

CHAPTER 11

CAMPAIGN FINANCING

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NOTE: 2005 Wis. Act 451, which made major revisions to the election laws, including to Chapter 11, contains an extensive prefatory note explaining the changes.

Cross-reference: See definitions in s. 5.02.

Cross-reference: See also chs. GAB 1 and 6, Wis. adm. code.

11.001 Declaration of policy. (1) The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed. It further finds that excessive spending on campaigns for public office jeopardizes the integrity of elections. It is desirable to encourage the broadest possible participation in financing campaigns by all citizens of the state, and to enable candidates to have an equal opportunity to present their programs to the voters. One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information which aids the public in fully understanding the public positions taken by a candidate or political organization. When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence. The legislature therefore finds that the state has a compelling interest in designing a system for fully disclosing contributions and disbursements made on behalf of every candidate for public office, and in placing reasonable limitations on such activities. Such a system must make readily available to the voters complete information as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly. This chapter is intended to serve the public purpose of stimulating vigorous campaigns on a fair and equal basis and to provide for a better informed electorate.

(2) This chapter is also intended to ensure fair and impartial elections by precluding officeholders from utilizing the perquisites of office at public expense in order to gain an advantage over nonincumbent candidates who have no perquisites available to them.

(3) This chapter is declared to be enacted pursuant to the power of the state to protect the integrity of the elective process and to assure the maintenance of free government.

History: 1973 c. 334; 1979 c. 328; 1985 a. 303; 2001 a. 109; 2005 a. 177.

Campaign finance in Wisconsin after *Buckley*. 1976 WLR 816.

Decoding the Maze: Wisconsin's Campaign Finance Laws. Wittenwyler & Jensen. Wis. Law. Oct. 2014.

11.002 Construction. This chapter shall be construed to impose the least possible restraint on persons or organizations whose activities do not directly affect the elective process, consistent with the right of the public to have a full, complete and readily understandable accounting of those activities intended to influence elections.

History: 1979 c. 328 ss. 9, 11.

11.01 Definitions. As used in this chapter:

(1) “Candidate” means every person for whom it is contemplated or desired that votes be cast at any election held within this state, other than an election for national office, whether or not the person is elected or nominated, and who either tacitly or expressly consents to be so considered. A person does not cease to be a candidate for purposes of compliance with this chapter or ch. 12 after the date of an election and no person is released from any requirement or liability otherwise imposed under this chapter or ch. 12 by virtue of the passing of the date of an election.

(2) “Charitable organization” means any organization described in section 170 (c) (2) of the internal revenue code, and also includes the United States, any state, territory or possession, the District of Columbia and any political subdivision thereof, when a gift is made exclusively for public purposes; but does not include any private organization conducting activities for political purposes.

(3) “Clearly identified”, when used with reference to a communication in support of or in opposition to a candidate, means:

- (a) The candidate’s name appears;
- (b) A photograph or drawing of the candidate appears; or
- (c) The identity of the candidate is apparent by unambiguous reference.

(4) “Committee” or “political committee” means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements, whether or not engaged in activities which are exclusively political, except that a “committee” does not include a political “group” under this chapter.

(5) “Communications media” means newspapers, periodicals, commercial billboards and radio and television stations, including community antenna television stations.

(5m) “Conduit” means an individual who or an organization which receives a contribution of money and transfers the contribution to another individual or organization without exercising discretion as to the amount which is transferred and the individual to whom or organization to which the transfer is made.

(6) (a) Except as provided in par. (b), “contribution” means any of the following:

1. A gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, made for political purposes. In this subdivision “anything of value” means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.

3. A contract, promise or agreement, if legally enforceable, to make a gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business, for a political purpose.

4. A transfer of funds between candidates, committees, individuals or groups subject to a filing requirement under this chapter.

5. The purchase of a ticket for a meal, rally or other fund-raising event for a purpose under subd. 1., whether or not actually utilized.

6. The distribution of any publication or advertising matter for any purpose under subd. 1. other than by a registrant under s. 11.05, or as provided in s. 11.29.

7. A gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, or a contract, promise or agreement, if legally enforceable, to make the same, made by a committee for a purpose authorized under s. 11.25 (2) (b), or by an individual for a purpose authorized under s. 11.25 (2) (b) if deposited in a campaign depository account.

(b) “Contribution” does not include any of the following:

1. Services for a political purpose by an individual on behalf of a registrant under s. 11.05 who is not compensated specifically for the services.

2. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual’s residential premises for a purpose under par. (a) 1. if no funds are raised with the knowledge of the host.

3. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers his or her personal services for political purposes.

4. The costs of preparation and transmission of personal correspondence, provided that the correspondence is not reproduced by machine for distribution.

5. Compensation or fringe benefits provided as a result of employment by an employer to regular employees or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.

6. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a contribution under s. 11.06.

7. A gift, subscription, loan, advance, or deposit of anything of value received by a committee or group not organized exclu-

sively for political purposes that the group or committee does not utilize for political purposes.

8. Any cost incurred to conduct Internet activity for a political purpose by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. 11.06 (13), but not including professional video production services purchased by the individual.

9. Any cost incurred for covering or carrying a news story, commentary, or editorial by a broadcasting station, cable television operator, producer, or programmer, Internet site, or newspaper or other periodical publication, including an Internet or other electronic publication except the cost of a news story that appears in a medium that is owned or controlled by a candidate, personal campaign committee of a candidate, support committee of a candidate that is authorized under s. 11.05 (3) (p), or a political party.

(6L) “Corporation” includes a limited liability company.

(7) (a) Except as provided in par. (b), “disbursement” means any of the following:

1. A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, made for political purposes. In this subdivision, “anything of value” means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.

3. A contract, promise, or agreement, if legally enforceable, to make a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business, for a political purpose.

4. An expenditure authorized under s. 11.25 (2) (b) made from a campaign depository account.

5. Any payment for a communication to the general public for a political purpose by means of any broadcast, satellite communication, newspaper or other periodical publication, outdoor advertising facility, mass mailing, or mass telephoning to the general public, or any other form of advertising to the general public, except communications over the Internet by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. 11.06 (13).

6. Any payment for the purchase or rental of an electronic-mail address list made at the direction of a registrant for a political purpose.

7. Any payment for an electronic-mail address list that is transferred to a registrant for a political purpose.

(b) “Disbursement” does not include any of the following:

1. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual’s residential premises for a purpose under par. (a) 1. if no funds are raised with the knowledge of the host.

2. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers his or her personal services for political purposes.

3. The costs of preparation and transmission of personal correspondence, provided that the correspondence is not reproduced by machine for distribution.

4. Compensation or fringe benefits provided as a result of employment by an employer to regular employees or pensioners who are not compensated specifically for services performed for

a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.

5. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a disbursement under s. 11.06.

6. A communication or Internet activity by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. 11.06 (13), but not including professional video production services purchased by the individual.

7. Any cost incurred in covering or carrying a news story, commentary, or editorial by a broadcasting station, cable television operator, programmer or producer, Internet site, or newspaper or other periodical publication, including an Internet or electronic publication, except the cost of a news story that appears in a medium that is owned or controlled by a candidate, personal campaign committee of a candidate, support committee of a candidate that is authorized under s. 11.05 (3) (p), or a political party.

8. A nominal fee paid for a communication to the general public.

(8) “Filing officer” means the official or agency determined in accordance with s. 11.02.

(9) “Filing requirement” means the continuing duty to file reports of contributions, disbursements or incurred obligations with the appropriate filing officer.

(10) “Group” or “political group” means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements for the purpose of influencing the outcome of any referendum whether or not engaged in activities which are exclusively political.

(11) “Incurred obligation” means every express obligation to make any contribution or disbursement including every loan, guarantee of a loan or other obligation or payment for any goods, or for any services which have been performed or are to be performed in the future, incurred by a candidate, committee, individual or group for political purposes.

(12) “Intentionally” has the meaning given under s. 939.23.

(12m) “Internet activity” includes sending or forwarding an electronic message; providing a hyperlink or other direct access on a person’s Internet site to an Internet site operated by another person; blogging; creating, maintaining, or hosting an Internet site; payment by a person of a nominal fee for the use of an Internet site operated by another person; or any other form of communication distributed over the Internet.

(12s) “Legislative campaign committee” means a committee which does not file an oath under s. 11.06 (7) organized in either house of the legislature to support candidates of a political party for legislative office.

(15) “Personal campaign committee” means a committee which is formed or operating for the purpose of influencing the election or reelection of a candidate, which acts with the cooperation of or upon consultation with the candidate or the candidate’s agent or which is operating in concert with or pursuant to the authorization, request or suggestion of the candidate or the candidate’s agent.

(16) An act is for “political purposes” when it is done for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, for the purpose of payment of expenses incurred as a result of a recount at an election, or for the purpose of influencing a particular vote at a referendum. In the case of a

candidate, or a committee or group which is organized primarily for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, or for the purpose of influencing a particular vote at a referendum, all administrative and overhead expenses for the maintenance of an office or staff which are used principally for any such purpose are deemed to be for a political purpose.

(a) Acts which are for “political purposes” include but are not limited to:

1. The making of a communication which expressly advocates the election, defeat, recall or retention of a clearly identified candidate or a particular vote at a referendum.

2. The conduct of or attempting to influence an endorsement or nomination to be made at a convention of political party members or supporters concerning, in whole or in part, any campaign for state or local office.

(b) A “political purpose” does not include expenditures made for the purpose of supporting or defending a person who is being investigated for, charged with or convicted of a criminal violation of state or federal law, or an agent or dependent of such a person.

NOTE: The U.S. Seventh Circuit Court of Appeals in *Wisconsin Right to Life v. Barland*, 751 F.3d 804 (2014), held that the definition of “political purposes,” in sub. (16), is unconstitutionally vague and overbroad and requires a narrowing construction.

(17g) “Public access channel” means a PEG channel, as defined in s. 66.0420 (2) (s), that is used for public access purposes, but does not include a PEG channel that is used for governmental or educational purposes.

(17r) “Public access channel operator” means a person designated by a city, village, or town as responsible for the operation of a public access channel.

(18m) “Registrant” means an individual or organization registered under s. 11.05 with a filing officer.

(19) “Salary” means the highest salary to which any candidate for a particular office would, if elected, be entitled during the first year of incumbency.

History: 1973 c. 334; 1975 c. 93, 199; 1977 c. 187, 427; 1979 c. 260, 263; 1979 c. 328 ss. 12 to 28, 146; 1979 c. 355 s. 31; 1983 a. 484, 491; 1985 a. 303; 1987 a. 370, 391; 1989 a. 192; 1993 a. 112; 1999 a. 83; 2001 a. 103, 109; 2005 a. 177; 2007 a. 42; 2013 a. 153.

It may be appropriate to consider context in determining whether a communication “expressly advocates” within the meaning of sub.(16) (a) 1. The Elections Board’s attempt to apply a context-based standard of express advocacy was an unfair attempt at retroactive rule-making, without any express statutory grant of authority, and thus, a violation of due process. *Elections Board v. Wisconsin Manufacturers & Commerce*, 227 Wis. 2d 650, 597 N.W.2d 721 (1999), 98–0596.

The term “political purposes” is not restricted to acts of express advocacy, but encompasses many acts undertaken to influence an election, including making contributions to an election campaign. Contributions may be in-kind, as well as in cash, and campaign organizations are required to report the receipt of in-kind contributions. *Wisconsin Coalition for Voter Participation, Inc. v. State Elections Board*, 231 Wis. 2d 670, 605 N.W.2d 654 (Ct. App. 1999), 99–2574.

The definition of “political purposes,” which triggers PAC duties and other requirements and restrictions, is vague and overbroad in the sense meant by *Buckley v. Valeo*, 424 U.S. 1, and requires a limiting construction. As applied to political speakers other than candidates, their committees, and political parties, the statutory definition of “political purposes” in section 11.01(16) is limited to express advocacy and its functional equivalent. *Wisconsin Right to Life v. Barland*, 751 F.3d 804 (2014).

Subs. (9) and (16), 1975 stats., [now subs. (10) and (16)] are constitutional only if narrowly construed to apply only to acts of express advocacy of the election or defeat of an identified candidate or referendum result. 65 Atty. Gen. 145.

11.02 Determination of filing officer. Except where the filing of duplicate reports or statements is specifically required by law, each person, committee or group subject to s. 11.05 shall have one filing officer. Such officer shall be determined as follows:

(1) The “filing officer” for each candidate for state office and for each committee which or individual who is acting in support of or in opposition to any candidate for state office is the board.

(2) The “filing officer” for each committee which or individual who is acting in support of or in opposition to any candidates for state and local offices is the board.

(3) Except as provided in sub. (3e), the “filing officer” for each candidate for local office and for each committee which or

individual who is acting in support of or in opposition to any candidate for local office, but not any candidate for state office, is the clerk of the most populous jurisdiction for which any candidate who is supported or opposed seeks office.

(3e) The “filing officer” for each candidate for municipal judge elected under s. 755.01 (4) and for each committee which or individual who is acting in support of or in opposition to such a candidate, but not any candidate for state office, is the county clerk or board of election commissioners of the county having the largest portion of the population in the jurisdiction served by the judge.

(3m) The “filing officer” for an individual who or committee which supports or opposes an effort to circulate and file a petition to recall an individual who holds an office is the filing officer for candidates for that office.

(4) The “filing officer” for each group which or individual who is acting in support of or in opposition to any statewide referendum is the board.

(5) The “filing officer” for each group which or individual who is acting in support of or in opposition to any statewide and local referenda is the board.

(6) The “filing officer” for each group which or individual who is acting in support of or in opposition to any local referendum, but not any statewide referendum, is the clerk of the most populous jurisdiction in which any referendum being supported or opposed is conducted.

(7) If the jurisdiction under sub. (3) or (6) is a school district, the appropriate clerk is the school district clerk.

History: 1975 c. 93; 1983 a. 491; 1985 a. 225, 303; 1999 a. 182.

11.03 Nonapplicability. **(1)** Elections for the positions of presidential elector and convention delegate are not subject to ss. 11.05 to 11.23 and 11.26 to 11.29.

(2) Except as otherwise expressly provided, this chapter does not apply to any candidate for national office acting exclusively in support of the candidate’s own campaign, with respect to such activities only.

(3) Except as otherwise expressly provided, this chapter does not apply to any individual or committee acting exclusively in support of or in opposition to any of the following:

- (a) Candidates for national office.
- (b) Other individuals and committees exclusively supporting or opposing candidates for national office.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328; 1983 a. 27; 1993 a. 184; 1995 a. 225; 1999 a. 182.

11.04 Registration and voting drives. Except as provided in s. 11.25 (2) (b), ss. 11.05 to 11.23 and 11.26 do not apply to non-partisan campaigns to increase voter registration or participation at any election that are not directed at supporting or opposing any specific candidate, political party, or referendum.

History: 1973 c. 334; 1979 c. 328.

11.05 Registration of political committees, groups and individuals. **(1)** COMMITTEES AND GROUPS. Except as provided in s. 9.10 (2) (d), every committee other than a personal campaign committee which makes or accepts contributions, incurs obligations, or makes disbursements in a calendar year in an aggregate amount in excess of \$300, and every political group subject to registration under s. 11.23 shall file a statement with the appropriate filing officer giving the information required by sub. (3). In the case of any committee other than a personal campaign committee, the statement shall be filed by the treasurer. A personal campaign committee shall register under sub. (2g) or (2r).

(2) INDIVIDUALS. Except as provided in s. 9.10 (2) (d), every individual, other than a candidate or agent of a candidate, who accepts contributions, incurs obligations, or makes disbursements in a calendar year in an aggregate amount in excess of \$300 to support or oppose the election or nomination of a candidate at an election and every individual subject to registration under s. 11.23

shall file a statement with the appropriate filing officer giving the information required by sub. (3). An individual who guarantees a loan on which an individual, committee or group subject to a registration requirement defaults is not subject to registration under this subsection solely as a result of such default.

(2g) CANDIDATES AND PERSONAL CAMPAIGN COMMITTEES. Every candidate as defined in s. 11.01 (1) shall file a registration statement with the appropriate filing officer giving the information required by sub. (3). If a candidate appoints another person as campaign treasurer the candidate’s registration statement shall be cosigned by the candidate and the candidate’s appointed treasurer. A candidate who receives no contributions and makes no disbursements shall file such statement as provided in s. 11.10 (1) but need not appoint a campaign treasurer or designate a campaign depository account until the first contribution is received or disbursement made.

