



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2015 Assembly Bill 387

Senate Amendment 1

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Senate Amendment 1 makes several changes to 2015 Assembly Bill 387, relating to campaign finance.¹ The amendment makes the following changes:

- Lowers the monetary threshold triggering registration for political action committees (PACs) and independent expenditure committees (IECs).
- Changes the ongoing reporting requirement from quarterly reporting to twice-yearly reporting.
- Eliminates automatic consumer price index (CPI) adjustment of contribution limits.
- Prohibits a legislative campaign committee or political party from using its segregated fund for express advocacy.
- Limits the amount a corporation, association, labor organization, or Indian tribe may contribute to such a segregated fund.
- Makes changes to the restriction on coordination.
- Incorporates federal law prohibitions on activities by foreign nationals relating to elections.

The memorandum provides a brief summary of Assembly Bill 387 and describes the changes made by the amendment in more detail.

¹ Descriptions of 2015 Assembly Bill 387 are to the engrossed version of the bill. The Assembly adopted Assembly Amendments 1 and 11 and passed the bill, as amended, on October 21, 2015.

2015 ASSEMBLY BILL 387

Very generally, Assembly Bill 387 creates a two-part reporting structure: (1) ongoing reporting for committees and conduits; and (2) “event-based” reporting for express advocacy made within a certain time period before an election. The bill increases the existing contribution limits and prohibits contributions from corporations, labor organizations, and American Indian tribes to most regulated committees. The bill also prohibits anyone from coordinating express advocacy with candidates, legislative campaign committees, or political parties, if the spending for that express advocacy exceeds a certain amount.

SENATE AMENDMENT 1

Registration Trigger for PACs and IECs

The Bill

The bill provides that a PAC or an IEC must register with the GAB or a local clerk if it accepts, makes, or incurs contributions, disbursements, or obligations to support or oppose a candidate in a calendar year in an aggregate amount that exceeds \$5,000.

The Amendment

The amendment lowers the monetary threshold that triggers registration for a PAC or an IEC from \$5,000 to **\$2,500**.

Reporting Schedules

The Bill

Under the bill, a committee must generally comply with the following reporting schedule:

- **Spring Primary**: A committee that engages in activity concerning a spring primary must file: (1) a preprimary report; (2) a preelection report; and (3) annually in each year of an election cycle, a report on January 15, April 15, July 15, and October 15.
- **Spring Election**: A committee that engages in activity concerning a spring election must file: (1) a preelection report; and (2) annually in each year of an election cycle, a report on January 15, April 15, July 15, and October 15.
- **Partisan Primary**: A committee that engages in activity concerning a partisan primary must file: (1) a preprimary report; (2) a preelection report; (3) in an odd-numbered year, a report on January 15, April 15, July 15, and October 15; and (4) in an even-numbered year, a report on January 15, April 15, July 15, and the 4th Tuesday in September.

- General Election: A committee that engages in activity concerning a general election must file: (1) a preelection report; (2) in an odd-numbered year, a report on January 15, April 15, July 15, and October 15; and (3) in an even-numbered year, a report on January 15, April 15, July 15, and the 4th Tuesday in September.

The bill requires a conduit to comply with the reporting schedule described above, except that a conduit is not required to file a preprimary or preelection report.

The Amendment

The amendment generally changes the ongoing reporting from quarterly reporting to twice-yearly reporting. Specifically, under the amendment, a committee must comply with the following reporting schedule:

- Spring Primary: A committee that engages in activity concerning a spring primary must file: (1) a preprimary report; (2) a preelection report; and (3) annually in each year of an election cycle, a report on January 15 and July 15.
- Spring Election: A committee that engages in activity concerning a spring election must file: (1) a preelection report; and (2) annually in each year of an election cycle, a report on January 15 and July 15.
- Partisan Primary: A committee that engages in activity concerning a partisan primary must file: (1) a preprimary report; (2) a preelection report; (3) in an odd-numbered year, a report on January 15 and July 15; and (4) in an even-numbered year, a report on January 15 and July 15 and on the 4th Tuesday in September.
- General Election: A committee that engages in activity concerning a general election must file: (1) a preelection report; (2) in an odd-numbered year, a report on January 15 and July 15; and (3) in an even-numbered year, a report on January 15 and July 15 and on the 4th Tuesday in September.

Like the bill, the amendment requires a conduit to comply with the reporting schedule described above, except that a conduit is not required to file a preprimary or preelection report.

Contributions to Candidates

The Bill

The bill generally doubles the contribution limits that exist under current law for the amount that an individual or PAC may contribute to a candidate committee, as well as the amount that a candidate committee may contribute to another candidate committee.

