2013 DRAFTING REQUEST

Bill

Received:	**9/4/2013**	Received By:	**jkuesel**
Wanted:	**As time permits**	Same as LRB:	
For:	**Robert Wirch (608) 267-8979**	By/Representing:	**Steve Gillitzer**
May Contact:		Drafter:	**jkreye**
Subject:	**Elections - campaign finance**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Sen.Wirch@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Disbursements by corporations

Instructions:

Per 2013 LRB-1990, with permission of Rep. Taylor (p/c, Craig Trost, 9/4/13).

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	jkreye 9/4/2013	scalvin 9/4/2013	rschluet 9/4/2013	_____ _____			
/1				_____ _____	srose 9/4/2013	srose 10/1/2013	

FE Sent For:

Not Needed

<END>

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/?	jkreye		CR 13				

FE Sent For:

<END>

Kuesel, Jeffery

From: Gillitzer, Steven
Sent: Monday, August 26, 2013 11:20 AM
To: Kuesel, Jeffery
Subject: Drafting request

Good morning, Jeffrey. Senator Wirch would like to have a bill drafted. It would be the Senate version of an Assembly bill that Rep. Chris Taylor had drafted earlier this summer, regarding shareholder approval for corporate political disbursements. Senator Wirch had this legislation drafted last session, as well, and it became Senate Bill 67. Please let me know if you have any questions. Thanks very much.

Steve Gillitzer
Office of Sen. Bob Wirch
22nd Senate District

State of Wisconsin
2013 – 2014 LEGISLATURE

LRB–1990/1
JK:sac:rs
Stays
3063/1

2013 BILL

in 9-4-13

SDDN

1 AN ACT ***to amend*** 11.38 (1) (a) 1.; and ***to create*** 11.05 (3) (q), 11.38 (3e) and 11.38
2 (9) of the statutes; **relating to:** political disbursements and obligations by
3 corporations and cooperative associations.

Analysis by the Legislative Reference Bureau

Under current law, corporations and cooperatives are prohibited from making contributions or disbursements (expenditures) in campaigns for state or local office. Violators are subject to a forfeiture (civil penalty) of not more than $500 for each violation. Intentional violators are guilty of a Class I felony, which is punishable by a fine of not more than $10,000 or imprisonment for three and one–half years, or both, except that if a violation involves $100 or less, the violation is punishable as a misdemeanor with a fine of not more than $1,000 or imprisonment for not more than six months, or both. A recent decision of the U.S. Supreme Court has cast doubt about whether this law is enforceable as it applies to disbursements. See *Citizens United v. F.E.C.*, 130 S. Ct. 876 (2010).

This bill provides that if a court with jurisdiction in this state finds in a reported decision, whether or not applicable in this state, that a prohibition against the making of political expenditures by corporations or similar entities is not enforceable for constitutional reasons, the Government Accountability Board (GAB) must publish a finding to that effect. The bill then provides that, during a period when a finding of unenforceability is in effect, before a corporation or cooperative may make a disbursement or incur an obligation to make a disbursement for the purpose of influencing an election for state or local office, the corporation or cooperative must

file with its registration statement and maintain on file with the appropriate filing officer or agency: 1) a copy of a document that is satisfactory to the GAB, reflecting action taken not more than two years previous to the time that any disbursement is made or any obligation to make a disbursement is incurred, demonstrating that the corporation or cooperative has received the approval of a majority of its voting shares, exclusive of any proxy votes cast, to make disbursements and incur obligations to make disbursements for the purpose of influencing an election for state or local office; or 2) a statement that the corporation or cooperative has no shareholders. The bill prohibits a corporation or cooperative from making a disbursement or incurring an obligation to make a disbursement unless the corporation or cooperative has a current statement on file and the statement is accurate.

The bill also provides that no owner, officer, employee, or agent of a corporation or cooperative may cause or authorize the corporation or cooperative to make a disbursement or to incur an obligation that is prohibited under the bill. Under the bill, if an owner, officer, employee, or agent causes or authorizes a violation, action must be brought against the owner, officer, employee, or agent personally and the corporation or cooperative is not financially liable for the violation. In addition, no corporation or cooperative is permitted to reimburse an owner, officer, employee, or agent for any financial liability incurred by the owner, officer, employee, or agent.