(2r) GENERAL REPORTING EXEMPTIONS. Any committee, group, or individual, other than a committee or individual required to file an oath under s. 11.06 (7), who or which does not anticipate accepting contributions, making disbursements or incurring obligations in an aggregate amount in excess of \$1,000 in a calendar year and does not anticipate accepting any contribution or contributions from a single source, other than contributions made by a candidate to his or her own campaign, exceeding \$100 in that year, or exceeding \$2,500 in that year for a group or individual subject to registration under s. 11.23, may indicate on its registration statement that the committee, group, or individual will not accept contributions, incur obligations or make disbursements in the aggregate in excess of \$1,000 in any calendar year and will not accept any contribution or contributions from a single source, other than contributions made by a candidate to his or her own campaign, exceeding \$100 in that year, or exceeding \$2,500 in that year for a group or individual subject to registration under s. 11.23. Any registrant making such an indication is not subject to any filing requirement if the statement is true. The registrant need not file a termination report. A registrant not making such an indication on a registration statement is subject to a filing requirement. The indication may be revoked and the registrant is then subject to a filing requirement as of the date of revocation, or the date that aggregate contributions, disbursements or obligations for the calendar year exceed \$1,000, or the date on which the registrant accepts any contribution or contributions exceeding \$100 from a single source, or exceeding \$2,500 from a single source for a group or individual subject to registration under s. 11.23, other than contributions made by a candidate to his or her own campaign, during that year, whichever is earlier. If the revocation is not timely, the registrant violates s. 11.27 (1).

(3) REQUIRED INFORMATION. The statement of registration shall include, where applicable:

(a) The name and mailing address of the committee, group or individual.

(c) In the case of a committee, a statement as to whether the committee is a personal campaign committee, a political party committee, a legislative campaign committee, a support committee or a special interest committee.

(e) The name and mailing address of the campaign treasurer and any other custodian of books and accounts. Unless otherwise directed by the registrant on the registration form and except as otherwise provided in this chapter or any rule of the board, all mailings which are required by law or by rule of the board shall be sent to the treasurer at the treasurer’s address indicated upon the form.

(f) The name, mailing address, and position of other principal officers, including officers and members of the finance committee, if any.

(h) The nature of any referendum which is supported or opposed.

(L) The name and address of the campaign depository account and of any other institution where funds are kept and the account

number of the depository account and of each additional account and safety deposit box used.

(n) In the case of a labor organization, separate segregated fund under s. 11.38 (1) (a) 2. or conduit established by a labor organization, a statement as to whether the organization is incorporated, and if so, the date of incorporation and whether or not such incorporation is under ch. 181.

(o) In the case of a legislative campaign committee, a statement signed by the leader of the party in the house for which the committee is established attesting to the fact that the committee is the only authorized legislative campaign committee for that party in that house.

(p) In the case of a support committee, a statement signed by the individual on whose behalf the committee intends to operate affirming that the committee is the only committee authorized to operate on his or her behalf, unless the committee files a statement under s. 11.06 (7).

(q) In the case of a conduit, the name and mailing address of a sponsor, as defined in s. 11.185 (1), to which contributions may be redirected as provided under s. 11.185.

(3m) VACANCIES IN NOMINATION. Any personal campaign committee of an independent candidate for partisan office or a candidate for nonpartisan county or municipal office may file with its registration statement a list of the members of the committee, in addition to those specified in sub. (3) (e) and (f), who shall be recognized by the official or agency with whom the candidate's nomination papers are filed for the purpose of filling a vacancy in nomination in the event of the candidate's death. The board shall provide a place on the statement for such designations.

(4) REFERENDUM REGISTRATION. Every committee under this chapter which in addition operates as a political group must register under this section as a group. Every group which in addition operates as a political committee must register under this section as a committee. Except in the case of a personal campaign committee, an organization which operates as both a committee and a group and which has the same filing officer for both operations may file a single registration statement under this section.

(5) CHANGE OF INFORMATION. Any change in information previously submitted in a statement of registration shall be reported by the registrant to the appropriate filing officer within 10 days following the change. This period does not apply in case of change of an indication made under sub. (2r), which shall be reported no later than the date that a registrant is subject to a filing requirement under sub. (2r). Any such change may be reported only by the individual or by the officer who has succeeded to the position of an individual who signed the original statement; but in the case of a personal campaign committee, a candidate or campaign treasurer may report a change in the statement except as provided in s. 11.10 (2), and in the case of any other committee or group, the chief executive officer or treasurer indicated on the statement may report a change. If a preexisting support committee is adopted by a candidate as his or her personal campaign committee, the candidate shall file an amendment to the committee's statement under this subsection indicating that all information contained in the statement is true, correct and complete.

(5m) CERTIFICATION. Every statement and every change made in a statement filed under this section shall contain a certification signed by the individual filing the statement that all information contained in the statement is true, correct and complete.

(6) CONTRIBUTION OR DISBURSEMENT PROHIBITED. Except as provided in subs. (7) and (13), no person, committee or group subject to a registration requirement may make any contribution or disbursement from property or funds received prior to the date of registration under this section.

(7) CHANGE IN STATUS OF NEW REGISTRANT. Notwithstanding sub. (6), any individual or organization who or which has received property or funds which were not intended for political purposes in connection with an election for state or local office at the time of receipt may make contributions or disbursements from such

property or funds in connection with an election for state or local office if the individual or organization complies with applicable provisions of sub. (1), (2) or (2g) as soon as such intent changes. For purposes of s. 11.06 (1), all property or funds which are in a registrant's possession on the date of registration under this section shall be treated as received on the date that such intent changes so that the property or funds are to be used for political purposes in connection with an election for state or local office.

(8) CERTAIN INTRA-REGISTRANT TRANSFERS EXEMPT. If an organization which is not organized exclusively for political purposes makes a contribution from its own property or funds to a committee or group, affiliated with the organization, which is organized exclusively for political purposes, and the contributing organization receives no contribution from a single source in excess of \$20 in the aggregate during any calendar year, and it makes no contributions or disbursements and incurs no obligations other than to make the transactions specified in this subsection, then no registration requirement applies to the contributing organization.

(9) CONDUITS. (a) For purposes of this chapter, every individual who and every committee or group which deposits a contribution in an account at a financial institution as defined in s. 705.01 (3) is considered to receive and accept the contribution.

(b) An individual who or a committee or group which receives a contribution of money and transfers the contribution to another individual, committee or group while acting as a conduit is not subject to registration under this section unless the individual, committee or group transfers the contribution to a candidate or a personal campaign, legislative campaign, political party or support committee.

(10) CERTAIN ACTIVITY BY SPOUSES EXEMPT. For purposes of compliance with the registration requirements of this section a husband and wife acting jointly for political purposes shall be considered an "individual" rather than a "committee".

(11) EXEMPTION FOR INDIRECT POLITICAL ACTIVITY. If any individual makes only those disbursements and incurs only those obligations which are exempted from reporting under s. 11.06 (2), or if any committee or group makes no contributions, and makes only those disbursements and incurs only those obligations which are exempted from reporting under s. 11.06 (2), then no registration requirement under this section applies to that individual, committee or group.

(12) TIME OF REGISTRATION; ACCEPTANCE OF UNLAWFUL CONTRIBUTIONS. (a) Except as authorized under sub. (13), a candidate shall comply with sub. (2g) no later than the time that he or she becomes a candidate as defined in s. 11.01. Except as authorized in sub. (13), no candidate or agent of a candidate may accept any contribution or contributions at any time when the candidate is not registered under this section.

(b) Except as authorized under sub. (13), a committee, group or individual that becomes subject to a registration requirement under sub. (1) or (2), other than a candidate or agent of a candidate, shall comply with sub. (1) or (2) no later than the 5th business day commencing after receipt of the first contribution by the committee, group or individual exceeding the amount specified under sub. (1) or (2) or s. 11.23 (1), and before making any disbursement exceeding that amount. No committee supporting or opposing the election or nomination of a candidate at an election, other than an agent of a candidate, may accept any contribution or contributions exceeding \$300, no individual supporting or opposing the election or nomination of a candidate at an election, other than a candidate or agent of a candidate, may accept any contribution or contributions exceeding \$300, and no group or individual subject to registration under s. 11.23 may accept any contribution or contributions exceeding \$2,500, in the aggregate during a calendar year at any time when the committee, group or individual is not registered under this section except within the initial 5-day period authorized by this paragraph.

(13) BANK ACCOUNT AND POSTAL BOX; EXEMPTION. An individual, committee or group does not violate this section by accepting a contribution and making a disbursement in the amount required to rent a postal box, or in the minimum amount required by a bank or trust company to open a checking account, prior to the time of registration, if the disbursement is properly reported on the first report submitted under s. 11.20 after the date that the individual, committee or group is registered, whenever a reporting requirement applies to the registrant.

History: 1973 c. 334; 1975 c. 93, 199, 200; 1977 c. 427; 1979 c. 328; 1979 c. 355 s. 241; 1981 c. 314 s. 146; 1983 a. 484; 1985 a. 303 ss. 7 to 15r, 86; 1987 a. 370, 391, 403; 1989 a. 192; 2001 a. 109; 2003 a. 321; 2005 a. 177; 2009 a. 313; 2013 a. 153.

Cross-reference: See also ss. GAB 6.02 and 6.04, Wis. adm. code.

11.055 Filing fees. (1) Except as provided in sub. (3), each individual who, or committee, group or corporation that, is required to register with the board under s. 11.05 or 11.38 (1) shall annually pay a filing fee of \$100 to the board.

(2) Except as provided in s. 11.19 (1), an individual who, or committee, group or corporation that, is subject to sub. (1) shall pay the fee specified in sub. (1) together with the continuing report filed under s. 11.20 (4) in January of each year. If an individual, committee, group or corporation registers under s. 11.05 or changes status so that sub. (1) becomes applicable to the individual, committee, group or corporation during a calendar year, the individual, committee, group or corporation shall pay the fee for that year with the filing of the individual's, committee's, group's or corporation's registration statement under s. 11.05 or at any time before the change in status becomes effective.

(3) Subsection (1) does not apply to a candidate or personal campaign committee. Subsection (1) does not apply to any registrant under s. 11.05 for any year during which the registrant does not make disbursements exceeding a total of \$2,500.

History: 1997 a. 27.

11.06 Financial report information; application; funding procedure. (1) CONTENTS OF REPORT. Except as provided in subs. (2), (3) and (3m) and ss. 11.05 (2r) and 11.19 (2), each registrant under s. 11.05 shall make full reports, upon a form prescribed by the board and signed by the appropriate individual under sub. (5), of all contributions received, contributions or disbursements made, and obligations incurred. Each report shall contain the following information, covering the period since the last date covered on the previous report, unless otherwise provided:

(a) 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.

(b) The occupation and name and address of the principal place of employment, if any, of each individual contributor whose cumulative contributions for the calendar year are in excess of \$100.

(c) The name and address of each registrant from which a transfer of funds was received or to which a transfer of funds was made, together with the date and amount of such transfer, and the cumulative total for the calendar year.

(d) An itemized statement of other income in excess of \$20, including interest, returns on investments, rebates and refunds received.

(e) An itemized statement of contributions over \$20 from a single source donated to a charitable organization or to the common school fund, with the full name and mailing address of the donee.

(f) An itemized statement of each loan of money made to the registrant for a political purpose in an aggregate amount or value in excess of \$20, together with the full name and mailing address of the lender; a statement of whether the lender is a commercial

lending institution; the date and amount of the loan; the full name and mailing address of each guarantor, if any; the original amount guaranteed by each guarantor; and the balance of the amount guaranteed by each guarantor at the end of the reporting period.

(g) 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.

(h) An itemized statement of every obligation exceeding \$20 in amount or value, together with the name of the person or business with whom the obligation was incurred, and the date and the specific purpose for which each such obligation was incurred.

(i) A statement of totals during the reporting period of contributions received and disbursements made, including transfers made to and received from other registrants, other income, loans, and contributions donated as provided in par. (e).

(j) In the case of a committee or individual filing an oath under sub. (7), a separate schedule showing for each disbursement which is made independently of a candidate, other than a contribution made to that candidate, the name of the candidate or candidates on whose behalf or in opposition to whom the disbursement is made, indicating whether the purpose is support or opposition.

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

(k) A statement of the balance of obligations incurred as of the end of the reporting period.

(L) A statement of cumulative totals for the calendar year of contributions made, contributions received, and disbursements made, including transfers of funds made to or received from other registrants.

(m) A statement of the cash balance on hand at the beginning and end of the reporting period.

(1m) SURPLUS CAMPAIGN MATERIALS. Notwithstanding sub. (1) (a) and (g), a registrant need not provide an itemized statement of a contribution or disbursement of surplus materials acquired in connection with a previous campaign of the registrant for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if the materials were previously reported as a contribution or disbursement by that registrant.

(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, the disbursement or obligation is required to be reported only if the purpose is to expressly advocate the election or defeat of a clearly identified candidate or the adoption or rejection of a referendum. The exemption provided by this subsection shall in no case be construed to apply to a political party, legislative campaign, personal campaign or support committee.

(3) NONRESIDENT REPORTING. (a) In this subsection, "nonresident registrant" means a registrant who or which does not maintain an office or street address within this state.

(b) Notwithstanding sub. (1), a nonresident registrant shall report on a form prescribed by the board the applicable information under sub. (1) concerning:

1. Contributions, including transfers and loans, and other income received from sources in this state.

2. Disbursements made and obligations incurred with respect to an election for state or local office in this state.

(c) If a nonresident registrant is registered for campaign finance reporting purposes with the federal elections commission or with the filing officer or agency of another state, the registrant shall indicate on the report the name and address of each filing officer or agency with which a copy of its campaign finance reports is filed.

(3m) FEDERAL CANDIDATE COMMITTEE REPORTING. (a) In this subsection, “federal candidate committee” means an authorized committee of a candidate for the U.S. senate or house of representatives from this state designated by the candidate under 2 USC 432 (e).

(b) As provided in s. 11.05 (1) and (2g), a federal candidate committee shall file a registration statement with the appropriate filing officer if required by s. 11.05 (1) or (2g).

(c) Notwithstanding sub. (1), a federal candidate committee need not file any reports with the appropriate filing officer under s. 11.20 for any period covered in a report filed with the federal election commission if the board receives a copy of that report.

(3r) STATE–FEDERAL POLITICAL PARTY REPORTING. (a) In this subsection, “federal account committee” means a committee of a state political party organization which makes contributions to candidates for national office and is registered with the federal election commission.

(b) As provided in s. 11.05 (1), a federal account committee shall file a registration statement with the appropriate filing officer if required by s. 11.05 (1).

(c) Notwithstanding sub. (1), a federal account committee which makes contributions to a state political party committee need not file reports with the appropriate filing officer under s. 11.20 for any period covered in a report filed with the federal election commission if the board receives a copy of that report and the federal account committee makes no contributions to any other committee which or individual who is required to register under s. 11.05 (1), (2) or (2g).

(3w) NATIONAL POLITICAL PARTY REPORTING. (a) In this subsection, “national political party committee” means a national committee as defined in 2 USC 431 (14).

(b) As provided in s. 11.05 (1), a national political party committee shall file a registration statement with the appropriate filing officer if required by s. 11.05 (1).

(c) Notwithstanding sub. (1), a national political party committee need not file reports with the appropriate filing officer under s. 11.20 for any period covered in a report filed with the federal election commission.

(4) WHEN TRANSACTIONS REPORTABLE. (a) A contribution is received by a candidate for purposes of this chapter when it is under the control of the candidate or campaign treasurer, or such person accepts the benefit thereof. A contribution is received by an individual, group or committee, other than a personal campaign committee, when it is under the control of the individual or the committee or group treasurer, or such person accepts the benefit thereof.

(b) Unless it is returned or donated within 15 days of receipt, a contribution must be reported as received and accepted on the date received. This subsection applies notwithstanding the fact that the contribution is not deposited in the campaign depository account by the closing date for the reporting period as provided in s. 11.20 (8).

(c) All contributions received by any person acting as an agent of a candidate or treasurer shall be reported by such person to the candidate or treasurer within 15 days of receipt. In the case of a contribution of money, the agent shall transmit the contribution to the candidate or treasurer within 15 days of receipt.

