a nonpartisan election in which not more than 2 candidates for an office appear on the ballot or for a partisan election in which not more than one candidate for an

office appears on the ballot of each recognized political party. In every special election except a special election for nonpartisan state office where no candidate is certified to appear on the ballot, a space for write–in votes shall be provided on the ballot, regardless of whether a special primary is held.

SECTION 22. 10.02 (3) (b) 2. of the statutes, as affected by 2011 Wisconsin Act 32, is repealed.

SECTION 23. 10.02 (3) (b) 2n. of the statutes is created to read:

10.02 **(3)** (b) 2n. At a partisan primary, the elector shall select the party ballot of his or her choice or the ballot containing the names of the independent candidates for state office, and make a cross (X) next to or depress the lever or button next to the candidate's name for each office for whom the elector intends to vote or shall insert or write in the name of the elector's choice for a party candidate, if any. In order to qualify for a grant from the clean elections fund, a candidate for state office, other than the office of district attorney, at the partisan primary or a special primary, if a special primary is held, must receive at least 1 percent of all votes cast on all ballots for the office for which he or she is a candidate, in addition to other requirements.

SECTION 24. 10.06 (1) (e) of the statutes, as affected by 2011 Wisconsin Acts 32 and 45, is amended to read:

10.06 **(1)** (e) As soon as possible following the state canvass of the spring primary vote, but no later than the first Tuesday in March, the board shall send a type B notice certifying to each county clerk the list of candidates for the spring election. When no state spring primary is held, this notice shall be sent under par. (c). <u>The board shall also in any case send a certified list of candidates under s. 11.52 to the state treasurer pursuant to s. 7.08 (2) (ca).</u> When there is a referendum, the

1 board shall send type A and C notices certifying each question to the county clerks
2 as soon as possible, but no later than the first Tuesday in March.

3 **SECTION 25.** 10.06 (1) (i) of the statutes, as affected by 2011 Wisconsin Acts 32
4 and 78, is amended to read:

5 10.06 **(1)** (i) As soon as possible after the state canvass, but no later than the
6 4th Tuesday in August, the board shall send a type B notice certifying the list of
7 candidates and type A and C notices certifying each question for any referendum to
8 each county clerk for the general election and a certified list of candidates under s.
9 11.52 to the state treasurer pursuant to s. 7.08 (2) (ca).

10 **SECTION 26.** 11.01 (4m) of the statutes is created to read:

11 11.01 **(4m)** "Communication" means a message transmitted by means of a
12 printed advertisement, billboard, handbill, sample ballot, radio or television
13 advertisement, telephone call, or any medium that may be utilized for the purpose
14 of disseminating or broadcasting a message, but not including a poll conducted solely
15 for the purpose of identifying or collecting data concerning the attitudes or
16 preferences of electors.

17 **SECTION 27.** 11.01 (16) (a) 3. of the statutes is created to read:

18 11.01 **(16)** (a) 3. A communication that is made by means of one or more
19 communications media, other than a communication that is exempt from reporting
20 under s. 11.29, that is made during the period beginning on the 60th day preceding
21 an election and ending on the date of that election, and that includes a reference to
22 a candidate for state office, other than court of appeals judge, circuit judge, or district
23 attorney, whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the
24 ballot at that election, a reference to a state office, other than court of appeals judge,

circuit judge, or district attorney, to be filled at that election, or a reference to a political party.

SECTION 28. 11.05 (3) (s) of the statutes is created to read:

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

SECTION 29. 11.06 (1) (a) of the statutes is amended to read:

11.06 **(1)** (a) ~~An~~ Except as required under s. 11.52 (2), an itemized statement giving the date, full name and street address of each contributor who has made a contribution in excess of $20, or whose contribution if $20 or less aggregates more than $20 for the calendar year, together with the amount of the contribution and the cumulative total contributions made by that contributor for the calendar year.

SECTION 30. 11.06 (1) (g) of the statutes is amended to read:

11.06 **(1)** (g) ~~An~~ Except as required under s. 11.52 (7), an itemized statement of every disbursement exceeding $20 in amount or value, together with the name and address of the person to whom the disbursement was made, and the date and specific purpose for which the disbursement was made.

SECTION 31. 11.06 (2) of the statutes is amended to read:

11.06 **(2)** DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS. Notwithstanding sub. (1), if a disbursement is made or obligation incurred by an individual other than a candidate or by a committee or group which is not primarily organized for political purposes, ~~and~~ the disbursement does not constitute a contribution to any candidate or other individual, committee, or group, and the disbursement is not made or the

1 obligation is not incurred for the purpose of making a communication specified in s.
2 11.01 (16) (a) 3., the disbursement or obligation is required to be reported only if the
3 purpose is to expressly advocate the election or defeat of a clearly identified
4 candidate or the adoption or rejection of a referendum. The exemption provided by
5 this subsection shall in no case be construed to apply to a political party, legislative
6 campaign, personal campaign or support committee.

