



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2001 Senate Bill 104

**Engrossed Version Consisting of
Senate Substitute
Amendment 1 and Senate
Amendments 1, 2, 3, 5 and 6**

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This memo summarizes the substantive provisions of Engrossed Senate Bill 104.

The engrossed bill does the following:

A. REGISTRATION AND REPORTING REQUIREMENTS

- **Independent Disbursements**. Provides that a special interest committee, other than a conduit, that intends to receive any contribution, make any disbursement, or incur any obligation for the purpose of independently advocating the election or defeat of a candidate for statewide or legislative office, or for the purpose of making certain communications, must report the name of each candidate who is supported or whose opponent is opposed and the total amount of contributions to be received, disbursements to be made, and obligations to be incurred for these purposes during the 21-day period **following** the date on which the report is due to be filed. [A communication to which the requirements apply is a communication made by means of one or more communications media during the period beginning on the 60th day preceding an election and ending on the date of that election and that includes a reference to a candidate to appear on the ballot at the election, a reference to an office to be filled at the election, or a reference to a political party.] The reports must be filed on the 63rd, 42nd and 21st days prior to the election. In addition, the committee also must report the amount and date of each contribution received, disbursement made, or obligation incurred regarding its independent activities during the 21-day period **ending** on the 39th and 18th days prior to the election.

A violation of the reporting requirements may result in a forfeiture of not more than \$500 per day for each day of the continued violation. Also, if a disbursement is made, or an obligation to make a disbursement is incurred, in an amount or value differing from the amount reported, then specified forfeitures must be paid. For example, if the actual amount or value

differs from the reported figures by more than 5% but not more than 10% cumulatively, the violator must forfeit four times the amount or value of the difference. If the difference is more than 10% but not more than 15% cumulatively, the violator must forfeit six times the amount or value of the difference. If the difference is greater than these amounts, the violator must forfeit eight times the amount of the difference. [SECS. 47, 54g, 54r and 120m.]

“Issue Ad” Registration. Imposes registration and financial reporting requirements upon individuals or groups that make a communication during the period beginning on the 60th day preceding an election and ending on the date of the election that includes a reference to a candidate appearing on the ballot at that election, a reference to an office to be filled at that election, or a reference to a political party. [SEC. 13m. Generally, under current law, individuals who accept contributions, organizations which make or accept contributions, and individuals who or organizations which incur obligations or make disbursements for the purpose of influencing an election for state or local office are generally required to register with the appropriate filing officer and to file financial reports with that officer, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed.]

- **Referenda Reports.** Requires an individual who accepts contributions, incurs obligations or makes disbursements with respect to a referendum, or a political group which similarly makes or accepts contributions, incurs obligations or makes disbursements, in excess of \$100 to file a statement with the appropriate filing officer providing registration information such as the name of the individual or group, the name of the treasurer, the nature of the referenda, and other identifying information. [SECS. 15, 17 and 63.]
- **Candidate’s Identity.** Requires the registration statement of a personal campaign committee to identify the candidate on whose behalf the committee was formed and the office that the candidate seeks. [SEC. 21.]
- **Phone, Fax or Email of a Candidate.** Requires the registration statement of a candidate or personal campaign committee to include the telephone number and fax number or email address, if any, at which the candidate may be contacted. [SEC. 23.]
- **Exemption From Independent Disbursement Report--State Office.** Provides that an individual or committee required to file an oath of independent disbursements and who or which accepts contributions and makes disbursements for supporting or opposing one or more candidates for *state office* but who or which does not anticipate accepting contributions or making disbursements in excess of \$1,000 in a calendar year and does not anticipate accepting a contribution exceeding \$100 from a single source may make a statement to that effect on the registration statement and the individual or committee would not be subject to any filing requirements if the statement is true. The statement may be revoked and, if it is, filing requirements apply. If revocation is not timely made, it is considered a violation of false reporting statutes. In contrast to an independent expenditure, an independent disbursement refers to an expenditure that is made clearly for the purpose of opposing the election of a grant recipient, or for the purpose of supporting a certified opponent of that candidate, when none of the disbursements are made in cooperation with the grant recipient’s opponent. [SEC. 31.]