(d) A contribution, disbursement or obligation made or incurred to or for the benefit of a candidate is reportable by the candidate or the candidate’s personal campaign committee if it is made or incurred with the authorization, direction or control of or otherwise by prearrangement with the candidate or the candidate’s agent.

(e) Notwithstanding pars. (a) to (e), receipt of contributions by registrants under s. 11.05 (7) shall be treated as received in accordance with that subsection.

(5) REPORT MUST BE COMPLETE. A registered individual or treasurer of a group or committee shall make a good faith effort to obtain all required information. The first report shall commence no later than the date that the first contribution is received and accepted or the first disbursement is made. Each report shall be filed with the appropriate filing officer on the dates designated in s. 11.20. The individual or the treasurer of the group or committee shall certify to the correctness of each report. In the case of a candidate, the candidate or treasurer shall certify to the correctness of each report. If a treasurer is unavailable, any person designated as a custodian under s. 11.05 (3) (e) may certify to the correctness of a report.

(6) PURPOSE OF DISBURSEMENTS. An individual, group or committee which is registered under s. 11.05 may make disbursements for any lawful political purpose.

(7) OATH FOR INDEPENDENT DISBURSEMENTS. (a) Every committee, other than a personal campaign committee, which and every individual, other than a candidate who desires to make disbursements during any calendar year, which are to be used to advocate the election or defeat of any clearly identified candidate or candidates in any election shall before making any disbursement, except within the amount authorized under s. 11.05 (1) or (2), file with the registration statement under s. 11.05 a statement under oath affirming that the committee or individual does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported, that the committee or individual does not act in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported, that the committee or individual does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who benefits from a disbursement made in opposition to a candidate, and that the committee or individual does not act in concert with, or at the request or suggestion of, any candidate or agent or authorized committee of a candidate who benefits from a disbursement made in opposition to a candidate. A committee which or individual who acts independently of one or more candidates or agents or authorized committees of candidates and also in cooperation or upon consultation with, in concert with, or at the request or suggestion of one or more candidates or agents or authorized committees of candidates shall indicate in the oath the names of the candidate or candidates to which it applies.

(b) A committee or individual required to file an oath under this subsection shall file the oath at the time of registration under s. 11.05 or the time the committee or individual becomes subject to this subsection, whichever is later. The committee or individual shall file an amendment to the oath whenever there is a change in the candidate or candidates to whom it applies. A committee or individual shall refile the oath for each calendar year in which the committee or individual proposes to make disbursements specified in this subsection, no later than January 31 of that calendar year.

(c) Any individual who or committee which falsely makes an oath under par. (a), or any individual, committee or agent of an individual or committee who or which carries on any activities with intent to violate an oath under par. (a) is guilty of a violation of this chapter.

(7m) INDEPENDENT DISBURSEMENTS; CHANGE IN STATUS. (a) If a committee which was registered under s. 11.05 as a political

party committee or legislative campaign committee supporting candidates of a political party files an oath under sub. (7) affirming that it does not act in cooperation or consultation with any candidate who is nominated to appear on the party ballot of the party at a general or special election, that the committee does not act in concert with, or at the request or suggestion of, such a candidate, that the committee does not act in cooperation or consultation with such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, and that the committee does not act in concert with, or at the request or suggestion of, such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, the committee filing the oath may not make any contributions in support of any candidate of the party at the general or special election or in opposition to any such candidate's opponents exceeding the amounts specified in s. 11.26 (2), except as authorized in par. (c).

(b) If the committee has already made contributions in excess of the amounts specified in s. 11.26 (2) at the time it files an oath under sub. (7), each candidate to whom contributions are made shall promptly return a sufficient amount of contributions to bring the committee in compliance with this subsection and the committee may not make any additional contributions in violation of this subsection.

(c) A committee filing an oath under sub. (7) which desires to change its status to a political party committee or legislative campaign committee may do so as of December 31 of any even-numbered year. Section 11.26 does not apply to contributions received by such a committee prior to the date of the change. Such a committee may change its status at other times only by filing a termination statement under s. 11.19 (1) and reregistering as a newly organized committee under s. 11.05.

(8) RETURN OF CONTRIBUTIONS. A registrant may return a contribution at any time, before or after acceptance. If a contribution is accepted contrary to law, the subsequent return does not constitute a defense to a violation.

(9) SHORT FORM. The board shall prescribe a simplified, short form for compliance with this section by a registrant who has not engaged in any financial transaction since the last date included on the registrant's preceding financial report.

(10) REFERENDUM REPORTING SEPARATED. If a committee which operates as a political group has filed a single registration statement, any report of that committee which concerns activities being carried on as a political group under this chapter shall contain separate itemization of such activities, whenever itemization is required.

(11) REPORTING OF CONDUIT CONTRIBUTIONS. (a) A conduit transferring a contribution of money shall, in writing, identify itself to the transferee as a conduit and report to the transferee of each contribution transferred by it the information about the original contributor required for reporting purposes under sub. (1) (a) and (b) at the time the contribution is transferred. The conduit shall include the information in its report under s. 11.12 (5) or 11.20 for the date on which the contribution is received and transferred.

(b) Each filing officer shall place a copy of any report received under par. (a) in the file of the conduit and the file of the transferee.

(c) A contribution of money received from a conduit, accompanied by the information required under par. (a), is considered to be a contribution from the original contributor.

(d) A conduit shall include in each report under s. 11.12 (5) or 11.20 whether, during the reporting period, any contribution was redirected to a sponsor as permitted under s. 11.185.

(12) VALUATION OF OPINION POLL OR VOTER SURVEY RESULTS. (a) In this subsection:

1. "Election period" means the period between December 1 and the date of the spring election, the period between May 1 and the day of the general election in any even-numbered year or the

period between the first day for circulation of nomination papers and the day of a special election for any state office.

2. "Initial recipient" means the individual who or committee which commissions a public opinion poll or voter survey.

3. "Results" means computer output or a written or verbal analysis of polling or survey data.

4. "Voter survey" includes the acquisition of information which identifies voter attitudes concerning candidates or issues.

(b) If a candidate or committee receives a contribution consisting of the results of an opinion poll or voter survey during the first 15 days after the results are received by the initial recipient, or if a candidate or committee receives a contribution consisting of the results of an opinion poll or voter survey for which the initial recipient received the results during an election period, the contribution shall be valued for purposes of sub. (1) at the full share of the overall cost of the poll or survey which is allocable to each candidate, including a candidate for national office, receiving the results.

(c) If the results are received 16 to 60 days following receipt by the initial recipient, and if the initial recipient did not receive the results during an election period, the contribution shall be valued at 50% of the amount allocated to an initial recipient of the same results.

(d) If the results are received 61 to 180 days after receipt by the initial recipient, and if the initial recipient did not receive the results during an election period, the contribution shall be valued at 5% of the amount allocated to an initial recipient of the same results.

(e) If the results are received more than 180 days after receipt by the initial recipient, and if the initial recipient did not receive the results during an election period, no amount need be allocated.

(f) If the results of an opinion poll or voter survey are contributed to more than one recipient, the value of the poll or survey, as adjusted under pars. (c) to (e), shall be apportioned to each recipient receiving the results by one of the methods specified in this paragraph selected by the contributor. Each recipient shall report one of the following, in accordance with instructions received from the contributor:

1. That share of the overall cost of the poll or survey which is allocable to the recipient, based upon the cost allocation formula of the polling or survey firm from which the results are purchased. Under this method the size of the sample, the population of the area in which the recipient conducts political activities, the number of computer column codes, the extent of computer tabulations, and the extent of written analysis and verbal consultation, if applicable, may be used to determine the shares.

2. An amount computed by dividing the overall cost of the poll or survey equally among recipients receiving the results.

3. A proportion of the overall cost of the poll or survey equal to the proportion that the number of question results received by the recipient bears to the total number of question results received by all recipients.

(g) If the contributor makes a subsequent contribution of the results of an opinion poll or voter survey after initial apportionment of the value under par. (f), the contributor shall report to the recipient a value for the contribution determined in good faith, considering the value to other recipients, as adjusted under pars. (c) to (e). In such case, the total value of the contributor's aggregate contributions may exceed the original cost of the poll or survey.

(h) A contributor of opinion poll or voter survey results shall maintain records sufficient to support the valuation of the contribution and shall inform the recipient of the value of the contribution.

(13) INTERNET ACTIVITY. (a) In this subsection, "equipment and services" includes computers, software, Internet domain names, Internet service providers, and any other technology that is used to provide access to or use of the Internet.

(b) If an individual conducts Internet activity for a political purpose in his or her own behalf or in behalf of another person and is not compensated specifically for those services, the cost or value of any equipment and services used by the individual to conduct the activity, other than professional video production services purchased by the individual, is not a contribution to the registrant as provided in s. 11.01 (6) (b) 8., regardless of who owns the equipment and services.

History: 1973 c. 334; 1975 c. 93 ss. 47 to 53, 119 (2); 1975 c. 199; 1979 c. 263, 328; 1985 a. 303; 1987 a. 370; 1989 a. 192; 1995 a. 16 s. 2; 2001 a. 109; 2005 a. 176, 177; 2011 a. 32, 75; 2013 a. 153, 166.

Cross-reference: See also ss. GAB 6.04 and 6.05, Wis. adm. code.

The term "political purposes" is not restricted to acts of express advocacy, but encompasses many acts undertaken to influence an election, including making contributions to an election campaign. Contributions may be in-kind, as well as in cash, and campaign organizations are required to report the receipt of in-kind contributions. *Wisconsin Coalition for Voter Participation, Inc. v. State Elections Board*, 231 Wis. 2d 670, 605 N.W.2d 654 (Ct. App. 1999), 99–2574.

The board should not exercise the power of administrative review of minor party exemptions based on a reasonable probability of the minor parties' contributors being subjected to threats, harassment, or reprisals. 65 Atty. Gen. 145.

A minor political party that historically has been the object of harassment by government officials and private parties cannot be required to disclose the identities of contributors and recipients of campaign disbursements. *Brown v. Socialist Workers '74 Campaign Comm.* 459 U.S. 87 (1982).

The reporting requirements of sub. (1) may not constitutionally be applied to Socialist Workers' Party contributors. *Wisconsin Socialist Workers' 1976 Campaign Committee v. McCann*, 433 F. Supp. 540.

11.07 Designation of agent by nonresident individuals, committees and groups. (1) Every nonresident committee making contributions and every nonresident committee making disbursements to support or oppose the election or nomination of a candidate at an election exceeding \$300 cumulatively in a calendar year within this state, every nonresident individual making disbursements to support or oppose the election or nomination of a candidate at an election exceeding \$300 cumulatively in a calendar year within this state, and every nonresident group making contributions and every nonresident group or individual making disbursements to support or oppose a particular vote at a referendum exceeding \$2,500 cumulatively in a calendar year within this state, shall file name, mailing and street address and the name and the mailing and street address of a designated agent within the state with the office of the secretary of state. An agent may be any adult individual who is a resident of this state. After any change in the name or address of such agent the new address or name of the successor agent shall be filed within 30 days. Service of process in any proceeding under this chapter or ch. 12, or service of any other notice or demand may be made upon such agent.

(2) During any period within which any individual or organization under sub. (1) fails to appoint or maintain in this state a registered agent, or whenever any such registered agent cannot with reasonable diligence be found at the street address listed on the registration, the secretary of state shall be an agent and representative of such individual or organization upon whom any process, notice or demand may be served. Service on the secretary of state of any such process, notice or demand against any such individual or organization shall be made by delivering to and leaving with the secretary of state, or with any clerk having charge of the secretary's office, duplicate copies of such process, notice or demand. If any process, notice or demand is served on the secretary of state, he or she shall immediately cause one of such copies to be forwarded by registered mail, addressed to such individual, committee or group at its mailing address as the same appears in the records of the secretary of state. The time within which the defendant may demur or answer does not start to run until 10 days after the date of such mailing.

(3) The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section that shows the date and hour of service and the date of mailing. The certificate of the secretary of state that a summons and complaint, notice of object of action, or any notice or demand required or permitted by law was served upon the secretary of state and that the same was mailed by the secretary of state as required

by law, shall be evidence of service upon the secretary of state. If the address of the individual, committee, or group is not known or readily ascertainable, mailing is dispensed with, and a copy of the process shall be published as a class 1 notice, under ch. 985, in the county in which the last-known registered agent was located or, if unknown, in Dane County.

(4) Nothing in this section limits or affects the right to serve any process, notice or demand required or permitted by law to be served upon a nonresident individual or organization in any other manner permitted by law.

(5) Any campaign treasurer or individual who knowingly receives a contribution made by an unregistered nonresident in violation of this section may not use or expend such contribution but shall immediately return it to the source or at the option of the campaign treasurer or individual, donate the contribution to a charitable organization or to the common school fund.

(6) For purposes of this section, a nonresident individual or organization is one who or which does not maintain an office or street address within the state.

History: 1973 c. 334; 1975 c. 93, 199; 1991 a. 316; 2001 a. 103, 109; 2005 a. 177; 2009 a. 313; 2013 a. 153.

11.08 Reports by party committees. Every committee of a political party which is required to file statements and reports under this chapter shall file all statements and reports with the board. A state committee of a political party may be designated by a congressional, legislative, county or local party committee as its reporting agent for purposes of this chapter, but such designation does not permit combination of reports. If any committee is so designated, the treasurer of the state committee shall so inform the board.

History: 1973 c. 334; 1975 c. 93; 1979 c. 328.

Cross-reference: See also s. GAB 6.04, Wis. adm. code.

11.09 Duplicate reports required in certain cases.

(3) Each registrant whose filing officer is the board, who or which makes disbursements in connection with elections for offices which serve or referenda which affect only one county or portion thereof, except a candidate, personal campaign committee, political party committee or other committee making disbursements in support of or in opposition to a candidate for state senator, representative to the assembly, court of appeals judge or circuit judge, shall file a duplicate original of each financial report filed with the board with the county clerk or board of election commissioners of the county in which the elections in which the registrant participates are held. Such reports shall be filed no later than the dates specified under s. 11.20 (2) and (4) for the filing of each report with the board.

(4) In every case where a duplicate report is filed by the board or by any person under sub. (3), the board shall transmit a certified duplicate copy of the registration statement to each county clerk or board of election commissioners with whom a duplicate report is filed.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 32, 328; 1983 a. 27; 1985 a. 303; 2001 a. 109; 2005 a. 177.

11.10 Campaign treasurers and campaign depositories.

(1) Each candidate in an election shall appoint one campaign treasurer. Except as provided in s. 11.14 (3), each candidate shall designate one campaign depository account within 5 business days after the candidate receives his or her first contribution and before the candidate makes or authorizes any disbursement in behalf of his or her candidacy. If a candidate adopts a preexisting support committee as his or her personal campaign committee, the candidate shall make such designation within 5 business days of adoption. The person designated as campaign treasurer shall be the treasurer of the candidate's personal campaign committee, if any. The candidate may appoint himself or herself or any other elector as campaign treasurer. A registration statement under s. 11.05 (2g) or (2r) must be filed jointly by every candidate and his or her campaign treasurer. The candidate does not qualify for ballot placement until this requirement is met. Except as authorized

under s. 11.06 (5), the campaign treasurer or candidate shall certify as to the correctness of each report required to be filed, and the candidate bears the responsibility for the accuracy of each report for purposes of civil liability under this chapter, whether or not the candidate certifies it personally.

(2) A candidate may remove a campaign treasurer at any time. In case of the death, resignation or removal of a campaign treasurer, the candidate shall designate a successor and shall file the successor's name and address with the appropriate filing officer as provided in s. 11.05 (5). Until the successor's name and address is filed, the candidate shall be deemed his or her own campaign treasurer.

(3) Every committee shall appoint a treasurer. Every individual under s. 11.06 (7) shall be deemed his or her own treasurer. No disbursement may be made or obligation incurred by or on behalf of a committee without the authorization of the treasurer or designated agents. No contribution may be accepted and no disbursement may be made or obligation incurred by any committee at a time when there is a vacancy in the office of treasurer.