7 **SECTION 32.** 11.26 (2) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
8 is amended to read:

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

13 **SECTION 33.** 11.26 (9) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
14 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, adjusted as provided in s. 11.31 (9), for the office for which
18 he or she is a candidate during any primary and election campaign combined from
19 all committees subject to a filing requirement, including political party and
20 legislative campaign committees.

21 **SECTION 34.** 11.26 (9) (b) of the statutes, as affected by 2011 Wisconsin Act 32,
22 is amended to read:

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

he or she is a candidate during any primary and election campaign combined from all committees other than political party and legislative campaign committees subject to a filing requirement.

SECTION 35. 11.31 (1) (intro.) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

11.31 **(1)** SCHEDULE. (intro.) The following levels of disbursements are established with reference to the candidates listed below. The levels are subject to adjustment under sub. (9). The levels do not operate to restrict the total amount of disbursements which are made or authorized to be made by any candidate in any primary or other election.

SECTION 36. 11.31 (9) of the statutes is created to read:

11.31 **(9)** ADJUSTMENT OF DISBURSEMENT LEVELS. (a) In this subsection, "consumer price index" means the average of the consumer price index over each 12–month period, all items, U.S. city average, as determined by the bureau of labor statistics of the U.S. department of labor.

(b) The dollar amounts of the levels specified in sub. (1) are subject to a biennial adjustment to be determined by rule of the board in accordance with this paragraph. To determine the adjustment, the board shall, in each year that the adjustment is made, calculate the percentage difference between the consumer price index for the 12–month period ending on December 31 of the preceding year and the consumer price index for calendar year 2013. For each biennium, the board shall multiply the amount of each level specified under sub. (1) by the percentage difference in the consumer price indexes. The board shall then add that product to the applicable level under sub. (1), round each sum to the nearest multiple of $5, and adjust the amount of each level to substitute the resulting amount. The amount so determined shall

then be in effect until a subsequent rule is promulgated under this paragraph. Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), determinations under this paragraph may be promulgated as an emergency rule under s. 227.24 without providing evidence that the emergency rule is necessary for the public peace, health, safety, or welfare and without a finding of emergency. Notwithstanding ss. 227.135 (2) and (4) and 227.24 (1) (c) and (e) 1d. and 1g. and (2) (a), a proposed emergency rule promulgated under this paragraph and the statement of the scope of the proposed emergency rule are not subject to approval of the governor and the emergency rule remains in effect until the nonemergency rule corresponding to that rule takes effect.

SECTION 37. 11.38 (6) of the statutes is amended to read:

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

SECTION 38. 11.52 of the statutes is created to read:

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

(2) (a) To qualify to receive a basic grant from the clean elections fund, a candidate shall obtain and deposit with the state treasurer the number of qualifying contributions specified in this subsection, in the amount of $5 each, each of which shall be received from an elector of this state and, in the case of a candidate for legislative office, an elector of the district in which the candidate seeks office. The

candidate shall identify the name and address of each elector making a qualifying contribution in a report filed with the board as provided in s. 11.06 (1) (a). The number of required qualifying contributions for a candidate for each office is:

1. Governor, 3,000.
2. Lieutenant governor, 750.
3. Attorney general, 1,050.
4. State treasurer, 375.
5. Secretary of state, 375.
6. State superintendent, 375.
7. Justice, 450.
8. State senator, 150.
9. Representative to the assembly, 100.

(b) To qualify to receive a matching grant from the clean elections fund, a candidate shall verify his or her receipt of qualifying matching contributions under sub. (10).

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

(3) Prior to notification that a candidate has qualified to receive a grant from the clean elections fund under sub. (5), a candidate may accept seed money contributions from individuals. The total seed money contributions accepted by a candidate from one contributor, including any seed money contributions made by a

candidate to his or her own campaign, may not exceed $100. The total seed money contributions accepted by a candidate during the candidate's campaign, as defined in s. 11.26 (17), may not exceed, in the aggregate, the following amount for the office sought by candidate:

(a) Governor, $50,000.

(b) Lieutenant governor, $12,500.

(c) Attorney general, $17,500.

(d) State treasurer, $6,250.

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

(f) State superintendent, $6,250.

(g) Justice, $7,500.

(h) State senator, $2,500.

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

(4) A contributor who makes a qualifying contribution may also make a seed money contribution in the full amount authorized under sub. (3) or a matching contribution in the full amount authorized under sub. (10), or both. A contributor who makes a seed money contribution under sub. (3) may also make a matching contribution in the full amount authorized under sub. (10).