- **Exemption From Independent Disbursement Report--Local Office.** Provides that an individual or committee required to file an oath of independent disbursements and who or which accepts contributions and makes disbursements for supporting or opposing one or more candidates for *local office* but who or which does not anticipate accepting contributions or making disbursements in excess of \$100 in a calendar year and does not anticipate accepting any contribution exceeding \$100 from a single source may make a statement to that effect on the registration statement and the individual or committee would not be subject to any filing requirements if the statement is true. The statement may be revoked and, if it is, filing requirements apply. If the revocation is not timely made, it is considered a violation of the false reporting statutes. [SEC. 31.]
- **24-Hour Reporting of Obligations.** Extends the 24-hour reporting requirement under current law for disbursements in excess of \$20 made within the last 15 days prior to an election to include the reporting of incurred obligations over \$20 in that time period. [SEC. 46.]
- **24-Hour Reporting for Candidates not Accepting Public Financing.** Provides that any candidate for Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Superintendent, Representative or Senator who does not accept a grant from the Wisconsin Election Campaign Fund (Fund) and who makes a disbursement after accumulating cash or who makes disbursements exceeding a combined total of 75% of the disbursement limit for the applicable office, must file daily reports with the Elections Board and each candidate for that office, by email or fax, on each day beginning with that date or the seventh day after the primary election was held (or would have been held), whichever is later. Each report must contain information pertaining to each disbursement made by the candidate or committee and must be filed no later than 24 hours after the disbursement is made. If no email or fax number is available, the report must be filed at the address shown for the candidate. [SEC. 48.]
- **Timely Reports.** Provides that a report is timely filed only by delivering it to the appropriate filing office or agency by the due date or by depositing the report with the U.S. Postal Service no later than the third day before the due date. [SEC. 57.]

B. CONTRIBUTIONS

- **Individual Contribution Limits.** Retains the individual contribution limits under current law for certain offices as follows:

| | <i>Current</i> | <i>Bill</i> |
|---------------------|----------------|-------------|
| Governor | \$10,000 | \$10,000 |
| Lieutenant Governor | \$10,000 | \$10,000 |
| Attorney General | \$10,000 | \$10,000 |
| Secretary of State | \$10,000 | \$10,000 |

| | <i>Current</i> | <i>Bill</i> |
|----------------|----------------|-------------|
| Treasurer | \$10,000 | \$10,000 |
| Superintendent | \$10,000 | \$10,000 |
| Justice | \$10,000 | \$10,000 |
| Senator | \$1,000 | \$1,000 |
| Representative | \$500 | \$500 |

- **Committee Contribution Limits.** Modifies committee contribution limits for certain offices as follows:

| | <i>Current</i> | <i>Bill</i> |
|------------------------|----------------|-------------|
| Governor | \$43,128 | \$45,000 |
| Lieutenant Governor | \$12,939 | \$15,000 |
| Attorney General | \$21,560 | \$25,000 |
| Secretary of State | \$8,625 | \$10,000 |
| Treasurer | \$8,625 | \$10,000 |
| Superintendent | \$8,625 | \$10,000 |
| Justice | \$8,625 | \$10,000 |
| Senator | \$1,000 | \$1,000 |
| Representative | \$500 | \$500 |

[SECS. 70 and 71.]

- **Overall Individual Contribution Limits.** Retains the overall individual contribution limit at \$10,000 per year. [SEC. 72.]
- **Contributor Information.** Requires a campaign treasurer of a registrant that receives a contribution of money from an individual who has contributed over \$100 to obtain information relating to the person's occupation and principal place of employment before depositing the contribution. If the treasurer does not obtain this information, the contribution must be returned. [SEC. 43.]