(4) No candidate may establish more than one personal campaign committee. Such committee may have subcommittees provided that all subcommittees have the same treasurer, who shall be the candidate's campaign treasurer. The treasurer shall deposit all funds received in the campaign depository account. Any committee which is organized or acts with the cooperation of or upon consultation with a candidate or agent or authorized committee of a candidate, or which acts in concert with or at the request or suggestion of a candidate or agent or authorized committee of a candidate is deemed a subcommittee of the candidate's personal campaign committee.

(5) Candidates for governor and lieutenant governor of the same political party may receive contributions and make disbursements for both candidates from either depository.

History: 1973 c. 334; 1975 c. 93, 199, 200; 1979 c. 328; 1985 a. 303 ss. 22, 86; 2001 a. 109; 2005 a. 177.

11.12 Campaign contributions and disbursements; reports.

(1) (a) No contribution may be made or received and no disbursement may be made or obligation incurred by a person or committee, except within the amount authorized under s. 11.05 (1) and (2), in support of or in opposition to any specific candidate or candidates in an election, other than through the campaign treasurer of the candidate or the candidate's opponent, or by or through an individual or committee registered under s. 11.05 and filing a statement under s. 11.06 (7).

(b) The requirement of par. (a) may not be construed to apply to a contribution which is made to a continuing political party or ongoing committee, other than a personal campaign committee, provided that the contribution is not made in contravention of s. 11.16 (4) or 11.24.

(c) Where a disbursement is made in support of more than one candidate, the disbursement shall be apportioned reasonably among the candidates.

(d) Paragraph (a) does not apply to disbursements and obligations which are exempted from reporting under s. 11.06 (2).

(2) Any anonymous contribution exceeding \$10 received by a campaign or committee treasurer or by an individual under s. 11.06 (7) may not be used or expended. The contribution shall be donated to the common school fund or to any charitable organization at the option of the treasurer.

(3) All contributions, disbursements and incurred obligations exceeding \$10 shall be recorded by the campaign or committee treasurer or the individual under s. 11.06 (7). He or she shall maintain such records in an organized and legible manner, for not less than 3 years after the date of an election in which the registrant participates. If a report is submitted under s. 11.19 (1), the records may be transferred to a continuing committee or to the appropriate filing officer for retention. Records shall include the information required under s. 11.06 (1).

(4) Each registrant shall report contributions, disbursements and incurred obligations in accordance with s. 11.20. Except as permitted under s. 11.06 (2), (3) and (3m), each report shall contain the information which is required under s. 11.06 (1).

(5) If any contribution or contributions of \$500 or more cumulatively are received by a candidate for state office or by a committee or individual from a single contributor later than 15 days prior to a primary or election such that it is not included in the preprimary or preelection report submitted under s. 11.20 (3), the treasurer of the committee or the individual receiving the contribution shall within 48 hours of receipt inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the treasurer's or individual's next regular report. For purposes of the reporting requirement under this subsection, only contributions received during the period beginning with the day after the last date covered on the preprimary or preelection report, and ending with the day before the primary or election need be reported.

(6) If any disbursement of more than \$20 cumulatively is made to advocate the election or defeat of a clearly identified candidate by an individual or committee later than 15 days prior to a primary or election in which the candidate's name appears on the ballot without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or opposed, and not in concert with or at the request or suggestion of such a candidate, agent or committee, but such that the disbursement is not included in a preprimary or preelection report submitted under s. 11.20 (3), the individual or treasurer of the committee shall, within 48 hours of making the disbursement, inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the next regular report of the individual or committee under s. 11.20. For purposes of this subsection, disbursements cumulate beginning with the day after the last date covered on the preprimary or preelection report and ending with the day before the primary or election. Upon receipt of a report under this subsection, the filing officer shall, within 24 hours of receipt, mail a copy of the report to all candidates for any office in support of or opposition to one of whom a disbursement identified in the report is made.

History: 1973 c. 334; 1975 c. 93 ss. 59, 60, 119 (2); 1975 c. 199; 1979 c. 328 ss. 53, 69 to 71, 146; 1985 a. 303; 1987 a. 370; 2001 a. 109; 2005 a. 176, 177; 2009 a. 89; 2011 a. 32; 2013 a. 153.

Cross-reference: See also s. GAB 6.05, Wis. adm. code.

11.14 **Deposit of contributions.** (1) Except as authorized in sub. (3) and as required by s. 11.16 (5), all funds received by a campaign or committee treasurer, group treasurer, candidate or other individual shall be deposited in a single separate campaign depository account designated in accordance with s. 11.16 (3). Except as authorized in sub. (3), the depository account shall be established by every candidate no later than the time prescribed in s. 11.10 (1), and by every other individual or treasurer no later than the 5th business day after becoming subject to a registration requirement under s. 11.05 and before making any disbursement. The depository account may be established with any financial institution as defined in s. 705.01 (3) which is authorized to transact business in this state. The individual or treasurer shall deposit all funds received in the campaign depository account no later than the 5th business day commencing after receipt. This subsection does not apply to a contributor committee or group which is exempt from registration under s. 11.05 (8).

(2) After deposit in the campaign depository account, funds may be transferred by the individual or treasurer to any other account which is identified under s. 11.05 (3) (L). Funds deposited in other accounts may not be directly disbursed but shall be returned to the depository account for purposes of disbursement. Disbursements shall be made only in accordance with s. 11.16 (3).

(3) Notwithstanding sub. (1), any candidate who serves as his or her own campaign treasurer and who is authorized to make and

makes an indication on his or her registration statement under s. 11.05 (2r) that he or she will not accept contributions, make disbursements or incur obligations in an aggregate amount exceeding \$1,000 in a calendar year, and will not accept any contribution or contributions from a single source, other than contributions made by the candidate to his or her own campaign, exceeding \$100 in a calendar year, may designate a single personal account as his or her campaign depository account, and may intermingle personal and other funds with campaign funds. If a separate depository account is later established by the candidate, the candidate shall transfer all campaign funds in the personal account to the new depository account. Disbursements made from such personal account need not be identified in accordance with s. 11.16 (3).

History: 1973 c. 334; 1975 c. 93; 1979 c. 328; 1985 a. 303; 2001 a. 109; 2005 a. 177.

11.16 Campaign contributions and disbursements; restrictions. (1) AUTHORIZATION; LIABILITY. (a) No disbursement may be made or obligation incurred by a candidate, or by any other person or committee to advocate the election or defeat of a clearly identified candidate, other than an individual who, or a committee which, has registered under s. 11.05 and filed an oath under s. 11.06 (7), except by the campaign treasurer of the candidate or other agent designated by the candidate and acting under his or her authority.

(b) The treasurer of each committee and each individual who proposes to make a disbursement to advocate the election or defeat of a clearly identified candidate shall notify the treasurer or other agent designated under par. (a) of the candidate who is supported or whose opponent is opposed and obtain the authorization of the treasurer prior to making the disbursement. This paragraph does not apply to an individual or committee filing an oath under s. 11.06 (7) with respect to the candidate who is supported or opposed.

(c) In the event that an obligation is incurred or disbursement made by the campaign treasurer or other authorized agent of the candidate, the action is imputable to the candidate for purposes of civil liability under this chapter.

(d) This subsection does not apply to disbursements and obligations which are exempted from reporting under s. 11.06 (2).

(2) LIMITATION ON CASH CONTRIBUTIONS. Every contribution of money exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized credit card receipt bearing on the face the name of the remitter. No treasurer may accept a contribution made in violation of this subsection. The treasurer shall promptly return the contribution, or donate it to the common school fund or to a charitable organization in the event that the donor cannot be identified.

(3) FORM OF DISBURSEMENTS. Every disbursement which is made by a registered individual or treasurer from the campaign depository account shall be made by negotiable instrument. Such instrument shall bear on the face the full name of the candidate, committee, individual or group as it appears on the registration statement filed under s. 11.05 and where necessary, such additional words as are sufficient to clearly indicate the political nature of the registrant or account of the registrant. The name of a political party shall include the word “party”. The instrument of each committee registered with the board and designated under s. 11.05 (3) (c) as a special interest committee shall bear the identification number assigned under s. 11.21 (12) on the face of the instrument.

(4) EARMARKING. (a) The treasurer of a personal campaign committee may agree with a prospective contributor that a contribution is received to be utilized for a specific purpose not prohibited by law. Such purpose may not include a disbursement in support of or in opposition to another candidate or the transfer to an individual or committee acting in support of or in opposition to another candidate, except as authorized in an escrow agreement under s. 11.16 (5).

(b) When a contribution is made to a political party or to an individual or committee other than a candidate or the candidate’s personal campaign committee, the purpose may not be specified, except that if a contribution is received pursuant to an escrow agreement for transfer to a candidate in accordance with sub. (5), the contributor may specify the recipient of the contribution and if a contribution is received by a support committee established for adoption by a candidate in accordance with ss. 11.10 (1) and 11.18, the contributor may specify that the contribution shall be utilized for support of the candidate being supported by the committee.

(c) Except for transfers of membership-related moneys between committees of the same political party and transfers made pursuant to escrow agreements authorized under sub. (5), no committee may act as a conduit for the earmarked contributions of others. Transfers of membership-related moneys between political party committees shall be treated in the same manner as other transfers.

(5) ESCROW AGREEMENTS. Any personal campaign committee, political party committee or legislative campaign committee may, pursuant to a written escrow agreement with more than one candidate, solicit contributions for and conduct a joint fund raising effort or program on behalf of more than one named candidate. The agreement shall specify the percentage of the proceeds to be distributed to each candidate by the committee conducting the effort or program. The committee shall include this information in all solicitations for the effort or program. All contributions received and disbursements made by the committee in connection with the effort or program shall be received and disbursed through a separate depository account under s. 11.14 (1) that is identified in the agreement. For purposes of s. 11.06 (1), the committee conducting the effort or program shall prepare a schedule in the form prescribed by the board supplying all required information under s. 11.06 (1) for the effort or program, and shall transmit a copy of the schedule to each candidate who receives any of the proceeds within the period prescribed in s. 11.06 (4) (c).

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328; 1985 a. 303; 2001 a. 109; 2005 a. 177; 2009 a. 89; 2011 a. 32.

Cross-reference: See also s. GAB 6.04, Wis. adm. code.

11.17 Treatment of loan guarantees. (1) If any person guarantees a loan to a registrant made for a political purpose, the person makes a contribution to the registrant and the registrant incurs an obligation to the guarantor. If more than one person guarantees the same loan, the guarantors make contributions to the registrant and the registrant incurs obligations to the guarantors in equal shares, in the proportion that the number of guarantors bears to the total amount guaranteed, unless a different share is specified in the loan instrument.

(2) If a registrant reduces the unpaid balance of a loan to the registrant made for a political purpose by making a repayment to the lender or reimburses a guarantor from whom the lender has collected upon a guarantee, the amount of the guarantor’s contribution and the amount of the obligation incurred by the registrant are reduced by the amount of the repayment or reimbursement. If more than one guarantor guarantees the same loan, the amounts of the guarantors’ contributions and the amounts of the obligations incurred by the registrant are reduced in equal shares, in the proportion that the number of guarantors bears to the amount repaid or reimbursed, unless a different share is specified in the loan instrument.

(3) If a registrant defaults on a loan that is guaranteed, and the lender collects the amount guaranteed from the guarantor, the guarantor makes a contribution to the registrant and the registrant incurs an obligation to the guarantor in an amount equal to the amount collected by the lender from the guarantor. If more than one guarantor guarantees the same loan, the guarantors make contributions to the registrant and the registrant incurs obligations to the guarantors in equal shares, in the proportion that the number of guarantors bears to the total amount of the unpaid balance,

unless a different share is specified in the loan instrument. If a registrant reports a contribution or incurred obligation in the form of a guarantee under s. 11.06 (1) at the time the guarantee is made, the registrant need not report the same contribution or incurred obligation at the time of a default and collection upon a guarantee.

(4) If a candidate secures a loan for both a political and a non-political purpose, this chapter applies only to the portion of the loan made for a political purpose.

History: 1979 c. 328; 1987 a. 370.

11.18 Support committee. (1) A committee may be organized to support the prospective candidacy of an individual. No such committee authorized under s. 11.05 (3) (p) may be organized during a period in which the individual on whose behalf the committee is organized is registered as a candidate or has a personal campaign committee registered on his or her behalf.

(2) A committee organized under sub. (1) shall register under s. 11.05 as a support committee.

(3) A support committee authorized under s. 11.05 (3) (p) may not act on behalf of more than one individual but may make a contribution to another committee. No more than one support committee authorized under s. 11.05 (3) (p) may be organized on behalf of the same individual. Any subcommittee of a support committee authorized under s. 11.05 (3) (p) shall be authorized by the individual on whose behalf the subcommittee acts. Any committee which is organized or acts with the cooperation of or upon consultation with a support committee or the individual on whose behalf a support committee is organized or which acts in concert with or at the request or suggestion of a support committee or the individual on whose behalf a support committee is organized is deemed a subcommittee of the support committee.

(4) Notwithstanding s. 11.12 (1), a support committee may make direct disbursements from its campaign depository account to pay for the expenses incurred for a political purpose to support the prospective candidacy of an individual on whose behalf it is organized during a period in which the committee is permitted to operate under sub. (1).

(5) Except as provided in s. 11.25 (2) (b), no support committee authorized under s. 11.05 (3) (p) may utilize a contribution for a purpose not authorized under sub. (1).

(6) If an individual on whose behalf a support committee is authorized to operate under s. 11.05 (3) (p) becomes a candidate, the committee shall be adopted by the candidate as his or her personal campaign committee. A support committee which files a statement under s. 11.06 (7) may not be adopted by a candidate as a personal campaign committee.

History: 1985 a. 303.

11.185 Redirection of contributions made to conduits.

(1) In this section, “sponsor” means a committee, including a support committee, political party committee, legislative campaign committee, and special interest committee, but excluding a personal campaign committee, that is associated with a conduit.

(2) A conduit may redirect any contribution received from an individual or organization to a sponsor or, if there is no sponsor, to an administrative fund of the conduit if all of the following apply:

(a) The conduit has held the contribution for at least 24 consecutive months, including the 24 months immediately preceding March 29, 2014, over which time the individual or organization that made the contribution has made no contact with the conduit.

(b) Either of the following apply:

1. The conduit has, over the 24-month period described in par. (a), attempted in good faith to contact the individual or organization that made the contribution at least 10 times, and has documented each such attempt, but has been unable to make contact with the individual or organization. A conduit may satisfy the requirement to contact the individual or organization by telephoning the individual or organization at the last-known telephone

number; by sending a text message to the individual or organization at the last-known cellular telephone number or pager number capable of receiving text messages; by sending a facsimile transmission to the individual or organization at the last-known facsimile transmission number; by sending a letter or postcard to the individual or organization by U.S. mail; by sending a message by electronic mail; or by any combination of the foregoing. A conduit may not satisfy the requirement to attempt in good faith to contact the individual or organization at least 10 times if all 10 attempted contacts occur within a period of 30 consecutive days.

2. The surviving spouse or executor of the estate of a deceased individual that made the contribution authorizes the redirection of the contribution.

(3) If a conduit redirects a contribution under this section, the conduit shall include in its report under s. 11.12 (5) or 11.20 for the reporting period during which the contribution is redirected the information about the original contributor required for reporting purposes under s. 11.06 (1) (a) and (b) for the dates on which the contribution is received and redirected and whether the contribution is redirected to a sponsor or to an administrative fund of the conduit.

History: 2013 a. 153.

11.19 Dissolution of registrants; termination reports.

(1) Whenever any registrant disbands or determines that obligations will no longer be incurred, and contributions will no longer be received nor disbursements made during a calendar year, and the registrant has no outstanding incurred obligations, the registrant shall file a termination report with the appropriate filing officer. Such report shall indicate a cash balance on hand of zero at the end of the reporting period and shall indicate the disposition of residual funds. Residual funds may be used for any political purpose not prohibited by law, returned to the donors in an amount not exceeding the original contribution, or donated to a charitable organization or the common school fund. The report shall be filed and certified as were previous reports, and shall contain the information required by s. 11.06 (1). A registrant to which s. 11.055 (1) applies shall pay the fee imposed under that subsection with a termination report filed under this subsection. If a termination report or suspension report under sub. (2) is not filed, the registrant shall continue to file periodic reports with the appropriate filing officer, no later than the dates specified in s. 11.20. This subsection does not apply to any registrant making an indication under s. 11.05 (2r).

