



2001 ASSEMBLY BILL 441

June 12, 2001 – Introduced by Representatives WARD, SUDER, KESTELL, HAHN, NASS, LADWIG, J. LEHMAN, AINSWORTH, McCORMICK, RYBA, SKINDRUD, LIPPERT, PETTIS and FREESE, cosponsored by Senators ROESSLER and DARLING. Referred to Committee on Campaigns and Elections.

1 **AN ACT to amend** 11.10 (2) and 11.50 (2) (a); and **to create** 11.16 (1) (cm) and
2 11.50 (11) (em) of the statutes; **relating to:** use of moneys from the Wisconsin
3 election campaign fund to make certain false representations.

Analysis by the Legislative Reference Bureau

Currently, a candidate for state office who accepts a grant from the Wisconsin election campaign fund may utilize the proceeds to purchase services from a communications medium; printing, graphic arts or advertising services; office supplies; or postage. Grant moneys may only be used to advance the candidacy of the grantee by lawful means. Currently, no person may knowingly make or publish, or cause to be made or published, a false representation pertaining to a candidate which is intended or tends to affect voting at an election.

This bill prohibits any candidate or campaign treasurer from incurring an obligation or making a disbursement (expenditure) in whole or in part derived from grant moneys for the purpose of making or publishing, or causing to be made or published, a false representation that pertains to any candidate and that is intended or tends to affect voting at the election for the office that the candidate seeks. If a candidate or campaign treasurer violates this requirement, the bill requires the elections board to order the campaign to repay the entire amount of the grant received by the candidate within six months of the date of the board's order. The bill permits the board to sue the candidate, the candidate's personal campaign committee, or the candidate's campaign treasurer to recover any amount due. Under the bill, if the board is unable to recover the entire amount due from the candidate's

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campaign treasury, the board may recover any deficiency from the candidate personally, or if the board cannot recover the entire amount from the candidate's campaign treasury and the candidate, from the campaign treasurer personally.

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

1 **SECTION 1.** 11.10 (2) of the statutes is amended to read:

2 11.10 (2) A candidate may remove a campaign treasurer at any time. In case
3 of the death, resignation or removal of a campaign treasurer, the candidate shall
4 designate a successor and shall file the successor's name and address with the
5 appropriate filing officer as provided in s. 11.05 (5). Until the successor's name and
6 address is filed, the candidate shall be deemed his or her own campaign treasurer.
7 If a candidate files the name of a successor and the candidate has filed an application
8 for a grant under s. 11.50, the candidate shall also file with the board a sworn
9 statement under s. 11.50 (2) (a), signed by the successor.

10 **SECTION 2.** 11.16 (1) (cm) of the statutes is created to read:

11 11.16 (1) (cm) In the event that an obligation is incurred or a disbursement is
12 made from a campaign treasury for any purpose contrary to s. 11.50 (11) (em) and the
13 obligation is incurred or the disbursement is made from grant moneys received under
14 s. 11.50, the candidate is liable for any moneys recoverable under s. 11.50 (11) (em)
15 that cannot be recovered from the campaign treasury. If the board, after reasonable
16 efforts, is unable to recover the entire amount of the moneys from the campaign
17 treasury and the candidate, and the candidate has appointed a separate campaign
18 treasurer, the board may recover any unrecovered moneys from the campaign
19 treasurer.

20 **SECTION 3.** 11.50 (2) (a) of the statutes is amended to read:

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1 11.50 (2) (a) Any individual who desires to qualify as an eligible candidate may
2 file an application with the board requesting approval to participate in the fund. The
3 application shall be filed no later than the applicable deadline for filing nomination
4 papers under s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), no later than 4:30 p.m.
5 on the 7th day after the primary or date on which the primary would be held if
6 required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day
7 after appointment in the case of candidates appointed to fill vacancies. The
8 application shall contain a sworn statement that the candidate and his or her
9 authorized agents have complied with the contribution limitations prescribed in s.
10 11.26 and the disbursement limitations prescribed under s. 11.31 at all times to
11 which such limitations have applied to his or her candidacy and will continue to
12 comply with the limitations at all times to which the limitations apply to his or her
13 candidacy for the office in contest, unless the board determines that the candidate
14 is not eligible to receive a grant, the candidate withdraws his or her application
15 under par. (h), or par. (i) applies. The application shall also contain a sworn
16 statement, signed by the candidate and, unless the candidate is serving as his or her
17 own campaign treasurer, by the candidate's campaign treasurer, agreeing that no
18 part of the grant will be used to make or publish, or cause to be made or published,
19 a false representation that pertains to any candidate and that is intended or tends
20 to affect voting at the election for the office that the candidate seeks.

21 **SECTION 4.** 11.50 (11) (em) of the statutes is created to read:

22 11.50 (11) (em) No candidate or campaign treasurer may incur an obligation or
23 make a disbursement in whole or in part derived from grant moneys received under
24 this section for the purpose of making or publishing, or causing to be made or
25 published, a false representation that pertains to any candidate and that is intended

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1 to or tends to affect voting at the election for the office that the candidate seeks. If
2 any candidate or campaign treasurer violates this paragraph, the board shall require
3 the candidate to repay the entire amount of the grant received under this chapter for
4 the election campaign in which the violation occurs within 6 months of the date of
5 the board's order. The board may commence a civil action against a personal
6 campaign committee, candidate, or campaign treasurer to recover any amount that
7 is not paid pursuant to an order issued under this paragraph. For purposes of this
8 paragraph, an obligation is incurred or a disbursement is made from grant moneys
9 if, immediately prior to the time the obligation is incurred or the disbursement is
10 made, the unencumbered moneys derived from private sources in the candidate's
11 campaign treasury are not at least equal to the amount of the obligation or
12 disbursement. In determining whether moneys are derived from private sources,
13 obligations are considered to be incurred and disbursements are considered to be
14 made from moneys deposited in a candidate's campaign treasury in the same order
15 that those moneys were chronologically received and earnings are considered to be
16 derived from the same sources as the principal on which they are earned.

17 (END)