

STATE ELECTIONS BOARD

Chapter El Bd 1

CAMPAIGN FINANCING

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El Bd 1.02 Multiple candidacies. (1) Any candidate seeking election to an office other than that indicated on his registration statement or that of his personal campaign committee must file an amended registration statement with the appropriate filing officer or officers indicating such change. Financial disclosure reports filed subsequent to such change must be filed with the filing officer for the office designated on the amended registration statement.

(2) When a candidate is simultaneously seeking election to more than one office, he shall file duplicate consolidated registration statements indicating all offices sought and duplicate consolidated financial disclosure reports with the appropriate filing officers. The personal campaign committee of such a candidate is responsible for ensuring compliance with the contribution limitation applicable to each office sought.

(3) Regardless of the number of offices sought, a candidate may not have more than one committee, treasurer and campaign depository account.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

El Bd 1.03 Duplicate filing requirements. Section 11.09, Stats., is applied as follows:

(7) The executive secretary of the board shall promptly after each apportionment of congressional and legislative districts and judicial circuits transmit to all county clerks and make available a list of districts

and circuits affected by this section, categorized according to responsibility for filing duplicate reports.

History: Emerg. cr. 8-9-74; cr. Register, November, 1974, No. 227, eff. 12-1-74; r. (1) to (6), Register, March, 1976, No. 243, eff. 4-1-76.

El Bd 1.04 Debt retirement; treatment of contributions received and accepted after election. (1) Contributions received and accepted for the purpose of retiring debts incurred in a prior campaign should be counted against the contributor's contribution limit for said campaign. Contributions received and accepted in excess of the amount needed to retire such debt shall be counted against the contributor's contribution limits applicable to the next campaign on a first-in first-out basis with the contributions received and accepted first applied to debt retirement.

(2) Notwithstanding the above, a contribution received and accepted before the end of the post-election reporting period should be counted against the limits for the campaign in which the election took place, regardless of whether all campaign debts have been retired at the time the contribution is received.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

El Bd 1.05 Reporting of disbursements. Every withdrawal of funds except for internal transfers for investment purposes from the campaign depository account must be reported in accordance with ss. 11.06 and 11.20, Stats.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

El Bd 1.06 Corporate registration and reporting. (1) Every foreign or domestic corporation or association organized under ch. 185, Stats., which establishes a separate segregated fund pursuant to s. 11.38 (1) (a) 2., Stats., shall register with the appropriate filing officer on a form prescribed by the board.

(2) Every foreign or domestic corporation or association organized under ch. 185, Stats., which is required to register pursuant to subsection (1), shall file financial disclosure reports with the appropriate filing officer in accordance with s. 11.20 (4), Stats., on a form prescribed by the board.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

El Bd 1.10 Reporting by nonresident committees and groups. Every nonresident committee or group as defined in s. 11.07 (6), Stats., acting in support of or in opposition to any candidate for state or local office, which makes or accepts contributions, incurs obligations or makes disbursements exceeding \$25 cumulatively in a calendar year within this state shall register both with the appropriate filing officer under s. 11.05 (1), Stats., and with the secretary of state under s. 11.07 (1), Stats.

History: Emerg. cr. 8-16-74; cr. Register, November, 1974, No. 227, eff. 12-1-74.

El Bd 1.12 Filing requirements for special elections. (1) The personal campaign committee of every candidate who wins a primary for a special election must file pre primary, pre election and post election reports, on the dates specified for those reports in s. 11.20 (3), Stats. The personal campaign committee of every candidate who loses a primary for a special election must file pre and post primary reports, on the dates specified for those reports in s. 11.20 (3), Stats.

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(2) Every political committee and group required to register under s. 11.05, Stats., and formed exclusively to affect the outcome of a special election shall file reports, according to the requirements set out for personal campaign committees under (1).

(3) Every political party committee and every political committee and group not specified in (2) that makes a direct disbursement to affect the outcome of a special election shall file election reports according to the requirements set out for personal campaign committees under (1).