(2) Notwithstanding sub. (1), any registrant who or which determines that obligations will no longer be incurred, contributions will no longer be made or received or disbursements made during a calendar year in an aggregate amount of more than \$1,000 may file a suspension report with the appropriate filing officer. The report shall be filed and certified as were previous reports and shall contain the information required under s. 11.06 (1). Upon receipt of a properly executed report, the registrant shall be granted a suspension of the filing requirement under s. 11.20 (9) by the appropriate filing officer. Such suspension is effective only for the calendar year in which it is granted, unless the registrant alters its status before the end of such year or files a termination report under sub. (1).

(3) In no case may a candidate or personal campaign committee file a termination or suspension report covering any period ending sooner than the date of the election in which the candidate or committee is participating.

(4) If a registrant files a termination report under sub. (1) or (2) and within 60 days thereafter receives and accepts unanticipated contributions, the registrant may file an amended termination report. An amended report supersedes the previous report. The individual who certifies to the accuracy of the report shall also certify to a statement that the amended report is filed on account of

the receipt of unanticipated contributions and the failure to file a correct termination report was not intentional.

History: 1973 c. 334; 1975 c. 93; 1979 c. 328; 1985 a. 303; 1997 a. 27; 2001 a. 109; 2005 a. 177.

11.20 Filing requirements. (1) All reports required by s. 11.06 which relate to activities which promote or oppose candidates for state office or statewide referenda and all reports under s. 11.08 shall be filed with the board. All reports required by s. 11.06 which relate to activities which promote or oppose candidates for local office or local referenda shall be filed with the appropriate filing officer under s. 11.02, except reports filed under s. 11.08.

(2) Preprimary and preelection reports under s. 11.06 (1) shall be received by the appropriate filing officer no earlier than 14 days and no later than 8 days preceding the primary and the election.

(2m) Election reports under s. 11.12 shall be received by the appropriate filing officer no earlier than 23 days and no later than 30 days after each special election, unless a continuing report is required to be filed under sub. (4) on or before the 30th day after the special election.

(3) (a) A candidate or personal campaign committee of a candidate at a primary shall file a preprimary and preelection report. If a candidate for a nonpartisan state office at an election is not required to participate in a primary, the candidate or personal campaign committee of the candidate shall file a preprimary report at the time prescribed in sub. (2) preceding the date specified in s. 5.02 (20) or (22) for the holding of the primary, were it to be required.

(b) A candidate or personal campaign committee of a candidate at an election shall file a preelection report.

(bm) A candidate or personal campaign committee of a candidate at a special election shall file a postelection report whenever the report is required to be filed under sub. (2m).

(c) A registered committee or individual other than a candidate or personal campaign committee making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to one or more candidates for office at a primary, or supporting or opposing other committees or individuals who are engaging in such activities, shall file a preprimary and preelection report.

(d) A registered committee or individual other than a candidate or personal campaign committee making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to one or more candidates for office at an election, or supporting or opposing other committees or individuals who are engaging in such activities, shall file a preelection report.

(f) A contribution, disbursement or obligation in support of or in opposition to a candidate at a primary which is made, accepted or incurred during the period covered by the preprimary report is considered to be made, accepted or incurred in support of or in opposition to that candidate at the primary, regardless of whether the candidate is opposed at the primary.

(g) A contribution, disbursement or obligation in support of or in opposition to a candidate at an election which is made, accepted or incurred during the period covered by the preelection report is considered to be made, accepted or incurred in support of or in opposition to that candidate at the election, regardless of whether the candidate is opposed at the election.

(h) A registrant who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candidate at a primary during the period covered by the preprimary report shall file both the preprimary and preelection reports, regardless of whether the registrant engages in such activity during the period covered by the preelection report.

(i) Notwithstanding pars. (c) and (d), a registrant other than a candidate, personal campaign committee or political party committee who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candi-

date at a primary during the period covered by the preelection report, but does not engage in such activity during the period covered by the preprimary report, is not required to file a preprimary report.

(j) Notwithstanding pars. (c) and (d), a registrant other than a candidate, personal campaign committee or political party committee who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candidate at an election during the period covered by the report which follows the preelection report, but does not engage in such activity during the period covered by the preelection report, is not required to file a preelection report.

(k) A registered group or individual making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to a referendum appearing on a primary ballot shall file a preprimary and preelection report.

(L) A registered group or individual making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to a referendum appearing on an election ballot shall file a preelection report.

(4) Continuing reports under s. 11.06 (1) by committees or individuals supporting or opposing candidates for office, including committees of a political party, and by individuals, groups or corporations supporting or opposing a referendum shall be received by the appropriate filing officer no earlier than January 1 and no later than January 31; and no earlier than July 1 and no later than July 20. Individuals, committees, groups and corporations to which s. 11.055 (1) applies shall pay the fee imposed under that subsection with their continuing reports filed in January of each year.

(4m) An individual who or committee which supports or opposes an effort to circulate and file a petition to recall an officer shall file a report with the appropriate filing officer no later than 30 days after registration of the petitioner for recall of the officer under s. 9.10 (2) (d), if the petition has not been offered for filing within 5 days of that date, and no later than 5 days after a petition is offered for filing demanding the recall of the officer.

(5g) Notwithstanding sub. (3), a personal campaign committee which is not formed to support or oppose a candidate in a partisan primary or election need only comply with sub. (3) for purposes of a partisan primary and election if it makes a disbursement for the purpose of influencing the outcome of that primary or election in a form other than a contribution which is reported by the recipient.

(5r) Notwithstanding sub. (3), a personal campaign committee which is not formed to support or oppose a candidate in a nonpartisan primary or election need only comply with sub. (3) for the purposes of a nonpartisan primary or election if it makes a disbursement for the purpose of influencing the outcome of that primary or election in a form other than a contribution which is reported by the recipient.

(7) In the event that any report is required to be filed under this section on a nonbusiness day, it may be filed on the next business day thereafter.

(8) Reports filed under subs. (2), (4), and (4m) shall include all contributions received and transactions made as of the end of:

(a) The 15th day preceding the primary or election in the case of the preprimary and preelection report.

(b) December 31 in the case of the continuing report required by January 31.

(c) June 30 in the case of the continuing report required by July 20.

(d) Five days preceding the deadline for filing of the report in the case of the report required under sub. (4m).

(e) The 22nd day following the special election in the case of the postelection report required under sub. (2m).

(9) Except as provided in ss. 11.05 (2r) and 11.19 (2), the duty to file reports under this section continues until a termination report is filed in accordance with s. 11.19.

(10) (a) Where a requirement is imposed under this section for the filing of a financial report which is to be received by the appropriate filing officer no later than a certain date, the requirement may be satisfied either by actual receipt of the report by the prescribed time for filing at the office of the filing officer, or by filing a report with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no later than the date provided by law for receipt of such report.

(b) In any case where the postal service is employed by a person subject to a filing requirement as the agent for transmittal of a report, the burden is upon such person to show that a report has been filed with the postal service.

(c) It is presumed until the contrary is established that the date shown by the postal service cancellation mark on the envelope containing the report is the date that it was deposited in the mail.

(11) All reports required by this chapter shall be open to public inspection.

(12) If a candidate is unopposed in a primary or election, the obligation to file the reports required by this chapter does not cease. Except as provided in ss. 11.05 (2r) and 11.19 (2), a registrant who makes or receives no contributions, makes no disbursements or incurs no obligations shall so report on the dates designated in subs. (2) and (4).

(13) In the event of failure of a candidate or treasurer to file a report or statement required by this chapter by the time prescribed by law, action may be commenced against the candidate, the campaign treasurer, or the candidate's personal campaign committee, if any, or any combination of them.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328 ss. 58, 82 to 92, 146; 1981 c. 314 s. 146; 1983 a. 183, 491, 538; 1985 a. 303 ss. 32m to 37, 88; 1987 a. 370; 1989 a. 192; 1995 a. 16 s. 2; 1997 a. 27; 2001 a. 103, 109; 2003 a. 321; 2005 a. 177.

Cross-reference: See also s. GAB 6.04, Wis. adm. code.

11.21 Duties of the government accountability board.

The board shall:

(1) Prescribe forms for making the reports, statements and notices required by this chapter. The board shall furnish forms for making reports or statements without charge to all persons who are required to file reports or statements with the board, and shall distribute or arrange for the distribution of all forms for use by other filing officers.

(2) Furnish to each registrant prescribed forms for the making of reports and statements. Forms shall be sent by 1st class mail not earlier than 21 days and not later than 14 days prior to the applicable filing deadline under s. 11.20, and addressed to the attention of the treasurer or other person indicated on the registration statement. Forms need not be sent to a registrant who has made an indication that aggregate contributions, disbursements and obligations will not exceed the amount specified under s. 11.05 (2r) or to a registrant who has been granted a suspension under s. 11.19 (2). Forms for reports shall not be sent by the board to a registrant if the registrant is required to file reports with the board in an electronic format. Whenever any notice of filing requirements under this chapter is sent to a candidate's campaign treasurer, the board shall also send a notice to the candidate if he or she has appointed a separate treasurer. Failure to receive any form or notice does not exempt a registrant from compliance with this chapter.

(3) Prepare and publish for the use of persons required to file reports and statements under this chapter a manual setting forth simply and concisely recommended uniform methods of book-keeping and reporting.

(4) Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.

(5) Make the reports and statements filed with it available for public inspection and copying, commencing as soon as practicable but not later than the end of the 2nd day following the day dur-

ing which they are received, and permit copying of any report or statement by hand or by duplicating machine at cost, as requested by any person. No information copied from such reports and statements may be sold or utilized by any person for the purpose of soliciting contributions from individuals identified in the reports or statements or for any commercial purpose.

(6) Compile and maintain a current list of all reports and statements or parts thereof pertaining to each candidate, individual, committee or group.

(7) Include in its biennial report under s. 15.04 (1) (d) compilations of any of the following in its discretion:

(a) Total reported contributions, disbursements and incurred obligations for all candidates, individuals, committees and groups during the biennium.

(b) Total amounts expended according to such categories as it may determine and separated according to candidate, political party, and nonparty disbursements.

(c) Total amounts expended for influencing nominations and elections stated separately whenever separate information is reported.

(d) Total amounts contributed according to such categories of amounts as it determines for candidates, individuals, committees and groups.

(e) Aggregate amounts contributed by any contributors shown to have contributed more than \$100.

(8) Prepare and publish from time to time special reports comparing the various totals and categories of contributions and disbursements made with respect to preceding elections.

(9) Maintain a duplicate record of any separate schedule under s. 11.06 (1) (j) received with the financial report of an individual or committee filing an oath under s. 11.06 (7) together with the record of each candidate to whom it relates.

(10) Make available a list of delinquents for public inspection.

(11) Receive and maintain in an orderly manner all reports and statements required to be filed with the state under the federal election campaign act, and in addition shall:

(a) Preserve such reports and statements for a period of 6 years from date of receipt.

(b) Notwithstanding sub. (5), make each report and statement transmitted to it under the federal election campaign act available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than 48 hours from the time of receipt.

(c) Compile and maintain a current list of all reports and statements or parts thereof pertaining to each candidate who is required to file a report or statement under such act.

(d) Promptly compile and release for public inspection a list of all reports received from candidates for national office and from committees supporting or opposing such candidates which are required to be filed with the state under the federal election campaign act, as soon as possible after each deadline for receipt of such reports as provided by federal law.

(12) Assign an identification number to each registrant for whom the board acts as a filing officer under s. 11.02.

(13) Determine whether each financial report or statement required to be filed under this chapter has been filed in the form and by the time prescribed by law, and whether it conforms on its face to the requirements of this chapter. The board shall immediately send to any registrant who is delinquent in filing, or who has filed otherwise than in the proper form, a notice that the registrant has failed to comply with this chapter. Whenever a candidate has appointed another person as campaign treasurer, the board shall send the notice to both persons.

(14) Prepare, publish and periodically revise as necessary a manual simply and concisely describing the filing and registration requirements established in this chapter in detail, as well as other major provisions of this chapter and ch. 12.

(16) Require each registrant for whom the board serves as filing officer and who or which accepts contributions in a total amount or value of \$20,000 or more during a campaign period to file each campaign finance report that is required to be filed under this chapter in an electronic format, and accept from any other registrant for whom the board serves as a filing officer any campaign finance report that is required to be filed under this chapter in an electronic format. A registrant who or which becomes subject to a requirement to file reports in an electronic format under this subsection shall initially file the registrant's report in an electronic format for the period which includes the date on which the registrant becomes subject to the requirement. To facilitate implementation of this subsection, the board shall specify, by rule, a type of software that is suitable for compliance with the electronic filing requirement under this subsection. The software shall allow an authorized individual to provide an electronic signature, as defined in s. 137.11 (8), that is subject to a security procedure, as defined in s. 137.11 (13). The board shall provide copies of the software to registrants at a price fixed by the board that may not exceed cost. A registrant who or which files a report under this subsection in an electronic format may file with the board that portion of the report signed by an authorized individual rather than submit the electronic signature of that individual. The board shall provide complete instructions to any registrant who or which files a report under this subsection. In this subsection, the "campaign period" of a candidate, personal campaign committee or support committee begins and ends with the "campaign" of the candidate whose candidacy is supported, as defined in s. 11.26 (17), and the "campaign period" of any other registrant begins on January 1 of each odd-numbered year and ends on December 31 of the following year.

(17) Promulgate rules that require public access channel operators and licensees of public television stations in this state to provide a minimum amount of free time on public access channels and public television stations to individuals whose names are certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear as candidates for state office on the ballot at general, spring, or special elections. The rules promulgated under this subsection shall require public access channel operators and licensees of public television stations to offer the same amount of time to each candidate for a particular state office, but may require different amounts of time to be offered to candidates for different offices.

History: 1973 c. 334; 1975 c. 93 ss. 73 to 78, 119 (2); 1977 c. 107; 1979 c. 260, 328; 1981 c. 390 s. 252; 1983 a. 27, 538; 1985 a. 303; 1987 a. 370; 1989 a. 192; 1997 a. 230; 2001 a. 109; 2005 a. 177; 2007 a. 1; 2011 a. 32; 2013 a. 153.

Cross-reference: See also s. GAB 6.05, Wis. adm. code.

11.22 Duties of local filing officer. Each filing officer, other than the board, shall:

(1) Obtain the forms and manuals prescribed by the board under s. 11.21 (1), (3) and (14) and election laws provided by the board under s. 7.08 (4). The officer shall furnish forms without charge to all persons who are required to file reports or statements with the officer, and shall furnish copies of manuals without charge, upon request, to all persons who are required to file reports or statements with the officer. The officer shall distribute copies of the election laws received from the board to election officials without charge. The officer shall furnish copies of manuals and election laws to other persons at cost.

(2) Develop a filing, coding and cross-indexing system consonant with the purposes of this chapter.

(3) Furnish to each registrant prescribed forms for the making of reports and statements. Forms shall be sent by 1st class mail not earlier than 21 days and not later than 14 days prior to the applicable filing deadline under s. 11.20 and addressed to the attention of the treasurer or other person indicated on the registration statement. Forms need not be sent to a registrant who has made an indication that aggregate contributions, disbursements and obligations will not exceed the amount specified under s. 11.05 (2r) or to a registrant who has been granted a suspension under s. 11.19 (2). Whenever any notice of the filing requirements under this

chapter is sent to a candidate's campaign treasurer, the filing officer shall also send a notice to the candidate if he or she has appointed a separate treasurer. Failure to receive any form or notice does not exempt a registrant from compliance with this chapter.

(4) Notify the board and the district attorney, or the attorney general where appropriate under s. 5.05 (2m) (i), in writing, of any facts within the filing officer's knowledge or evidence in the officer's possession, including errors or discrepancies in reports or statements and delinquencies in filing which may be grounds for civil action or criminal prosecution. The filing officer shall transmit a copy of such notification to the board. The board and the district attorney or the attorney general shall advise the filing officer in writing at the end of each 30-day period of the status of such matter until the time of disposition.

(5) Make available a list of delinquents for public inspection.

(6) Compile and maintain a current list of all reports and statements or parts thereof pertaining to each candidate, individual, committee or group.