- **Committee Contributions in General.** Provides, for the following state offices, that an individual who is a candidate may not receive or accept more than the following fixed dollar amounts from political party committees or all committees other than political party committees:

| | <i>Political Parties</i> | <i>Other Committees</i> |
|---------------------|---------------------------------|--------------------------------|
| Governor | \$400,000 | \$485,190 |
| Lieutenant Governor | \$100,000 | \$145,564 |
| Attorney General | \$100,000 | \$242,550 |
| Secretary of State | \$50,000 | \$97,031 |
| Treasurer | \$50,000 | \$97,031 |
| Superintendent | \$50,000 | \$97,031 |
| Justice | \$50,000 | \$97,031 |
| Senator | \$24,000 | \$15,525 |
| Representative | \$12,000 | \$7,763 |

For all other state or local offices, the bill provides that a candidate may not receive and accept more than 20% of the value of the total disbursement level for the office for which he or she is a candidate during any primary or election campaign combined from all political party committees. Further, no such candidate may receive and accept more than 25% of the value of the total disbursement level combined from all committees other than political party committees subject to a filing requirement. [See SECS. 75b to 75e. Current law provides that a candidate may not receive more than 65% of the disbursement level from all political party committees and no more than 45% of the disbursement level combined from all committees other than political party committees.]

- **Committee Contributions to Publicly Financed Candidates.** Prohibits a candidate or personal campaign committee who applies for a grant from the Fund from accepting a contribution from a committee other than a political party committee. [SECS. 65, 100 and 106.]
- **Contributions to Incumbents During Legislative Session.** Prohibits contributions to any incumbent partisan state elective official for the purpose of promoting that official's nomination for reelection to the office held by the official during the period beginning on the first Monday in January of odd-numbered years and ending on the date of enactment of the biennial budget act. [SEC. 67.]

- **Contributions to Political Parties.** Increases, for political parties, the amount they may receive in a biennium from all committees, excluding transfers between party committees of the party, from \$150,000 to \$450,000. [SEC. 73.]
- **Political Party Limits.** Increases the maximum amount a political party may receive from a committee, exclusive of political party committees, and increases the amount a committee, other than a political party committee, can contribute to a political party in a calendar year from \$6,000 to \$18,000. [SEC. 73.]
- **PAC to PAC Transfers.** Prohibits a committee from making a contribution to any other committee, except a political party committee, personal campaign or support committee. However, allows a committee affiliated with a labor organization to make a contribution to any other committee that is affiliated with the same labor organization. [SEC. 74.]
- **Solicitation of Contributions.** Prohibits a state elective official and his or her personal campaign committee from soliciting a lobbyist or principal to arrange for another person to make a campaign contribution to that official or personal campaign committee or to another elective state official or the personal campaign of that official. [SEC. 124.]
- **Pay-to-Play.** Prohibits a state or local elected official from, directly or by means of an agent, giving, or offering or promising to give, or withholding, or offering or promising to withhold, his or her vote or influence, or promising to take or refrain from taking official action with respect to any proposed or pending matter in consideration of or upon condition that any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any other person who is subject to a registration requirement under the campaign finance law or any person making a communication that contains a reference to a clearly identified state or local elected official or to a candidate for such an office. The bill also provides for forfeitures for violations of the “pay-to-play” prohibition. [SECS. 124b to 124z.]

C. DISBURSEMENTS

- **Disbursement Limits.** Revises the disbursement levels for the following offices:

| | <i>Current</i> | <i>Bill</i> |
|---------------------|----------------|-------------|
| Governor | \$1,078,200 | \$2,000,000 |
| Lieutenant Governor | \$323,475 | \$500,000 |
| Attorney General | \$539,000 | \$700,000 |
| Secretary of State | \$215,625 | \$250,000 |
| Treasurer | \$215,625 | \$250,000 |
| Superintendent | \$215,625 | \$250,000 |

| | <i>Current</i> | <i>Bill</i> |
|----------------|----------------|-------------|
| Justice | \$215,625 | \$300,000 |
| Senator | \$34,500 | \$100,000 |
| Representative | \$17,250 | \$50,000 |

[SECS. 82, 83 and 84.]

- **Competitive Primary.** Provides that the total disbursement limitation for a candidate whose name appears on the ballot at a primary election will be increased to 120% of the normal disbursement level for that office if all of the following conditions occur:
 1. The candidate receives less than twice as many votes at that election as another candidate who is within the same political party and who is running for the same office.
 2. The candidate has an opponent in the general or special election who received at least 6% of the votes cast in the primary.