(5) (a) To qualify to receive a grant from the clean elections fund, a candidate shall file an application with the board, no later than a time specified by the board by rule, in which the candidate shall affirm that he or she has not accepted and agrees not to accept after notification of the candidate's qualification a contribution from any source other than a contribution required under sub. (2) or a contribution authorized under sub. (3), except matching contributions in the amount authorized under sub. (10) and except as otherwise provided in par. (b). If the candidate desires

1 to receive grant payments by electronic transfer, the candidate shall include in his
2 or her application sufficient information and authorization for the state treasurer to
3 transfer payments to his or her campaign depository account. The board shall notify
4 each candidate who qualifies to receive a grant from the clean elections fund as
5 promptly as possible following qualification.

6 (b) A candidate who receives a grant at a primary election but does not qualify
7 to receive a grant at the succeeding general or special election is not required to
8 adhere to his or her affirmation under par. (a) after the date of the primary election.

9 **(6)** (a) The board shall distribute basic primary election grants from the clean
10 elections fund to each candidate who qualifies to receive a grant under this section
11 as soon as possible preceding the date on which the primary election is held for the
12 office that the candidate seeks or the date on which the primary election would be
13 held if a primary election were required to be held.

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

19 (c) The board shall distribute matching grants for any election from the clean
20 elections fund to each candidate who qualifies to receive a matching grant under this
21 section as soon as possible after the date on which the board verifies that the
22 candidate is eligible to receive a matching grant. The board shall distribute
23 additional matching grants at periodic intervals after initial matching grants are
24 distributed as soon as the board is able to verify eligibility for additional grants.

1 **(7)** A candidate who receives a grant from the clean elections fund shall file
2 with the board reports of all disbursements made in the manner provided under s.
3 11.06 (1) (g), without regard to the amounts thereof.

4 **(8)** (a) Except as provided in par. (b) and sub. (9), a candidate who qualifies to
5 receive a basic grant from the clean elections fund under this section shall receive
6 a grant in the following amount for the office sought by the candidate and for the
7 election specified:

Office	*Primary Election*	*Spring, General, or Special Election*
1. Governor	$1,000,000	$2,000,000
2. Lieutenant governor	250,000	500,000
3. Attorney general	350,000	700,000
4. State treasurer	125,000	250,000
5. Secretary of state	125,000	250,000
6. State superintendent	125,000	250,000
7. Justice	150,000	300,000
8. State senator	50,000	100,000
9. Representative to the assembly	25,000	50,000

19 (b) If a candidate does not have an opponent who has qualified to have his or
20 her name appear on the ballot at the election for which a grant is to be applied, the
21 candidate shall receive a basic grant for a primary election equal to the average total
22 disbursements made per candidate in primary election campaign periods, as
23 determined on a statewide basis by the board from reports filed by or on behalf of
24 those candidates in accordance with s. 11.31 (5), for the office that the candidate
25 seeks during the 4–year period preceding the date of the primary election, or a basic
26 grant for a spring, general, or special election equal to the average total
27 disbursements made per candidate in general and special election campaign periods,

as determined on a statewide basis by the board from reports filed by or on behalf of those candidates in accordance with s. 11.31 (5), for the office that the candidate seeks during the 4–year period preceding the date of the spring, general, or special election, less the aggregate amount of contributions accepted by the candidate under sub. (3) except that a candidate for the office of governor shall receive a basic grant of $100,000 for a primary election and a basic grant of $200,000 for a general election.

(9) (a) In this subsection, "consumer price index" means the average of the consumer price index over each 12–month period, all items, U.S. city average, as determined by the bureau of labor statistics of the U.S. department of labor.

(b) The dollar amounts of the grants specified in sub. (8) (a) and the grants specified for the office of governor in sub. (8) (b) are subject to a biennial cost–of–living adjustment to be determined by rule of the board in accordance with this paragraph. To determine the adjustment, the board shall, as soon as possible after the end of each odd–numbered year, calculate the percentage difference between the consumer price index for the 12–month period ending on December 31 of the preceding year and the consumer price index for calendar year 2013. For each biennium, the board shall multiply the amount of each grant specified in sub. (8) by the percentage difference in the consumer price indexes. The board shall then add that product to the applicable grant amount under sub. (8), round each sum to the nearest multiple of $5, and adjust the amount of each grant to substitute the resulting amount. The amount so determined shall then be in effect until a subsequent rule is promulgated under this paragraph. Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), determinations under this paragraph may be promulgated as an emergency rule under s. 227.24 without providing evidence that the emergency rule is necessary for the public peace, health, safety, or welfare, and without a finding

1 of emergency. Notwithstanding ss. 227.135 (2) and (4) and 227.24 (1) (c) and (e) 1d.
2 and 1g. and (2) (a), a proposed emergency rule promulgated under this paragraph
3 and the statement of the scope of the proposed emergency rule are not subject to
4 approval of the governor and the emergency rule remains in effect until the
5 nonemergency rule corresponding to that rule takes effect.