(8) Make the reports and statements filed with the filing officer available for public inspection and copying, commencing as soon as practicable but not later than the end of the 2nd day following the day during which they are received, and permit copying of any report or statement by hand or by duplicating machine at cost, as requested by any person. No information copied from such reports and statements may be sold or utilized by any person for the purpose of soliciting contributions from individuals identified in the reports or statements or for any commercial purpose.

(9) Determine whether each financial report or statement required to be filed under this chapter has been filed in the form and by the time prescribed by law, and whether it conforms on its face to the requirements of this chapter. The officer shall immediately send to any registrant who is delinquent in filing, or who has filed otherwise than in the proper form, a notice that the registrant has failed to comply with this chapter. Whenever a candidate has appointed another person as campaign treasurer, the filing officer shall send the notice to both persons.

(10) Place a copy of any separate schedule under s. 11.06 (1) (j) received with the financial report of an individual or committee filing an oath under s. 11.06 (7) in the file of each candidate to whom it relates.

History: 1973 c. 334; 1975 c. 41; 1975 c. 93 ss. 80 to 86, 119 (2); 1975 c. 199; 1979 c. 328; 1983 a. 27; 1985 a. 303; 1987 a. 370; 1989 a. 192; 2001 a. 109; 2005 a. 177; 2007 a. 1.

11.23 Political groups and individuals; referendum questions. (1) Any group or individual may promote or oppose a particular vote at any referendum in this state. Except as authorized in s. 11.05 (12) (b) and (13), before a group makes or accepts contributions, makes disbursements, or incurs obligations in excess of \$2,500 in the aggregate in a calendar year for such purposes, and before an individual accepts contributions, makes disbursements, or incurs obligations in excess of \$2,500 in the aggregate in a calendar year for such purposes, the group or individual shall file a registration statement under s. 11.05 (1), (2) or (2r). In the case of a group the name and mailing address of each of its officers shall be given in the statement. Every group and every individual under this section shall designate a campaign depository account under s. 11.14. Every group shall appoint a treasurer, who may delegate authority but is jointly responsible for the actions of his or her authorized designee for purposes of civil liability under this chapter. The appropriate filing officer shall be notified by a group of any change in its treasurer within 10 days of the change under s. 11.05 (5). The treasurer of a group shall certify the correctness of each statement or report submitted by it under this chapter.

(2) Any anonymous contribution exceeding \$10 received by an individual or group treasurer may not be used or expended. The contribution shall be donated to the common school fund or to any charitable organization at the option of the treasurer.

(3) All contributions, disbursements and incurred obligations exceeding \$10 shall be recorded by the group treasurer or the individual. He or she shall maintain such records in an organized and legible manner, for not less than 3 years after the date of a referendum in which the group or individual participates. If a report is submitted under s. 11.19 (1), the records may be transferred to a continuing group or to the appropriate filing officer for retention. Records shall include the information required under s. 11.06 (1).

(4) Each group or individual shall file periodic reports as provided in ss. 11.06, 11.19 and 11.20. Every individual acting for the purpose of influencing the outcome of a referendum shall be deemed his or her own treasurer. No disbursement may be made or obligation incurred by or on behalf of a group without the authorization of the treasurer or the treasurer's designated agents. No contribution may be accepted and no disbursement may be made or obligation incurred by any group at a time when there is a vacancy in the office of treasurer.

(5) If a group which operates as a political committee has filed a single registration statement, any report of that group which concerns activities being carried on as a political committee under this chapter shall contain a separate itemization of such activities, whenever itemization is required.

(6) If any contribution or contributions of \$500 or more cumulatively are received by a group or individual supporting or opposing the adoption of a referendum question from a single contributor later than 15 days prior to an election such that it is not included in the preprimary or preelection report submitted under s. 11.20 (3), the treasurer of the group or the individual receiving the contribution shall within 24 hours of receipt inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the treasurer's or individual's next regular report. For purposes of the reporting requirement under this subsection, only contributions received during the period beginning with the day after the last date covered on the preelection report, and ending with the day before the election need be reported.

History: 1973 c. 334; 1975 c. 93 ss. 87, 119 (1), (2); 1975 c. 199; 1979 c. 328 ss. 103, 146; 1985 a. 303 ss. 43, 86; 1985 a. 332 s. 253; 1987 a. 370; 2001 a. 109; 2005 a. 177; 2009 a. 313; 2013 a. 153.

Cross-reference: See also s. GAB 6.04, Wis. adm. code.

If narrowly construed to apply only to financial transactions directly related to express advocacy of a particular result in a referendum, this section is constitutional. 65 Atty. Gen. 145.

A school board that informs the electorate of facts pertinent to the subject of a school district referendum and does not expressly advocate for a particular need not register or file campaign financing reports under ch. 11. 68 Atty. Gen. 167.

Limitations on contributions to committees formed to support or oppose referenda are discussed. *Citizens Against Rent Control v. Berkeley*, 454 U.S. 290 (1981).

This section is unconstitutional, as applied to the plaintiff's case — an individual advocating against the adoption of a local referendum. The government's asserted interests: 1) to provide for an informed electorate; 2) to prevent corruption or the appearance thereof in the democratic process; and 3) to maintain the integrity of the electoral process, lack sufficient importance to justify the more burdensome reporting requirements of this section. While referendum questions may often appear on the same ballot as candidate elections, they are fundamentally different. The public's interest in knowing the source of political money and how it is spent is substantially diminished in the context of this section. *Hatchett v. Barland*, 816 F. Supp. 2d 583 (2011).

11.24 Unlawful political contributions. (1) No person may, directly or indirectly, make any contribution other than from funds or property belonging to the contributor. No person may, directly or indirectly, furnish funds or property to another person for the purpose of making a contribution in other than the person's own name. No person may intentionally accept or receive any contribution made in violation of this subsection.

(1m) A conduit making a contribution of money in the manner prescribed in s. 11.06 (11) (a) does not violate sub. (1).

(2) No person may intentionally accept or receive any contribution made in violation of this chapter.

History: 1973 c. 334; 1985 a. 303; 1989 a. 192; 1991 a. 316; 2001 a. 109; 2005 a. 177.

The unit of prosecution under sub. (1) is every transfer of funds to another person accompanied by the false listing of any single contributor. An individual illegally furnishing funds from a corporate account may be convicted under sub. (1). *State v. Dreske*, 88 Wis. 2d 60, 276 N.W.2d 324 (Ct. App. 1979).

11.25 Unlawful political disbursements and obligations. (1) No person, committee or group may intentionally receive or accept anything of value, or any promise or pledge thereof, constituting a disbursement made or obligation incurred for political purposes contrary to law.

(2) (a) No person, committee or group may make or authorize a disbursement or the incurrence of an obligation from moneys solicited for political purposes for a purpose which is other than political, except as specifically authorized by law.

(b) Notwithstanding par. (a), a registrant may accept contributions and make disbursements from a campaign depository account for the purpose of making expenditures in connection with a campaign for national office; for payment of civil penalties incurred by the registrant under this chapter but not under any other chapter; for the purpose of making a donation to a charitable organization or the common school fund; or for payment of the expenses of nonpartisan campaigns to increase voter registration or participation. Notwithstanding par. (a), a personal campaign committee or support committee may accept contributions and make disbursements from a campaign depository account for payment of inaugural expenses of an individual who is elected to state or local office. If such expenses are paid from contributions made to the campaign depository account, they are reportable under s. 11.06 (1) as disbursements. Otherwise, such expenses are not reportable under s. 11.06 (1). If contributions from the campaign depository account are used for such expenses, they are subject to s. 11.26.

(3) No moneys solicited for political purposes and reported under this chapter may be invested for the purpose of producing income unless the investment is in direct obligations of the United States and of agencies and corporations wholly owned by the United States, commercial paper maturing within one year from the date of investment, preferred shares of a corporation, an interest-bearing account at any financial institution as defined in s. 705.01 (3) or securities of an investment company registered under the federal investment company act of 1940 (15 USC 80a) and registered for public offer and sale in this state of the type commonly referred to as a "money market fund".

History: 1973 c. 334; 1975 c. 93; 1979 c. 328; 1981 c. 20; 1983 a. 27, 183; 1985 a. 303 ss. 43s, 86; 1987 a. 370; 1993 a. 213; 2003 a. 39; 2005 a. 451.

11.26 Limitation on contributions. (1) No individual may make any contribution or contributions to a candidate for election or nomination to any of the following offices and to any individual or committee under s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the candidate's opponent to the extent of more than a total of the amounts specified per candidate:

(a) Candidates for governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent, or justice, \$10,000.

(b) Candidates for state senator, \$1,000.

(c) Candidates for representative to the assembly, \$500.

(cc) Candidates for court of appeals judge in districts which contain a county having a population of more than 500,000, \$3,000.

(cg) Candidates for court of appeals judge in other districts, \$2,500.

(cn) Candidates for circuit judge in circuits having a population of more than 300,000, or candidates for district attorney in prosecutorial units having a population of more than 300,000, \$3,000.

(cw) Candidates for circuit judge in other circuits or candidates for district attorney in other prosecutorial units, \$1,000.

(d) Candidates for local offices, an amount equal to the greater of the following:

1. Two hundred fifty dollars.

2. One cent times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census

information on which the district is based, as certified by the appropriate filing officer, but not more than \$3,000.

(2) No committee other than a political party committee or legislative campaign committee may make any contribution or contributions to a candidate for election or nomination to any of the following offices and to any individual or committee under s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the candidate's opponent to the extent of more than a total of the amounts specified per candidate:

(a) Candidates for governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent, or justice, 4 percent of the value of the disbursement level specified in the schedule under s. 11.31 (1).

(b) Candidates for state senator, \$1,000.

(c) Candidates for representative to the assembly, \$500.

(cc) Candidates for court of appeals judge in districts which contain a county having a population of more than 500,000, \$3,000.

(cg) Candidates for court of appeals judge in other districts, \$2,500.

(cn) Candidates for circuit judge in circuits having a population of more than 300,000, or candidates for district attorney in prosecutorial units having a population of more than 300,000, \$3,000.

(cw) Candidates for circuit judge in other circuits or candidates for district attorney in other prosecutorial units, \$1,000.

(e) Candidates for local offices, an amount equal to the greater of the following:

1. Two hundred dollars.

2. Three-fourths of one cent times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than \$2,500.

(3) The contribution limitations of subs. (1) and (2) apply cumulatively to the entire primary and election campaign in which a candidate participates, whether or not there is a contested primary election. The total limitation may be apportioned in any manner desired between the primary and election. All moneys cumulate regardless of the time of contribution.

(4) No individual may make any contribution or contributions to all candidates for state and local offices and to any individuals who or committees which are subject to a registration requirement under s. 11.05, including legislative campaign committees and committees of a political party, to the extent of more than a total of \$10,000 in any calendar year.

NOTE: The U.S. Seventh Circuit Court of Appeals in *Wisconsin Right to Life v. Barland*, 664 F.3d 139 (2011), held sub. (4) to be unconstitutional to the extent that it limits contributions to committees engaged solely in independent spending for political speech.

NOTE: The U.S. District Court for the Eastern District of Wisconsin in *Young v. Voche*, Case No. 13–CV–635, in an order entered May 22, 2014, permanently enjoined the enforcement of sub. (4).

(5) The contribution limits provided in subs. (1) and (4) do not apply to a candidate who makes any contribution or contributions to his or her own campaign for office from the candidate's personal funds or property or the personal funds or property which are owned jointly or as marital property with the candidate's spouse, with respect to any contribution or contributions made to that candidate's campaign only. A candidate's personal contributions shall be deposited in his or her campaign depository account and reported in the normal manner.

(6) When a candidate adopts a preexisting support committee as his or her personal campaign committee, the support committee is deemed to have been the same committee as the candidate's personal campaign committee for purposes of the application of subs. (1), (2) and (9). The limitations prescribed in subs. (2) and (9) do not apply to the transfer of contributions which is made at the time of such adoption, but do apply to the contributions which have

been made by any other committee to the support committee at the time of adoption.

(8) (a) No political party as defined in s. 5.02 (13) may receive more than a total of \$150,000 in value of its contributions in any biennium from all other committees, excluding contributions from legislative campaign committees and transfers between party committees of the party. In this paragraph, a biennium commences with January 1 of each odd-numbered year and ends with December 31 of each even-numbered year.

(b) No such political party may receive more than a total of \$6,000 in value of its contributions in any calendar year from any specific committee or its subunits or affiliates, excluding legislative campaign and political party committees.

(c) No committee, other than a political party or legislative campaign committee, may make any contribution or contributions, directly or indirectly, to a political party under s. 5.02 (13) in a calendar year exceeding a total value of \$6,000.

(9) (a) No individual who is a candidate for state or local office may receive and accept more than 65 percent of the value of the total disbursement level determined under s. 11.31 for the office for which he or she is a candidate during any primary and election campaign combined from all committees subject to a filing requirement, including political party and legislative campaign committees, including any transfer from any personal campaign committee to another personal campaign committee.

(b) No individual who is a candidate for state or local office may receive and accept more than 45 percent of the value of the total disbursement level determined under s. 11.31 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, not including any transfer from any personal campaign committee to another personal campaign committee.

(11) Excess contributions shall be returned to the donor or treated in accordance with s. 11.12 (2) or 11.23 (2), at the option of the treasurer.

(12) In computing the limitations under this section, any transfer of funds between the candidates for governor and lieutenant governor of the same political party in the general election may be excluded.

(12m) For purposes of this section, a contribution of money received from a conduit identified in the manner prescribed in s. 11.06 (11) (a) shall be considered a contribution received from the original contributor.

(13m) Contributions utilized for the following purposes are not subject to limitation by this section:

(a) For the purpose of payment of legal fees and other expenses incurred as a result of a recount at an election.

(b) For the purpose of payment of legal fees and other expenses incurred in connection with the circulation, offer to file or filing, of a petition to recall an officer prior to the time a recall primary or election is ordered, or after that time if incurred in contesting or defending the order.

(14) No candidate or committee may receive and accept any contribution or contributions made in violation of this section.

(15) The fact that 2 or more committees, other than personal campaign committees, utilize common policies and practices concerning the endorsement of candidates or agree to make contributions only to such endorsed candidates does not affect the right of each committee independently to make contributions up to the amount specified under sub. (2).

(16) Contributions constituting surplus materials acquired in connection with a previous campaign of a candidate are not subject to limitation by this section, if the materials were previously reported as a contribution by that candidate.

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

(b) In the case of a candidate who has not been a candidate in a previous election for which he or she continues to be registered under s. 11.05, the “campaign” of the candidate begins when the candidate or the candidate’s personal campaign committee is required to file a registration statement with the appropriate filing officer.

(c) In the case of a candidate who has been a candidate in a previous election for which he or she continues to be registered under s. 11.05, the “campaign” of the candidate begins on the day after the closing date for the period covered by the first financial report filed by or on behalf of the candidate subsequent to the date of the previous election, or if the candidate has incurred obligations from a previous campaign, the date on which the candidate receives sufficient contributions to retire those obligations, whichever is later, except that the “campaign” of a candidate at a special election begins when the candidate or the candidate’s personal campaign committee is required to file or change the information on a registration statement as a result of the candidacy.

(d) In the case of any candidate at the spring primary or election or the partisan primary or general election, the “campaign” of the candidate ends on June 30 or December 31 following the date on which the election or primary is held in which the candidate is elected or defeated, or the date on which the candidate receives sufficient contributions to retire any obligations incurred in connection with that contest, whichever is later. In the case of any candidate at a special primary or election, the “campaign” of the candidate ends on the last day of the month following the month in which the primary or election is held in which the candidate is elected or defeated, or the date on which the candidate receives sufficient contributions to retire any obligations incurred in connection with that contest, whichever is later.

(e) The campaign of a candidate in a future election who has incurred obligations from a previous campaign may begin before the candidate receives sufficient contributions to retire all obligations incurred in connection with the previous campaign, but may not begin before the day after the closing date for the period covered by the first financial report filed by or on behalf of the candidate subsequent to the date of the previous election except as provided for a special election under par. (c).

(f) Notwithstanding pars. (b) to (d), contributions for inaugural expenses paid by a candidate, personal campaign committee or support committee authorized under s. 11.05 (3) (p) from a campaign depository account are subject to the limitations of this section, but the registrant paying the expenses may elect to charge the contributions to a present or possible future campaign of the individual in connection with whose inauguration the expenses are paid.