[SEC. 85.]

- **Voluntary Limits.** Repeals the provision authorizing voluntary disbursement limitations for candidates who do not accept a grant from the Fund. [SECS. 87 and 105.]
- **Limits Increased for Grants.** Provides that the disbursement limitation for a candidate who receives certain additional grants from the fund are increased by the amount of those grants. [SEC. 89.]
- **Cost-of-Living Adjustment.** Creates a cost-of-living adjustment for the disbursement limitations, which is to be determined by rule by the Elections Board. The board must determine the percentage difference between the Consumer Price Index for the 12-month period ending on December 31 of each odd-numbered year and the Consumer Price Index for calendar year 2003. Each biennium the Elections Board is required to adjust the disbursement limitations by that percentage to reflect any difference, rounded to the nearest multiple of \$25, which shall be in effect until a subsequent rule is promulgated. Such determinations by the Elections Board may be promulgated as emergency rules. [SECS. 81 and 90.]

D. PUBLIC FINANCING

- **Grant Amounts.** Retains the grant amount available to a candidate at the current level of 45% of the disbursement level for a general election. An additional 10% of the disbursement level may be awarded for an eligible primary campaign. To receive the additional 10%, a candidate who accepts a grant must have won a contested primary and submitted nomination papers containing the following number of valid signatures for the office he or she seeks:

| <i>Office</i> | <i>Number of Signatures</i> |
|------------------|------------------------------|
| Statewide office | Not less than 4,000 electors |
| Senator | Not less than 800 electors |
| Representative | Not less than 400 electors |

[SECS. 112 and 116.]

- **Extra Grant Based on Opposition.** Provides that in the case of a candidate who accepts a grant, and is opposed by one or more candidates who do not accept a grant and who make total disbursements exceeding the disbursement level for the office, the Elections Board must make an additional grant to the candidate in an amount equal to the total amount or value of the disbursements made by the opposing candidate or candidates exceeding the disbursement levels for that office. [SEC. 117m.]
- **Extra Grant Based on Independent Disbursements.** Provides that if a candidate who accepts a grant has independent disbursements made against him or her or if the independent disbursements are made on behalf of the candidate's opponent, the Elections Board must make an additional grant to the candidate when the expenditures exceed 10% of the disbursement limit for the office. The amount of the additional grant must equal the total of the independent disbursements made. Again, the disbursements include a disbursement made for a communication made by one or more communications media during the period beginning on the 60th day preceding an election and ending on the date of the election and that includes a reference to a candidate, a reference to an office to be filled at that election, or a reference to a political party. [SECS. 13m, 47 and 117m.]
- **Extra Grant Based on Contributions Received by Opposing Committee.** Provides that if a candidate who accepts a grant and is opposed by a candidate, and if a committee intends to receive or receives any contribution or contributions that are intended to be used or that are used to oppose the election of the candidate who accepts a grant or to support his or her opponent without cooperation or consultation with the opponent, then the Elections Board must make an additional grant to the candidate who accepts a grant in an amount equal to the total amount of contributions received by the committee for the purpose of advocating the election of the opponent or for opposing the election of the candidate who accepts a grant. [SEC. 117m. Due to the independent drafting of successive, successful amendments, technically the receipt of an additional grant under this provision will *not* increase the recipient's disbursement limit, thereby possibly impeding the recipient's ability to spend this additional grant.]
- **Increased Checkoff.** Increases the income tax "checkoff" from \$1 to \$5 and allows the individual making such designation to indicate whether the amount shall be placed in the Fund's "general account" or "political party account." If a designation does not indicate which account, the "general account" will be credited. [SEC. 128.]