Under the bill, beginning on January 1, 2021, and on January 1 every five years thereafter, the GAB must modify the contribution limit amounts, rounded to the nearest multiple of \$25, to adjust for the change in the CPI for the preceding five-year period ending on December 31.

The Amendment

The amendment retains the doubled contribution limits in the bill, but deletes the requirement that the GAB modify the contribution limits every five years to adjust for the CPI change.

Segregated Fund of a Legislative Campaign Committee or Political Party

Use of a Segregated Fund

The Bill

Under the bill, unlimited contributions may be made to a segregated fund established and administered by a legislative campaign committee or political party that is used for purposes other than making contributions to a candidate committee.

The Amendment

The amendment creates an additional limitation on the use of a legislative campaign committee's or political party's segregated fund. Under the amendment, a segregated fund may not be used to make disbursements for express advocacy. The amendment also retains the prohibition on using a segregated fund to make contributions to a candidate committee.

Contributions from Corporations, Labor Organizations, and American Indian Tribes

The Bill

Under the bill, a foreign or domestic corporation, association organized under ch. 185 or 193, Stats., labor organization, or federally recognized American Indian tribe may not make a contribution to a committee, except a contribution to: (1) an independent expenditure committee; (2) a referendum committee; or (3) a segregated fund established and administered by a legislative campaign committee or political party, as described above. The bill does not limit the amount that a corporation, association, labor organization, or Indian tribe may contribute to a segregated fund.

The Amendment

The amendment limits the amount that a corporation, association, labor organization, or Indian tribe may contribute to a legislative campaign committee or political party segregated fund to **\$12,000** in the aggregate in a calendar year.

Coordination

The Bill

Under the bill, if a person makes an expenditure for express advocacy that is coordinated with a candidate, candidate committee, candidate's agent, the legislative campaign committee of the candidate's party, or a political party, the expenditure is treated as a contribution to the

candidate and is subject to the contribution limits and source restrictions in the bill. The candidate committee must report the expenditure as a contribution, and the person making the expenditure must report the expenditure if the person is a committee subject to the reporting requirements under the bill.

The bill provides that an expenditure for express advocacy is considered to be coordinated if any of the following apply:

- The expenditure is made at the request or suggestion of the candidate or candidate's agent.
- The candidate exercises control over the expenditure.
- The candidate engages in substantial discussions or negotiations with the person making the expenditure regarding any of the following: (1) the communication's content; (2) the communication's timing; (3) the location, form, or intended audience of the communication; or (4) the number or frequency of communications.

The Amendment

The amendment makes several changes to the coordination restriction. First, the amendment provides that the coordination restriction applies only to PACs, IECs, other persons required to report express advocacy made within a certain time period before an election, and individuals. Under the bill, the restriction applies to any person.

Second, the amendment requires that the express advocacy benefit the candidate with whom the coordination occurs in order for the coordination to be subject to the restriction under the bill.

Third, the amendment replaces the three types of activity that constitute coordination under the bill. Under the amendment, an expenditure for express advocacy is considered to be coordinated if either of the following apply:

- The candidate, candidate's agent, legislative campaign committee of the candidate's political party, or the candidate's political party communicates directly with the PAC, IEC, other person, or individual making the expenditure to specifically request that the PAC, IEC, other person, or individual make the expenditure that benefits the candidate and the PAC, IEC, other person, or individual explicitly assents to the request before making the expenditure.
- The candidate, candidate's agent, legislative campaign committee of the candidate's political party, or the candidate's political party exercises control over the expenditure or the content, timing, location, form, intended audience, number, or frequency of the communication.

Lastly, the amendment provides that the following are not considered coordinated communications that are prohibited under the amendment:

- Candidates endorsing and soliciting contributions for other candidates.
- Candidates, candidate committees, legislative campaign committees, and political parties responding to inquiries about a candidate's or political party's position on legislative or policy issues.
- Using publicly available information to create, produce, or distribute a communication if the use does not constitute coordination, as described above.

Contributions and Expenditures by Foreign Nationals

The Bill

Under federal law, foreign nationals are generally prohibited from making contributions, donations, expenditures, and disbursements in connection with any federal, state, or local election. [52 U.S.C. s. 30121; and 11 CFR 110.20.]

The bill does not explicitly address the interaction of these federal law provisions with the contents of the bill.

The Amendment

Under the amendment, no person may make or accept a contribution, make a disbursement or an expenditure, or incur an obligation in violation of the federal law provisions relating to foreign nationals, described above.

BILL HISTORY

Senate Amendment 1 was offered by Senator Fitzgerald on November 6, 2015. On the same date, the Senate adopted the amendment on a voice vote and concurred in Assembly Bill 387, as amended, on a vote of Ayes, 17; Noes, 15.

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