History: 1973 c. 334; 1975 c. 93 ss. 89 to 95, 119 (1); 1975 c. 200; 1977 c. 107, 187; 1977 c. 427 s. 132; 1979 c. 263, 328; 1979 c. 355 s. 32; 1983 a. 183, 186; 1985 a. 303 ss. 44 to 55m, 86; 1987 a. 27, 370; 1989 a. 31, 192; 1995 a. 27 s. 9145 (1); 1995 a. 219, 225; 1999 a. 32; 2001 a. 109; 2005 a. 177; 2009 a. 89, 216; 2011 a. 32, 75; 2013 a. 153; 2013 a. 168 s. 21.

NOTE: 1985 Wis. Act 303, s. 1, states legislative intent regarding political party and legislative campaign committees’ independent expenditures.

Sub. (9) (a) does not violate the 1st amendment or equal protection; it is narrowly tailored to accomplish a legislative goal while allowing significant political expression. *Gard v. State Elections Board*, 156 Wis. 2d 28, 456 N.W.2d 809 (1990).

Sub. (4) is unconstitutional to the extent that it limits contributions to committees engaged solely in independent spending for political speech. *Citizens United v. FEC*, 130 S. Ct. 876, held that independent expenditures do not pose a threat of actual or apparent quid pro quo corruption, which is the only governmental interest strong enough to justify restrictions on political speech. Accordingly, applying the \$10,000 aggregate annual cap to contributions made to organizations engaged only in independent spending for political speech violates the 1st amendment. *Wisconsin Right to Life v. Barland et. al.*, 664 F.3d 139 (2011).

The federal statute at issue in this case imposed two types of limits on campaign contributions: 1) base limits that restrict how much money a donor may contribute to a particular candidate or committee, and 2) aggregate limits that restrict how much money a donor may contribute in total to all candidates or committees. Base limits were previously upheld as serving the permissible objective of combatting corruption. The aggregate limits do little, if anything, to address that concern, while seriously restricting participation in the democratic process. The aggregate limits are

therefore invalid under the First Amendment. *McCutcheon v. Federal Election Commission*, 572 U. S. ___, 134 S. Ct. 1434, 188 L. Ed. 2d 468 (2014)

11.265 Legislative campaign committees. (1) No more than one legislative campaign committee may be established by the members of one political party in each house of the legislature.

(2) A legislative campaign committee may accept no contributions and make no contributions or disbursements exceeding the amounts authorized for a political party under this chapter.

(3) Amounts contributed by a legislative campaign committee to a political party are not subject to limitation by this chapter.

History: 1979 c. 328; 1985 a. 303; 2001 a. 109; 2005 a. 177.

11.27 False reports and statements. (1) No person may prepare or submit a false report or statement to a filing officer under this chapter.

(2) In civil actions under this chapter, the acts of every member of a personal campaign committee are presumed to be with the knowledge and approval of the candidate, until it has been clearly proved that the candidate did not have knowledge of and approve the same.

History: 1973 c. 334; 1979 c. 328.

11.29 Communications for political purposes.

(1) Nothing in this chapter restricts any corporation, cooperative, unincorporated cooperative association, or voluntary association other than a political party or personal campaign committee from making disbursements for the purpose of communicating only with its members, shareholders or subscribers to the exclusion of all other persons, with respect to endorsements of candidates, positions on a referendum or explanation of its views or interests, without reporting such activity. No such corporation, cooperative, or association may solicit contributions from persons who are not members, shareholders or subscribers to be used for such purposes.

(2) Notwithstanding s. 11.12 (1), a political party committee may make single communications to its members at periodic intervals with respect to an explanation of its views or interests, a position on a referendum to be submitted to the voters, or endorsement of an entire slate of candidates at any jurisdictional level or levels. Such activity shall be reported by the party committee.

(3) No communications medium may be utilized for communications authorized under this section unless the medium is restricted solely to members, shareholders or subscribers.

(4) For purposes of this section, the members of a local or regional cooperative or unincorporated cooperative association are deemed to be members of a state cooperative or unincorporated cooperative association if the local or regional cooperative or unincorporated cooperative association is a member of the state cooperative or unincorporated cooperative association.

History: 1973 c. 334; 1975 c. 93 s. 119 (1); 1979 c. 328; 2005 a. 441.

11.30 Attribution of political contributions, disbursements and communications. (1) No disbursement may be made or obligation incurred anonymously, and no contribution or disbursement may be made or obligation incurred in a fictitious name or by one person or organization in the name of another for any political purpose.

(2) (a) The source of every printed advertisement, billboard, handbill, sample ballot, television or radio advertisement or other communication which is paid for by or through any contribution, disbursement or incurred obligation shall clearly appear thereon. This paragraph does not apply to communications for which reporting is not required under s. 11.06 (2).

(b) Every such communication the cost of which is paid for or reimbursed by a committee or group, or for which a committee or group assumes responsibility, whether by the acceptance of a contribution or by the making of a disbursement, shall be identified by the words “Paid for by” followed by the name of the committee

or group making the payment or reimbursement or assuming responsibility for the communication and the name of the treasurer or other authorized agent of such committee or group.

(c) Every such communication which is directly paid for or reimbursed by an individual, including a candidate without a personal campaign committee who is serving as his or her own treasurer, or for which an individual assumes responsibility, whether by the acceptance of a contribution or by the making of a disbursement, shall be identified by the words “Paid for by” followed by the name of the candidate or other individual making the payment or reimbursement or assuming responsibility for the communication. No abbreviation may be used in identifying the name of a committee or group under this paragraph.

(d) In addition to the requirements of pars. (a) to (c), a committee or individual required to file an oath under s. 11.06 (7) shall also in every communication in support of or in opposition to any clearly identified candidate or candidates include the words “Not authorized by any candidate or candidate’s agent or committee”.

(e) Communications under this section by a personal campaign committee may identify the committee or any bona fide subcommittee thereof.

(em) The source of each printed advertisement, billboard, handbill, paid television or radio advertisement or other communication made for the purpose of influencing the recall from or retention in office of an individual holding a state or local office shall clearly appear thereon in the manner prescribed in pars. (b) and (c).

(f) This subsection does not apply to the preparation and transmittal of personal correspondence or the production, wearing or display of a single personal item which is not reproduced or manufactured by machine or other equipment for sale or distribution to more than one individual.

(fm) This subsection does not apply to communications printed on pins, buttons, pens, balloons, nail files and similar small items on which the information required by this subsection cannot be conveniently printed. The board may, by rule, specify small items not mentioned in this paragraph to which this subsection shall not apply.

(g) This subsection does not apply to nonadvertising material contained in a regularly published newsletter by an organization which is expressing its political views with respect to elections which are of concern to its membership, provided that distribution of such newsletter is restricted to such membership.

(h) Notwithstanding par. (a), the attributions required by this subsection in written communications shall be readable, legible and readily accessible.

(hm) Notwithstanding pars. (a) to (c), any communication making a solicitation on behalf of more than one candidate for a joint fund raising effort or program pursuant to an escrow agreement under s. 11.16 (5) may omit the names of the candidates or personal campaign committees assuming responsibility for the communication if the communication discloses that a joint fund raising effort or program is being conducted on behalf of named candidates.

(i) No person may publish or disseminate, or cause to be published or disseminated any communication in violation of this subsection. A communications medium which in good faith relies on the representations of any person who places an advertisement with such medium as to the applicability of this subsection to such person does not violate this paragraph as a result of publication or dissemination of that advertisement based on such representations, provided that the representations are reasonable.

(3) (a) This subsection applies to the following persons who own any financial interest in a newspaper or periodical circulating in this state or in any radio or television station located in this state:

1. Every person occupying any office or position with an annual compensation over \$300, under the constitution or laws of

the United States or of this state or under an ordinance of any municipality of this state.

2. Every candidate or member of any committee or group under this chapter.

3. Every individual registered under s. 11.05.

(b) Any person named in par. (a) is guilty of a violation of this chapter unless, before using the communications medium for political purposes other than as provided for in sub. (2), there is filed with the board a verified declaration specifically stating the communications medium in which the person has financial interest or over which the person has control and the exact nature and extent of the interest or control.

(4) No owner or other person with a financial interest in a communications medium may utilize such medium in support of or in opposition to a candidate or referendum except as provided in this chapter.

(4m) This chapter shall not be construed to restrict coverage of bona fide news stories, interviews with candidates and other politically active individuals, editorial comment or editorials by any broadcasting station, cable television operator or producer, Internet site, or newspaper or other periodical publication, including an Internet or electronic publication, unless the communication is made by a candidate, personal campaign committee, support committee of a candidate authorized under s. 11.05 (3) (p), or a political party. Activities that are not restricted under this subsection are not subject to an attribution requirement under sub. (2) and need not be reported as a contribution or disbursement.

(5) Whenever any person receives payment from another person, in cash or in-kind, for the direct or indirect cost of conducting a poll concerning support or opposition to a candidate, political party or referendum, the person conducting the poll shall, upon request of any person who is polled, disclose the name and address of the person making payment for the poll and, in the case of a registrant under s. 11.05, the name of the treasurer of the person making payment.

History: 1973 c. 334; 1975 c. 93, 199, 224, 422; 1979 c. 328; 1983 a. 491; 1985 a. 303; 1987 a. 370; 1989 a. 192; 1991 a. 316; 2003 a. 265; 2013 a. 153.

This section is unconstitutional, as applied to the plaintiff’s case — an individual advocating against the adoption of a local referendum. While the government’s asserted interests: 1) to provide for an informed electorate; 2) to prevent corruption or the appearance thereof in the democratic process; and 3) to maintain the integrity of the electoral process, may be important and, even compelling in the context of regulating contributions in elections for public office, they are not relevant in referenda elections. *Hatchett v. Barland*, 816 F. Supp. 2d 583 (2011).

11.31 Disbursement levels; calculation. (1) SCHEDULE. The following levels of disbursements are established with reference to the candidates listed below. 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.

(a) Candidates for governor, \$1,078,200.

(b) Candidates for lieutenant governor, \$323,475.

(c) Candidates for attorney general, \$539,000.

(d) Candidates for secretary of state, state treasurer, state superintendent, or justice, \$215,625.

(dm) Candidates for court of appeals judge, \$86,250.

(e) Candidates for state senator, \$34,500 total in the primary and election, with disbursements not exceeding \$21,575 for either the primary or the election.

(f) Candidates for representative to the assembly, \$17,250 total in the primary and election, with disbursements not exceeding \$10,775 for either the primary or the election.

(fm) Candidates for circuit judge, \$86,250.

(fs) Candidates for district attorney in any prosecutorial unit with a population of 500,000 or less, \$86,250.

(g) In any jurisdiction or district, other than a judicial district or circuit, with a population of 500,000 or more according to the

most recent federal census covering the entire jurisdiction or district:

1. For the following countywide offices:
 - a. Candidates for county executive, \$269,500.
 - b. Candidates for district attorney, \$161,725.
 - c. Candidates for county supervisor, \$17,250.
2. Candidates for any countywide elective office not specified in par. (dm) or (fm) or subd. 1., \$107,825.
3. For the following offices in cities of the 1st class:
 - a. Candidates for mayor, \$269,550.
 - b. Candidates for city attorney, \$161,725.
 - c. Candidates for any other city-wide office, \$107,825.
 - d. Candidates for alderperson, \$17,250.
- (h) Candidates for any local office, who are elected from a jurisdiction or district with less than 500,000 inhabitants according to the latest federal census or census information on which the district is based, as certified by the appropriate filing officer, an amount equal to the greater of the following:
 1. \$1,075.
 2. 53.91% of the annual salary for the office sought, rounded to the nearest multiple of \$25.
 3. 32.35 cents per inhabitant of the jurisdiction or district, but in no event more than \$43,125.

(5) SEPARATION OF PERIODS. A disbursement is made for the purposes of the election under this section when a person or committee contracts for goods to be delivered or services to be performed after the date of the primary, regardless of the time at which the contract is entered into by the contracting person or committee.

(7) CAMPAIGN DEFINED. (a) For purposes of this section, the “campaign” of a candidate extends from July 1 preceding the date on which the spring primary or election occurs or January 1 preceding the date on which the partisan primary or general election occurs for the office which the candidate seeks, or from the date of the candidate’s public announcement, whichever is earlier, through the last day of the month following the month in which the election or primary is held.

(b) Disbursements which are made before a campaign period for goods to be delivered or services to be rendered in connection with the campaign are allocated to the disbursement level for that campaign.

(c) Disbursements which are made after a campaign to retire a debt incurred in relation to a campaign are allocated to the disbursement level for that campaign.

(d) Disbursements which are made outside a campaign period and to which par. (b) or (c) does not apply are not subject to any disbursement level. Such disbursements are subject to s. 11.25 (2).

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

History: 1973 c. 334; 1975 c. 93 ss. 97 to 102, 119 (1), (2); 1975 c. 199, 422; 1977 c. 107, 187, 272, 449; 1979 c. 263, 328; 1981 c. 314; 1983 a. 51; 1985 a. 182 s. 57; 1985 a. 303; 1985 a. 332 s. 251 (1); 1987 a. 370; 1989 a. 192; 1993 a. 184; 1995 a. 225; 1997 a. 230; 1999 a. 83; 2001 a. 109; 2005 a. 177; 2009 a. 89; 2011 a. 32, 75; s. 35.17 correction in (1) (d).

Cross-reference: See also s. GAB 6.04, Wis. adm. code.

11.32 Compensation for political advertisements.

(1) No owner, agent or employee of any communications medium may solicit, receive or accept any payment, promise or compensation, nor may any person pay, promise to pay or compensate such person, for the purpose of influencing voting at any election through any broadcast or printed matter unless designated as a paid advertisement under s. 11.30.

(2) No person publishing a newspaper or periodical or operating a radio or television station may receive rates for publishing

or broadcasting advertising for political purposes in excess of the rate regularly charged for commercial advertising of a similar character and classification. No person, committee or group placing such advertising may pay any rate or charge in excess of the regularly charged rate.

History: 1973 c. 334.

11.33 Use of government materials by candidates. (1)

(a) No person elected to state or local office who becomes a candidate for national, state or local office may use public funds for the cost of materials or distribution for 50 or more pieces of substantially identical material distributed after:

1. In the case of a candidate who is nominated by nomination papers, the first day authorized by law for circulation of nomination papers as a candidate.

2. In the case of a candidate who is nominated at a primary election by write-in votes, the day the board of canvassers issues its determination that the person is nominated.

3. In the case of a candidate who is nominated at a caucus, the date of the caucus.

4. In the case of any other candidate who is nominated solely by filing a declaration of candidacy, the first day of the month preceding the month which includes the last day for filing the declaration.

(b) This subsection applies until after the date of the election or after the date of the primary election if the person appears as a candidate on a primary election ballot and is not nominated at the primary election.

(2) This section does not apply to use of public funds for the costs of the following, when not done for a political purpose:

(a) Answers to communications of constituents.

(c) Actions taken by a state or local government administrative officer pursuant to a specific law, ordinance or resolution which authorizes or directs the actions to be taken.

(d) Communications not exceeding 500 pieces by members of the legislature relating solely to the subject matter of a special session or extraordinary session, made during the period between the date that the session is called or scheduled and 14 days after adjournment of the session.

(3) Except as provided in sub. (2), it is not a defense to a violation of sub. (1) that a person was not acting with a political purpose. This subsection applies irrespective of the distributor’s intentions as to political office, the content of the materials, the manner of distribution, the pattern and frequency of distribution and the value of the distributed materials.

History: 1973 c. 334; 1975 c. 369; 1979 c. 328; 1983 a. 27; 1985 a. 303, 332; 1987 a. 370.

This section applies to persons elected to state office who are seeking reelection or election to a different office and to the use of public funds for political purposes. 69 Atty. Gen. 259.

11.34 Solicitation of contributions from candidates restricted. (1)

No person may demand, solicit, take, invite or receive from a candidate any gift of anything of value for a religious, charitable or fraternal cause or for any organization other than a political committee or group. No candidate may make, intimate or promise such a gift.

(2) This section does not apply to payment of a regular subscription or contribution by a person to an organization of which the person is a member or to which the person may have been a regular contributor prior to the person’s candidacy or to ordinary contributions at a regular church service.

History: 1973 c. 334; 1985 a. 303; 1991 a. 316; 1993 a. 213.