(4) A direct disbursement under (3) shall not include a contribution made to a political party committee, a political committee or a political group.

History: Emerg. cr. eff. 9-19-76; cr. Register, March, 1976, No. 243, eff. 4-1-76; emerg. am. eff. 3-25-77; am. Register, July, 1977, No. 259, eff. 8-1-77.

El Bd 1.13 Spring primary reports. When no spring primary is held, all candidates in the spring election and all political committees supporting or opposing said candidates and all political groups supporting or opposing referenda to be voted on at the spring election must file pre and post primary reports in accordance with s. 11.20 (3), Stats. This requirement, however, does not apply to registrants exempted from filing requirements under s. 11.05 (2r), Stats.

History: Emerg. cr. eff. 2-3-76; cr. Register, June, 1976, No. 246, eff. 7-1-76.

El Bd 1.25 Loan treatment respecting limitations. A loan when made by any person, committee or group (except a loan of money by a national or state bank made by the bank in accordance with applicable banking laws and regulations in the ordinary course of business) shall be reported as a contribution or disbursement, and also as an incurred obligation by the debtor. When such a loan is received by a registrant, it is counted within the contribution limitation of the creditor while outstanding, but is not counted within the limitation after repayment. The amount or value of any such outstanding loans and any other contributions or disbursements shall at no time exceed any limitation specified in ss. 11.26 and 11.31, Stats.

History: Cr. Register, March, 1976, No. 231, eff. 4-1-76.

El Bd 1.26 Return of contribution. (1) This rule is promulgated to clarify the treatment and reporting of returned contributions.

(2) The return of a contribution is not a disbursement subject to the limitations on disbursements in s. 11.31, Stats., and it is not a contribution subject to the limitations on contributions in s. 11.26, Stats.

(3) When a candidate applying for a public financing grant returns a contribution, the candidate reports it on the "Report on Use of Grant from Wisconsin Election Campaign Fund" (Form EB-24) under "EXCLUSIONS" in schedule D. The candidate also reports it on the Campaign Finance Report (Form EB-2) under "RETURNED OR DONATED CONTRIBUTIONS", schedule 3. If the contribution is returned after deposit in the depository, it is also shown on the Campaign Finance Report under "EXPENDITURES", schedule 2, and specially designated as "return of contribution".

(4) When a registrant other than a candidate applying for public financing returns a contribution, it is reported on the Campaign Finance Report (Form EB-2) under "RETURNED OR DONATED CONTRIBUTIONS", schedule 3. If the contribution is returned after deposit in the depository, it is also shown on the Campaign Finance Report under "EXPENDITURES", schedule 2, and specially designated as "return of contribution".

(5) When a registrant receives a return of a contribution, it is reported on the Campaign Finance Report (Form EB-2) under schedule I.D, and specially designated as "return of contribution".

History: Cr. Register, March, 1975, No. 231, eff. 4-1-75; am. Register, September, 1978, No. 273, eff. 10-1-78.

El Bd 1.27 Refund of disbursement; effect on limitation. **History:** Cr. Register, March, 1975, No. 231, eff. 4-1-75; r. Register, September, 1978, No. 273, eff. 10-1-78.

El Bd 1.28 Scope of regulated activity; election of candidates. (1) Definitions. As used in this rule:

(a) "Political committee" means every committee which is formed primarily to influence elections or which is under the control of a candidate.

(b) "Contributions earmarked for political purposes" means contributions made to 1) a candidate, or 2) a political committee or 3) an individual who makes contributions to a candidate or political committee or incurs obligations or makes disbursements for the purpose of expressly advocating the election or defeat of an identified candidate.

(2) Individuals other than candidates and committees other than political committees are subject to the applicable disclosure-related and recordkeeping-related requirements of ch. 11, Stats., only when they:

(a) Make contributions earmarked for political purposes, or

(b) Make contributions to any person at the request or with the authorization of a candidate or political committee, or

(c) Make expenditures for the purpose of expressly advocating the election or defeat of an identified candidate.