- **Donations to the Fund.** Authorizes contributions that are required to be returned or donated to charitable organizations or to the common school fund to be transferred to the Fund. [For example, SECS. 9, 29 and 39.]
- **Party Accounts.** Establishes a “general account” and a “political party account” under the Fund. [SECS. 97 to 99, 108, 109, 111 and 120.]
- **Limits on Committee Contributions.** Requires applicants for a grant to file a sworn statement that he or she has not accepted and retained any contributions from committees, other than political party committees, and that he or she will not accept any, unless it is determined that he or she is ineligible for a grant. [SEC. 100.]
- **Qualifying Fundraising.** Requires an applicant for a grant to have raised at least 3% of the disbursement level applicable to the office sought in contributions of \$100 or less from individuals who reside in the state, and, for a legislative candidate, by individuals at least 50% of whom reside in a county having territory within the legislative district for which the candidate seeks office. [SEC. 101.]
- **Applications.** Repeals the current authority for an eligible candidate to withdraw his or her public financing application. [SEC. 104.]
- **Exceeding Disbursement Limit.** Repeals the current law provisions which allow a candidate who receives a grant to exceed the disbursement limit if his or her opponent does not accept a grant. [SEC. 105.]
- **Return of Committee Contribution.** Requires a candidate applying for a grant to return any contributions from committees, other than the political party committees, before filing an application for the grant. [SEC. 106.]
- **Designated Checkoff.** Allows individuals to designate their income tax checkoff for a political party and requires such designated funds to go to a “political party” account. Moneys from such an account are apportioned to eligible candidates representing the party who qualify for grants. [SEC. 128.]
- **Supplemental Account.** Provides that if there are insufficient funds in the Fund, the State Treasurer is required to supplement the Fund from a sum sufficient GPR appropriation. [SEC. 111.]
- **Electronic Transfer.** Requires the State Treasurer to electronically transfer any supplemental grants a candidate qualifies for to the candidate’s campaign depository account if the Treasurer has the necessary account information. [SEC. 113.]
- **Administration.** Requires the Elections Board to certify to the Department of Revenue (DOR) in each even-numbered year information relevant to eligible political parties and candidates for purposes of administering the Fund. [SEC. 120.]

E. OTHER

- **Conduits**. Limits conduit transfers to amounts not to exceed committee contributions. [SECS. 68 and 69.]
- **Legislative Campaign Committees**. Eliminates the special status of legislative campaign committees. [For example, SEC. 13.]
- **Public Information**. Creates a public information account, which is funded by up to 5% of the Fund, to be used by the Elections Board to provide public information on the income tax “checkoff” and the purpose and effect of public campaign financing. The Elections Board is required to prepare an easily understood description of the purposes and effect of the checkoff and public financing. [SEC. 107.]
- **Local Prosecutions**. Authorizes the District Attorney of any county which has territory within the jurisdiction or district within which a candidate seeks office to bring an action for violation of campaign finance laws alleged to have been committed by the candidate. [SEC. 121.]
- **Tax Information**. Requires DOR to place public information materials concerning the tax checkoff prepared by the Elections Board in tax return instructions. [SEC. 129.]
- **Declaratory Actions**. Authorizes any person who proposes to publish, disseminate or broadcast any communication, or any person who causes such publication, dissemination or broadcast, to commence a declaratory action to determine the application of the registration requirements under the campaign finance law to that person. [SEC. 130.]
- **Nonseverability**. Provides that if a court finds unconstitutional any part of the process by which supplemental grants are made in response to an opponent’s expenditures, the entire act is void. Further, if a court finds unconstitutional any part of the process by which supplemental grants are made in response to independent disbursements, then that process is void in its entirety. [SEC. 131.]
- **Board Staff**. Increases the full-time equivalent staff positions at the Elections Board to add one campaign finance investigator and one auditor and provide \$76,100 in fiscal year 2001-02 and \$85,100 for fiscal year 2002-03 for salary, fringe and support benefits. [SEC. 132.]

On January 29, 2002, Senate Substitute Amendment 1 to Senate Bill 104, and Senate Amendments 1, 2, 3, 5 and 6 to the substitute amendment, were adopted and engrossed by the Senate on a voice vote.

The bill was printed engrossed at the direction of the Senate Chief Clerk on January 30, 2002.

RS:RJC:tlu:ksm:jal:rv;rv;tlu