Violators of the registration requirements or the prohibitions created by the bill are subject to a forfeiture of not more than $500 for each violation. Intentional violators of the registration requirements or the prohibitions created by the bill are guilty of a Class I felony and may be fined not more than $10,000 or imprisoned for not more than three years and six months, or both, if the violation involves an amount of more than $100 or otherwise may be fined not more than $1,000 or imprisoned for not more than six months, or both.

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

1 **SECTION 1.** 11.05 (3) (q) of the statutes is created to read:

2 11.05 **(3)** (q) In the case of a corporation or cooperative association organized
3 under ch. 185 or 193 that wishes to make disbursements or to incur obligations to
4 make disbursements for the purpose of influencing an election for state or local office
5 during a period when a finding of unenforceability under s. 11.38 (9) is in effect, a
6 statement that the corporation or cooperative association has received the approval
7 of a majority of the voting shares, exclusive of any proxy votes cast, to make

disbursements and to incur obligations to make disbursements, together with the attachment required under s. 11.38 (3e) (a) or, if there are no shareholders, a statement to that effect.

SECTION 2. 11.38 (1) (a) 1. of the statutes is amended to read:

11.38 **(1)** (a) 1. ~~No~~ Except as authorized in sub. (9), no foreign or domestic corporation, or association organized under ch. 185 or 193, may make any contribution or disbursement, directly or indirectly, either independently or through any political party, committee, group, candidate or individual for any purpose other than to promote or defeat a referendum.

SECTION 3. 11.38 (3e) of the statutes is created to read:

11.38 **(3e)** (a) As a part of its registration, each corporation or cooperative association organized under ch. 185 or 193 that wishes to make disbursements or to incur obligations to make disbursements for the purpose of influencing an election for state or local office during a period when a finding of unenforceability under sub. (9) is in effect shall provide a copy of a document that is satisfactory to the board, reflecting action taken not more than 2 years previous to the time that any disbursement is made or any obligation to make a disbursement is incurred, demonstrating that the corporation or association has received the approval of a majority of the voting shares, exclusive of any proxy votes cast, for the corporation or association to make disbursements and incur obligations to make disbursements in elections for state or local office in this state or a statement that the corporation or association has no shareholders. No corporation or cooperative association organized under ch. 185 or 193 may make any disbursement or incur any obligation to make a disbursement, directly or indirectly, or through any political party, committee candidate, or individual for the purpose of influencing an election for state

1 or local office unless the corporation or association has a current statement under
2 this paragraph on file with the appropriate filing officer and the statement is
3 accurate.

4 (b) No owner, officer, employee, or agent of a corporation or cooperative
5 association organized under ch. 185 or 193 may cause or authorize the corporation
6 or association to make a disbursement or to incur an obligation in violation of this
7 subsection. If such an owner, officer, employee or agent causes or authorizes a
8 violation of this subsection, action for the violation shall be brought against the
9 owner, officer, employee, or agent personally and the corporation or association is not
10 financially liable for the violation. No such corporation or association may reimburse
11 an owner, officer, employee, or agent for any financial liability incurred by the owner,
12 officer, employee, or agent under this subsection.

13 **SECTION 4.** 11.38 (9) of the statutes is created to read:

14 11.38 **(9)** If a court with jurisdiction in this state finds in a reported decision,
15 whether or not applicable in this state, that a prohibition against the making of
16 political expenditures by corporations or similar entities is not enforceable for
17 constitutional reasons, or if any such court later finds in a reported decision that such
18 a prohibition is enforceable, the board shall promptly publish a finding to that effect
19 in the Wisconsin Administrative Register. The prohibition against disbursements
20 under sub. (1) (a) 1. does not apply whenever a finding of unenforceability is in effect
21 if the corporation or association making a disbursement complies with sub. (3e) (a).

22 **(END)**

Parisi, Lori

From: Gillitzer, Steven
Sent: Tuesday, October 01, 2013 11:21 AM
To: LRB.Legal
Subject: Draft Review: LRB -3063/1 Topic: Disbursements by corporations

Please Jacket LRB -3063/1 for the SENATE.