(3) Consistent with s. 11.05 (2), nothing in subsection (1) or (2) should be construed as requiring registration and reporting, under ss. 11.05 and 11.06, Stats., of an individual whose only activity is the making of contributions.

History: Emerg. cr. eff. 8-25-76; cr. Register, January, 1977, No. 253, eff. 2-1-77.

El Bd 1.29 Scope of regulated activity; referenda. The requirements of disclosure and recordkeeping of s. 11.23, Stats., are applicable to individuals and groups other than groups formed primarily to influence the outcome of a referendum as to contributions, disbursements and obligations which are directly related to express advocacy of a particular result in a referendum. Nothing contained herein should be construed to exempt groups formed primarily to influence the outcome of a referendum from the requirements of disclosure and recordkeeping of s. 11.23, Stats.

History: Emerg. cr. eff. 8-25-76; emerg. am. eff. 9-7-76; cr. Register, January, 1977, No. 253, eff. 2-1-77.

El Bd 1.30 Revocation of \$250 exemption indication. When a registrant who has signed an indication on a registration statement that the registrant will not receive contributions, make disbursements or incur obligations in excess of \$250 discovers that his or her financial activity will exceed \$250, the registrant must so inform his or her filing officer by verified letter filed with the filing officer or 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 on which the \$250 limit is

exceeded. Such registrant is subject to applicable reporting requirements as of the date on which the \$250 limit is exceeded, including the requirement to report contributions received, disbursements made and obligations incurred before the \$250 limit was exceeded.

History: Emerg. cr. eff. 9-13-76; cr. Register, January, 1977, No. 253, eff. 2-1-77.

El Bd 1.31 Treatment of commercial loan guaranties. (1) DEFINITIONS. As used in this rule:

(a) "Registrant" means any committee, group, individual or candidate who or which is required to register with a filing officer pursuant to s. 11.05, Stats.

(b) "Commercial loan" means a loan of money by a national or state bank made in accordance with applicable banking laws and regulations in the ordinary course of business.

(2) **TREATMENT OF GUARANTY ON DEFAULTED LOAN.** (a) In the event that any registrant defaults on a commercial loan, the unpaid balance shall be apportioned among the guarantors as loans from each guarantor, in that proportion of the unpaid balance which each guarantor bears to the total number of guarantors. Each such loan shall be reported by the registrant as a contribution and as an incurred obligation, the registrant shall specify that the obligation arose out of the guaranty of a commercial loan, and shall describe the commercial loan by listing the name of the commercial lender and the date on which the loan was made.

(b) If the registrant reduces the unpaid balance by payment to the commercial lender or reimburses a guarantor from whom the commercial lender has collected on a guaranty contract, the amount of each guarantor's loan shall be reduced in that proportion of the payment or reimbursement which each guarantor bears to the total number of guarantors. A reduction in the amount of the loan from a guarantor should be reported as a corresponding reduction in the amount of the guarantor's contribution and in the amount of the registrant's incurred obligation to the guarantor.

(3) In addition to the above, in the event the registrant defaults, the guarantor becomes independently subject to registration and reporting requirements on the basis of his incurred obligation to the commercial lender, pursuant to section 11.01 (11), Wis. Stats.

(4) Nothing in this rule applies to loans secured by individuals or candidates for non-political purposes.

History: Cr. Register, June, 1977, No. 258, eff. 7-1-77.

El Bd 1.32 Contribution of partnership funds. (1) As used in this rule, "partnership" includes all associations organized for profit and all other partnerships.

(a) A contribution in the name of a partnership shall be treated as an individual contribution from each partner in relation to each partner's interest in the partnership profits or losses unless the partners agree to apportion the contribution otherwise.

(b) When a contribution is made in the name of a partnership, the registrant must obtain the information as to each partner's share thereof within 30 days after receiving the contribution or return the contribution.

History: Cr. Register, June, 1977, No. 258, eff. 7-1-77.