11.36 Political solicitation involving public officials and employees restricted. (1)

No person may solicit or receive from any state officer or employee or from any officer or employee of the University of Wisconsin Hospitals and Clinics Authority any contribution or service for any political purpose while the officer or employee is engaged in his or her official duties, except that an elected state official may solicit and receive

services not constituting a contribution from a state officer or employee or an officer or employee of the University of Wisconsin Hospitals and Clinics Authority with respect to a referendum only. Agreement to perform services authorized under this subsection may not be a condition of employment for any such officer or employee.

(2) No person may solicit or receive from any officer or employee of a political subdivision of this state any contribution or service for any political purpose during established hours of employment or while the officer or employee is engaged in his or her official duties.

(3) Every person who has charge or control in a building, office or room occupied for any purpose by this state, by any political subdivision thereof or by the University of Wisconsin Hospitals and Clinics Authority shall prohibit the entry of any person into that building, office or room for the purpose of making or receiving a contribution.

(4) No person may enter or remain in any building, office or room occupied for any purpose by the state, by any political subdivision thereof or by the University of Wisconsin Hospitals and Clinics Authority or send or direct a letter or other notice thereto for the purpose of requesting or collecting a contribution.

(5) In this section, “political purpose” includes an act done for the purpose of influencing the election or nomination for election of a person to national office, and “contribution” includes an act done for that purpose.

(6) This section does not apply to response by a legal custodian or subordinate of the custodian to a request to locate, reproduce or inspect a record under s. 19.35, if the request is processed in the same manner as the custodian or subordinate responds to other requests to locate, reproduce or inspect a record under s. 19.35.

History: 1973 c. 334; 1979 c. 328, 355; 1985 a. 303; 1987 a. 370; 1995 a. 27.

11.37 Travel by public officers. (1) No person may use any vehicle or aircraft owned by the state or by any local governmental unit for any trip which is exclusively for the purposes of campaigning in support of or in opposition to any candidate for national, state or local office, unless use of the vehicle or aircraft is required for purposes of security protection provided by the state or local governmental unit.

(2) No person may use any vehicle or aircraft owned by the state or by any local governmental unit for purposes which include campaigning in support of or in opposition to any candidate for national, state or local office, unless the person pays to the state or local governmental unit a fee which is comparable to the commercial market rate for the use of a similar vehicle or aircraft and for any services provided by the state or local governmental unit to operate the vehicle or aircraft. If a trip is made in part for a public purpose and in part for the purpose of campaigning, the person shall pay for the portion of the trip attributable to campaigning, but in no case less than 50% of the cost of the trip. The portion of the trip attributable to campaigning shall be determined by dividing the number of appearances made for campaign purposes by the total number of appearances. Fees payable to the state shall be prescribed by the secretary of administration and shall be deposited in the account under s. 20.855 (6) (h). Fees payable to a local governmental unit shall be prescribed by the governing body of the governmental unit.

History: 1973 c. 334; 1979 c. 221, 328, 355; 1983 a. 27 s. 2202 (57); 1985 a. 303.

11.38 Contributions and disbursements by corporations and cooperatives. (1) (a) 1. 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.

NOTE: The U.S. Seventh Circuit Court of Appeals in *Wisconsin Right to Life v. Barland*, 751 F. 3d 804 (2014), held that subd. 1. is unconstitutional.

2. Notwithstanding subd. 1., any such corporation or association may establish and administer a separate segregated fund and solicit contributions from individuals to the fund to be utilized by such corporation or association, for the purpose of supporting or opposing any candidate for state or local office but the corporation or association may not make any contribution to the fund. The fund shall appoint a treasurer and shall register as a political committee under s. 11.05. A parent corporation or association engaging solely in this activity is not subject to registration under s. 11.05, but shall register and file special reports on forms prescribed by the board disclosing its administrative and solicitation expenses on behalf of such fund. A corporation not domiciled in this state need report only its expenses for administration and solicitation of contributions in this state together with a statement indicating where information concerning other administration and solicitation expenses of its fund may be obtained. The reports shall be filed with the filing officer for the fund specified in s. 11.02 in the manner in which continuing reports are filed under s. 11.20 (4) and (8).

3. No corporation or association specified in subd. 1. may annually expend for solicitation of contributions to a fund established under subd. 2. or to a conduit more than the greater of \$20,000 or 20 percent of the amount of contributions in the previous year to the fund established under subd. 2. or to a conduit.

NOTE: The U.S. Seventh Circuit Court of Appeals in *Wisconsin Right to Life v. Barland*, 751 F. 3d 804 (2014), held that subd. 3. is unconstitutional.

(b) No political party, committee, group, candidate or individual may accept any contribution or disbursement made to or on behalf of such individual or entity which is prohibited by this section.

(2) (a) This section does not affect the right of any individual to support candidates and purposes of the individual’s own choosing or the individual’s right to subscribe to a regularly published organization newspaper.

(b) This section does not prohibit the publication of periodicals by a corporation, a cooperative, or an unincorporated cooperative association in the regular course of its affairs which advise the members, shareholders or subscribers of the disadvantages or advantages to their interests of the election to office of persons espousing certain measures, without reporting such activity.

(c) This section does not apply to any labor organization which is incorporated under ch. 181 prior to January 1, 1978.

(3) A violation of this section by an officer or employee of a corporation is prima facie evidence of a violation by the corporation.

(4) Any corporation which violates this section shall forfeit double the amount of any penalty assessed under s. 11.60 (3).

(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 treasurer’s option.

(7) This section may not be construed to authorize any national bank or any corporation organized by authority of any law of congress to make a contribution or expenditure as defined by federal law in connection with any election to state or local office which is prohibited by federal law.

(8) (a) A corporation or association organized under ch. 185 or 193 which accepts contributions or makes disbursements for the purpose of influencing the outcome of a referendum is a political group and shall comply with s. 11.23 and other applicable provisions of this chapter.

(b) Except as authorized in s. 11.05 (12) (b) and (13), prior to making any disbursement exceeding the amount specified under s. 11.23 (1) on behalf of a political group which is promoting or opposing a particular vote at a referendum and prior to accepting any contribution or making any disbursement exceeding that amount to promote or oppose a particular vote at a referendum, a corporation or association organized under ch. 185 or 193 that becomes subject to a registration requirement under s. 11.23 (1)

shall register with the appropriate filing officer specified in s. 11.02 and appoint a treasurer. The registration form of the corporation or association under s. 11.05 shall designate an account separate from all other corporation or association accounts as a campaign depository account, through which all moneys received or expended for the adoption or rejection of the referendum shall pass. The corporation or association shall file periodic reports under s. 11.20 providing the information required under s. 11.06 (1).

(c) Expenditures by a corporation or association to establish and administer a campaign depository account of a political group need not be made through the depository account and need not be reported.

History: 1973 c. 334; 1975 c. 93; 1977 c. 427; 1979 c. 328; 1985 a. 303 ss. 71, 72, 86; 1987 a. 370; 1991 a. 316; 2001 a. 109; 2005 a. 177, 441; 2007 a. 1; 2009 a. 313; 2013 a. 153.

Cross-reference: See also s. GAB 6.04, Wis. adm. code.

An individual illegally furnishing funds from a corporate account may be convicted under s. 11.24 (1). *State v. Dreske*, 88 Wis. 2d 60, 276 N.W.2d 324 (Ct. App. 1979).

This section's prohibition against corporate political contributions and disbursements is broad and probably would bar, in most cases, purchases of advertising by a corporation in a political party publication. 65 Atty. Gen. 10.

The government may regulate corporate political speech through disclaimer and disclosure requirements, but it may not suppress that speech altogether. Federal law prohibiting corporations and unions from using their general treasury funds to make independent expenditures for speech defined as an "electioneering communication" or for speech expressly advocating the election or defeat of a candidate is unconstitutional. *Citizens United v. Federal Election Commission*, 558 U.S. 310, 130 S. Ct. 876, 175 L. Ed. 2d 753 (2010).

The reasoning and conclusion of *Citizens United* are clearly applicable to sub. (1) (a) 1. and any ban on corporate independent expenditures under Wisconsin law violates the guarantees of freedom of speech and association under the 1st amendment, as made applicable to the states by the 14th amendment. *Citizens United*, however, does not appear to have any direct and immediate impact on the validity of those portions of s. 11.38 that do not involve corporate independent expenditures. OAG 5–10

11.40 Special privileges from public utilities. (1) In this section:

(a) "Public utility" means any corporation, company, individual or association which furnishes products or services to the public, and which is regulated under ch. 195 or 196, including but not limited to, railroads, telecommunications or telegraph companies and any company furnishing or producing heat, light, power or water.

(b) "Special privilege" or "privilege" means anything of value not available to the general public. The term does not include compensation or fringe benefits provided as a result of employment by a public utility to regular employees or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.

(2) No public utility or anyone connected therewith may offer or give any special privilege to any candidate for public office or any committee or its members or employees, or any individual under s. 11.06 (7), or to any 3rd party at the request of or for the advantage of any of them.

(3) No candidate for public office or any committee or member or employee thereof or any individual under s. 11.06 (7) may ask for or accept any special privilege from any public utility.

(4) This section does not apply to notaries public or to regular public utility employees or pensioners who are candidates for or hold public offices for which the annual compensation is not more than \$300 so long as the privilege does not exceed those extended to other regular employees or pensioners of the utility.

History: 1973 c. 334; 1975 c. 93; 1977 c. 29 s. 1656 (43); 1979 c. 328; 1985 a. 297 s. 76; 1993 a. 213.

11.60 Civil penalties. (1) Any person, including any committee or group, who violates this chapter may be required to forfeit not more than \$500 for each violation.

(2) In addition to the penalty under sub. (1), any person, including any committee or group, who is delinquent in filing a report required by this chapter may be required to forfeit not more than \$50 or one percent of the annual salary of the office for which

the candidate is being supported or opposed, whichever is greater, for each day of delinquency.

(3) Notwithstanding sub. (1), any person, including any committee or group, who makes any contribution in violation of this chapter may be required to forfeit treble the amount of the contribution or portion thereof which is illegally contributed.

(3g) Notwithstanding sub. (1), any person, including any committee or group, who violates s. 11.21 (5) or 11.22 (8) shall forfeit \$10 for each person who is solicited, but not more than \$1,000 for each report from which persons are solicited, in violation of s. 11.21 (5) or 11.22 (8).

(3m) Notwithstanding sub. (1), any person, including any committee, group or corporation, who is subject to a requirement to pay a filing fee under s. 11.055 and who fails to pay that fee within the time prescribed in that section shall forfeit \$500 plus treble the amount of the fee payable by that person.

(4) Except as otherwise provided in ss. 5.05 (2m) (c) 15. and 16. and (h), 5.08, and 5.081, actions under this section may be brought by the board or by the district attorney for the county where the defendant resides or, if the defendant is a nonresident, by the district attorney for the county where the violation is alleged to have occurred. For purposes of this subsection, a person other than a natural person resides within a county if the person's principal place of operation is located within that county.

(5) Any elector may file a verified petition with the board or the appropriate district attorney or with more than one of them where their authority is concurrent under sub. (4), requesting that civil action under this chapter be brought against any person, committee or group. The petition shall allege such facts as are within the knowledge of the petitioner to show probable cause that a violation of this chapter has occurred.

History: 1973 c. 334; 1977 c. 449; 1979 c. 328; 1985 a. 303; 1997 a. 27, 230; 1999 a. 182; 2001 a. 109; 2003 a. 321; 2005 a. 177; 2007 a. 1; 2009 a. 89; 2011 a. 32; 2011 a. 260 s. 81.

Cross-reference: See also ch. GAB 7, Wis. adm. code.

This is a civil penalty section even though some violations of it involve intent. *State v. Dreske*, 88 Wis. 2d 60, 276 N.W.2d 324 (Ct. App. 1979).

In a forfeiture action against a committee, assets of the committee, but not of its members, are reachable. *Elections Board v. Ward*, 105 Wis. 2d 543, 314 N.W.2d 120 (1982).

11.61 Criminal penalties; prosecution. (1) (a) Whoever intentionally violates s. 11.05 (1), (2), (2g) or (2r), 11.07 (1) or (5), 11.10 (1), 11.12 (5), 11.23 (6) or 11.24 (1) is guilty of a Class I felony.

(b) Whoever intentionally violates s. 11.25, 11.26, 11.27 (1), 11.30 (1) or 11.38 is guilty of a Class I felony if the intentional violation does not involve a specific figure or if the intentional violation concerns a figure which exceeds \$100 in amount or value.

(c) Whoever intentionally violates any provision of this chapter other than those provided in par. (a) and whoever intentionally violates any provision under par. (b) where the intentional violation concerns a specific figure which does not exceed \$100 in amount or value may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

(2) Except as otherwise provided in ss. 5.05 (2m) (c) 15. and 16. and (i), 5.08, and 5.081, all prosecutions under this section shall be conducted by the district attorney for the county where the defendant resides or, if the defendant is a nonresident, by the district attorney for the county where the violation is alleged to have occurred. For purposes of this subsection, a person other than a natural person resides within a county if the person's principal place of operation is located within that county.

(3) (a) If a successful candidate for public office, other than a candidate for the legislature, is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) or (b), or of any violation of ch. 12 under s. 12.60 (1) (a) committed during his or her candidacy, the court shall after entering judgment enter a supplemental judgment declaring a forfeiture of the candidate's right to office. The supplemental judgment shall be transmitted

to the officer or agency authorized to issue the certificate of nomination or election to the office for which the person convicted is a candidate. If the candidate's term has not yet begun, the candidate shall not thereafter succeed to office. If the candidate's term has begun, the office shall become vacant. The office shall then be filled in the manner provided by law.

(b) If a successful candidate for the legislature is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) or (b), or of any violation of ch. 12 under s. 12.60 (1) (a) committed during his or her candidacy, the court shall after entering judgment certify its findings to the presiding officer of the house of the legislature to which the candidate was elected.

History: 1973 c. 334; 1975 c. 93 ss. 117, 119 (1); 1977 c. 449; 1979 c. 328; 1983 a. 484; 1985 a. 303; 1997 a. 283; 2001 a. 109; 2005 a. 177; 2007 a. 1; 2009 a. 89; 2011 a. 32.

Sub. (1) (a) does not require the state to prove that the defendant had actual knowledge of the violated statute. *State v. Dreske*, 88 Wis. 2d 60, 276 N.W.2d 324 (Ct. App. 1979).

11.64 Defense fund authorized. (1) Any candidate or public official who is being investigated for, charged with or convicted of a criminal violation of this chapter or ch. 12, or whose agent is so investigated, charged or convicted, may establish a defense fund for expenditures supporting or defending the candidate or agent, or any dependent of the candidate or agent, while that person is being investigated for, or while the person is charged with or convicted of a criminal violation of this chapter or ch. 12.

(2) No person may utilize a contribution received from a contributor to a campaign fund for a purpose for which a defense fund is authorized under sub. (1) unless the authorization of the contributor is obtained. Notwithstanding s. 11.25 (2) (a), any contributor

may authorize the transfer of all or part of a contribution from a campaign fund to a defense fund.

History: 1973 c. 334; 1975 c. 93; 1987 a. 370.

11.65 Donations to charitable organizations or school fund. Any registrant may make a donation to a charitable organization or the common school fund from the registrant's campaign treasury. No later than 5 days after a registrant makes a donation to a charitable organization or the common school fund from a campaign treasury, the registrant shall notify the registrant's filing officer in writing of the name of the donee and the date of the donation, and shall provide an explanation for not retaining the amount donated in the registrant's campaign treasury.

History: 2005 a. 451.

11.66 Elector may compel compliance. Any elector may sue for injunctive relief to compel compliance with this chapter. Before commencing any action concerning a state office or state-wide referendum, an elector shall file a verified complaint with the board alleging such facts as are within his or her knowledge to show probable cause to believe that a violation has occurred or is proposed to occur. If the board fails to commence an action within 10 days of the filing of the complaint, the elector may commence an action. Separate from any other bond which may be required by the court, the elector may be required to post a surety bond in an amount determined by the court sufficient to cover the actual costs, including reasonable attorney fees, of both parties. If the elector's action is not successful, he or she shall pay the costs of the action.

History: 1973 c. 334; 1979 c. 328; 1983 a. 484; 1993 a. 490.

Cross-reference: See also ss. GAB 6.04 and 20.04, Wis. adm. code.