



1999 SENATE BILL 263

October 20, 1999 - Introduced by Senators CLAUSING, BURKE and WIRCH, cosponsored by Representatives TRAVIS and LASSA. Referred to Committee on Agriculture, Environmental Resources and Campaign Finance Reform.

- 1 **AN ACT to amend** 11.06 (2); and **to create** 11.05 (14) of the statutes; **relating to:**
2 mass media activities in relation to election campaigns.

Analysis by the Legislative Reference Bureau

Currently, individuals who accept contributions, organizations that make or accept contributions, or individuals who or organizations that 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. A person who violates the registration and reporting requirements may be subject to civil and criminal penalties, depending upon the type of violation. Currently, when a person is alleged to have violated registration and reporting requirements, the state has the burden of proving that the violation occurred.

This bill provides that, whenever any person publishes, disseminates or broadcasts any communication that includes a reference to a candidate for an office to be filled at an election, during the 60-day period preceding that election or during the 30-day period preceding any primary for that election, and the communication is substantially directed toward the electorate for that election, it is presumed that the communication is made for the purpose of influencing the election or nomination for election of that candidate, unless the person making the communication establishes, by a preponderance of the evidence, that the communication was not made for that purpose. If the person fails to rebut the presumption provided under

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this bill and fails to comply with registration and reporting requirements, the person is subject to the applicable civil and criminal penalties provided under current law.

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

1 **SECTION 1.** 11.05 (14) of the statutes is created to read:

2 11.05 (14) PRESUMPTION CONCERNING CERTAIN COMMUNICATIONS. Whenever any
3 person publishes, disseminates or broadcasts, or causes to be published,
4 disseminated or broadcast, any communication that includes a reference to a clearly
5 identified candidate for an office to be filled at a general, spring or special election,
6 during the 60-day period preceding that election or during the 30-day period
7 preceding any primary for that election, and the communication is substantially
8 directed toward the electorate at that election, it is presumed that the
9 communication is made for the purpose of influencing the election or nomination for
10 election of that candidate, unless the person making the communication or causing
11 the communication to be made establishes, by a preponderance of the evidence, that
12 the communication was not made for that purpose.

13 **SECTION 2.** 11.06 (2) of the statutes is amended to read:

14 11.06 (2) DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS. Notwithstanding
15 sub. (1), if a disbursement is made or obligation incurred by an individual other than
16 a candidate or by a committee or group which is not primarily organized for political
17 purposes, and the disbursement does not constitute a contribution to any candidate
18 or other individual, committee or group, the disbursement or obligation is required
19 to be reported only if the purpose is to expressly advocate the election or defeat of a
20 clearly identified candidate or the adoption or rejection of a referendum or if the
21 disbursement is made or the obligation is incurred for the purpose of making a

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1 communication specified in s. 11.05 (14). The exemption provided by this subsection
2 shall in no case be construed to apply to a political party, legislative campaign,
3 personal campaign or support committee.

4 **SECTION 3. Effective date.**

5 (1) This act takes effect on July 1, 2000.

6 **(END)**