El Bd 1.33 Retirement of campaign debts incurred to business creditors. (1) As used in this section "an obligation incurred by a registrant to a business creditor" means an obligation incurred by the registrant for goods or services.

(2) An obligation incurred by a registrant to a business creditor will be treated as a contribution of the creditor if any part of the obligation is outstanding for a period longer than that consistent with normal business or trade practice, or if the obligation is settled for less than the outstanding debt, unless a showing is made to the registrant's filing officer that the creditor has treated the obligation in a commercially reasonable manner. Such a showing must include at least the following:

(a) The initial extension of credit on which the obligation was incurred was made in the ordinary course of business with terms substantially similar to those granted to non-political debtors of similar credit risk; and

(b) The creditor has made all reasonable efforts to retire the debt, including pursuit of all remedies which would normally be employed by the creditor in pursuit of a non-political debtor. "Reasonable efforts to retire the debt" include lawsuits, if filed in similar circumstances.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

El Bd 1.37 Primary and election reporting requirements. (1) **CANDIDATE-RELATED CONTRIBUTIONS AND EXPENDITURES.** (a) All candidates at a primary shall file pre and post primary reports. All candidates at an election shall file pre and post election reports. All political party committees shall file pre and post primary reports and pre and post election reports for primaries and elections taking place in September and November of even-numbered years. All registrants shall file pre and post primary reports in the event that any contributions or expenditures are made, or obligations are incurred, in support of a candidate at the primary. All registrants shall file pre and post election reports in the event that any contributions, expenditures, or obligations are made or incurred in support of a candidate at the election.

(b) A contribution, expenditure or obligation in support of a candidate during a pre or post primary reporting period will be considered to have been made or incurred in support of the candidate at the primary, regardless of whether the candidate is opposed at the primary. A contribution, expenditure or obligation in support of a candidate during a pre or post election period will be considered to have been made or incurred in support of a candidate at the election, regardless of whether the candidate is opposed at the election.

(c) A registrant who or which makes or incurs a contribution, expenditure or obligation in support of a candidate during a pre primary period must file pre and post primary reports, regardless of whether the registrant makes or incurs any contribution, expenditure or obligation during the post primary period. A registrant who or which makes a contribution or expenditure in support of a candidate during a pre election reporting period must file pre and post election reports, regardless of whether the registrant makes or incurs any contribution, expenditure or obligation during the post election period.

(d) Notwithstanding (a), a registrant who or which makes or incurs a contribution, expenditure or obligation in support of a candidate during a post primary period, but has made or incurred no contribution, expenditure or obligation during the pre primary period, is not required to file a pre primary report. A registrant who or which makes or incurs a contribution, expenditure or obligation in support of a candidate during a post election period, but has made or incurred no contribution, expenditure or obligation during the pre election period, is not required to file a pre election report.

(e) Notwithstanding (a), pursuant to Wis. Adm. Code El Bd 1.12, a registrant who is not a candidate at a special election or special election primary need not file primary or election reports for the special election

or special election primary if the registrant's only activity is a contribution to a political group, political party committee, or a political committee.

(2) **REFERENDUM-RELATED CONTRIBUTIONS AND EXPENDITURES.** All registrants who or which make or incur contributions, expenditures or obligations in support of or opposition to a referendum at an election shall file pre and post election reports.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

El Bd 1.39 Conversion of federal campaign committee to state committee. (1) As used in this rule,

(a) "federal campaign committee" means the campaign committee of a candidate for federal office, which is not registered with a state or local filing officer, and

(b) "state campaign committee" means the personal campaign committee of a candidate for state or local office.