6 **(10)** A candidate who receives notification under sub. (5) that the candidate has
7 qualified to receive a basic grant may also qualify to receive matching grants under
8 this subsection. A matching grant shall be in an amount equal to 3 times the amount
9 of any contribution or contributions up to $25 cumulatively that are received by a
10 candidate from an individual exclusive of any seed money or qualifying contributions
11 received by the candidate from the same individual. A candidate who receives a
12 matching contribution shall separately identify the contribution in the candidate's
13 financial reports under s. 11.06 (1). A candidate who receives one or more matching
14 contributions after the end of a reporting period for his or her most recent financial
15 report may file a special report in the manner prescribed by the board disclosing the
16 pertinent information under s. 11.06 (1) in the manner specified in sub. (7) with
17 respect to the matching contributions. The candidate shall also include the
18 information in his or her next financial report. The board shall make a reasonable
19 effort to verify reports of eligibility for matching grants for use at an election if the
20 reports are received by the board by the Thursday before the election. The board
21 shall not provide matching grants to candidates for use in an election unless the
22 board is able to verify eligibility for the grants by 4 p.m. on the Friday before the
23 election.

24 **(11)** Except as provided in sub. (2) (a), a candidate may expend the proceeds
25 of grants and other contributions received for any lawful purpose.

1 **(12)** If a candidate who makes an agreement under sub. (5) does not adhere to
2 the agreement, the candidate shall forfeit an amount equivalent to any grant from
3 the clean elections fund that is provided to the candidate and the candidate may be
4 fined not more than 3 times the amount of any contributions received by the
5 candidate in his or her campaign, as defined in s. 11.26 (17), exclusive of the amount
6 of any grant or any contributions deposited under sub. (2) or received under sub. (3)
7 or (10).

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

15 **(14)** The board may promulgate rules required to implement this section.

16 **SECTION 39.** 14.58 (20a) of the statutes is created to read:

17 14.58 **(20a)** CLEAN ELECTIONS FUND. Make payment of grants to each candidate
18 who is certified under s. 11.52 (5) by the government accountability board as eligible
19 to receive a grant from the clean elections fund.

20 **SECTION 40.** 20.511 (1) (qa) of the statutes is created to read:

21 20.511 **(1)** (qa) *Clean elections fund grants.* From the clean elections fund, a
22 sum sufficient to make the grants to candidates required under s. 11.52.

23 **SECTION 41.** 20.855 (4) (bc) of the statutes is created to read:

1 20.855 **(4)** (bc) *Clean elections fund supplement.* A sum sufficient equal to the
2 amounts required to make the grants to candidates required under s. 11.52, to be
3 transferred to the clean elections fund.

4 **SECTION 42.** 25.17 (1) (aw) of the statutes is created to read:

5 25.17 **(1)** (aw) Clean elections fund (s. 25.426);

6 **SECTION 43.** 25.426 of the statutes is created to read:

7 **25.426 Clean elections fund.** All moneys deposited with the state treasurer
8 under s. 11.52 (2) or returned to the state treasurer under ss. 8.35 (4) (ba) and 11.52
9 (13) and all moneys transferred to the clean elections fund under s. 20.855 (4) (bc)
10 constitute the clean elections fund.

11 **SECTION 44. Nonstatutory provisions.**

12 (1) Notwithstanding section 11.52 (5) of the statutes, as created by this act, a
13 candidate for state office who, prior to the effective date of this subsection, has
14 accepted one or more contributions other than qualifying contributions under section
15 11.52 (2) of the statutes, as created by this act, is not disqualified solely on the basis
16 of that acceptance from receiving a grant under section 11.52 of the statutes, as
17 created by this act, at an election held after the effective date of this subsection. A
18 candidate may use the proceeds of any such contributions to make disbursements for
19 any lawful purpose.

20 **SECTION 45. Initial applicability.**

21 (1) This act first applies with respect to grants for election campaigns at
22 elections for which the nomination paper circulation period begins on or after the
23 effective date of this subsection.

24 (2) The treatment of section 11.01 (16) (a) 3. of the statutes first applies with
25 respect to reporting periods that begin on or after the effective date of this subsection.

1 (3) The treatment of sections 11.31 (9) and 11.52 (9) of the statutes first applies
2 to adjustments for the biennium beginning on January 1, 2016.

3 **(END)**

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–2215/?dn

JK sac

– date –

Representative Taylor:

Please review this draft carefully to ensure that it is consistent with your intent. This draft is based on 2011 Assembly Bill 642.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–2215/1dn
JK:sac:jm

April 26, 2013

Representative Taylor:

Please review this draft carefully to ensure that it is consistent with your intent. This draft is based on 2011 Assembly Bill 642.

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