(2) A federal campaign committee may convert to a state campaign committee and use funds collected for federal purposes in a state or local campaign by filing a campaign finance registration statement, pursuant to section 11.05, Stats., with the appropriate filing officer and simultaneously filing a campaign finance disclosure report showing the sources of all funds on hand at the time of the report, pursuant to the requirements of section 11.06 (1) (a), (b), (c), (d) and (f), Stats. In determining the sources of funds on hand and allocating those funds among the sources, the funds shall be treated on a last-in, last-out basis, so that they will be attributed in the report to the most recent sources, in the full amount received from each source.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

El Bd 1.40 Timely registration requirements. Pursuant to section 11.05 (6), Stats., every person, committee or group must register with the appropriate filing officer within 5 days of the receipt of any contribution intended for state or local political purposes and before the making of any disbursement or contribution for such purposes. This rule should not be construed to require an individual who makes contributions from personal funds to register.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

El Bd 1.41 Mailing registration forms. (1) (a) Where a requirement is imposed for the filing of a registration statement no later than a certain date, the requirement may be satisfied either by actual receipt of the statement 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 registration requirement as the agent for transmittal of a statement, the burden is upon such person to show that a statement 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 statement is the date that it was deposited in the mail.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

El Bd 1.42 Voluntary committees; scope of voluntary oath; restrictions on voluntary committees. (1) **NECESSITY OF VOLUNTARY OATH FOR INDEPENDENT CANDIDATE-RELATED ACTIVITIES.** No expenditure may be made or obligation incurred over \$25 in support of or opposition to a specific candidate unless such expenditure or obligation is treated and reported as a contribution to the candidate or his opponent, or is made or incurred by or through an individual or committee filing the voluntary oath provided in section 11.06 (7), Stats.

(2) **SCOPE OF VOLUNTARY OATH.** A committee or individual filing the voluntary oath may make expenditures or incur obligations in support of or opposition to candidates with the encouragement, direction or control of the candidate or an opponent, or any authorized committee or agent of such committee, candidate or opponent, so long as such expenditure is treated and reported as a contribution to such candidate or opponent. A committee or individual filing the voluntary oath is prohibited from making expenditures in support of or opposition to a candidate with the encouragement, direction or control of the candidate or an opponent, or any authorized committee or agent of such committee, candidate or opponent, if such expenditure is not reported as a contribution to such candidate or opponent.

(3) **TREATMENT AND REPORTING OF INDEPENDENT ACTIVITY BY VOLUNTARY COMMITTEE.** When a committee or individual filing the voluntary oath makes an expenditure in support of or in opposition to a candidate without the encouragement, direction or control of the candidate or an opponent, or any authorized committee or agent of such committee, candidate or opponent, the expenditure should be treated and reported as a "disbursement". When such committee or individual incurs an obligation in support of or opposition to a candidate without the encouragement, direction or control of the candidate or an opponent, or any authorized committee or agent of such committee, candidate or opponent, the obligation should be treated and reported only as an "obligation incurred". When such disbursements or obligations are reported, the candidate in whose support or opposition the disbursement is made or obligation incurred should be identified.

(4) **SPECIAL DISCLAIMER REQUIREMENT.** A political message in support of or opposition to a candidate by a committee or individual acting without the encouragement, direction or control of the candidate or an opponent must contain, in addition to the ordinary identification, the words: "The committee (individual) is the sole source of this communication and it is made without the encouragement, direction or control of a candidate being supported or opposed", or other language of the same effect.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

El Bd 1.43 Referendum-related activities by committees; candidate-related activities by groups. (1) As used in this rule, "committee-group" means any committee which acts in support of or opposition to a referendum, and any group which acts in support of or opposition to a candidate.

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(2) Any committee-group may consolidate referendum-related and candidate-related activity by:

(a) Filing a duplicate consolidated registration statement or amending a previously filed registration statement with the appropriate filing officer or officers, indicating all candidates and referenda supported or opposed, or

(b) Filing duplicate consolidated financial disclosure reports, which indicate the specific purpose of each expenditure so as to differentiate between expenditures intended to influence referenda and expenditures intended to influence the election or defeat of a candidate.

(3) A committee-group which consolidates activity pursuant to this rule is subject to those limits on the receipt of contributions to which it would be subject if it were operating solely as a committee.

(4) A committee-group which consolidates activity pursuant to this rule must have a single treasurer and a single depository.

(5) Notwithstanding the above, any committee-group may separate referendum-related and candidate-related activity by filing separate registration statements, separate financial disclosure reports, and by maintaining a separate depository for each type of activity.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

El Bd 1.44 Disbursement levels. (1) **LIMITATION IMPOSED.** No candidate for state office who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund and who receives and accepts any such grant may make or authorize total disbursements from the campaign treasury in any campaign to the extent of more than the amounts specified below.

(2) **LEVELS ESTABLISHED.** The following levels of disbursements are established with reference to the candidates listed below through the period ending on February 29, 1980. Except as provided in sub. (1), such 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, \$184,325 in the primary and \$430,075 in the election.

(b) Candidates for lieutenant governor, \$122,875 in the primary and \$61,450 in the election.

(c) Candidates for attorney general, \$153,600 in the primary and \$153,600 in the election.

(d) Candidates for secretary of state, state treasurer, justice of the supreme court and state superintendent of public instruction, \$49,150 in the primary and \$73,725 in the election.

(e) Candidates for state senator, \$19,650 total in the primary and election, with disbursements not exceeding \$12,300 for either the primary or the election.

(f) Candidates for representative to the assembly, \$9,825 total in the primary and election, with disbursements not exceeding \$6,150 for either the primary or the election.

(g) In any county with a population of 500,000 or more, according to the most recent countywide federal census:

1. For the following county offices:

a. Candidates for county executive, \$153,600 total in the primary and election, with disbursements not exceeding \$110,600 for either the primary or the election.

b. Candidates for district attorney, \$92,150 total in the primary and election, with disbursements not exceeding \$61,450 for either the primary or the election.

c. Candidates for county supervisor, \$9,825 total in the primary and election, with disbursements not exceeding \$6,150 for either the primary or the election.

2. Candidates for any other countywide office, in counties of this size, \$61,450 total in the primary and election, with disbursements not exceeding \$36,875 for either the primary or the election.

3. For the following offices in cities of the 1st class:

a. Candidates for mayor, \$153,600 total in the primary and election, with disbursements not exceeding \$110,600 for either the primary or the election.

b. Candidates for city attorney, \$92,150 total in the primary and election, with disbursements not exceeding \$61,450 for either the primary or the election.

c. Candidates for other citywide office, \$61,450 total in the primary and election, with disbursements not exceeding \$36,875 for either the primary or the election.

d. Candidates for alderman, \$9,825 total in the primary and election, with disbursements not exceeding \$6,150 for either the primary or the election.

(h) Candidates for any other state or local offices, elected from jurisdictions or districts 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 a) \$625, or b) 30.72% of the annual salary, or c) 18.432 cents per inhabitant, but in no event more than \$24,575 for both the primary and election combined.

History: Emerg. cr. eff. 4-27-78; cr. Register, August, 1978, No. 272, eff. 9-1-78.

El Bd 1.50 Non-candidate committees collecting on behalf of a specific candidate and the voluntary oath. When a non-candidate committee accepts contributions on behalf of a specific candidate, it must file the voluntary oath in s. 11.06 (7), Stats., by which the committee's independence of the candidate is affirmed. A political action committee whose campaign finance reports show support of only one candidate is presumed to be accepting contributions in support of that candidate and required to file the voluntary oath in s. 11.06 (7), Stats., by which the committee's independence of the candidate is affirmed. That presumption may be overcome by countervailing evidence.

History: Cr. Register, June, 1979, No. 282, eff. 7-1-79.

WISCONSIN ADMINISTRATIVE CODE

El Bd. 1.55 Reimbursement for campaign use of state vehicles. Whenever a state vehicle is used primarily for the purposes of campaigning in support of or in opposition to a candidate, there must be paid to the state treasurer the mileage fees specified in s. 20.916 (4) (a), Stats., or in the case of aircraft, an equitable fee determined by the secretary of administration. The obligation to reimburse the state shall be included on the campaign finance report covering the period during which the obligation was incurred.

History: Cr. Register, October, 1979, No. 286, eff. 11-1-79.