



2013 SENATE BILL 166

April 30, 2013 – Introduced by Senators ELLIS and ERPENBACH, cosponsored by Representative KAUFERT. Referred to Elections and Urban Affairs.

1 **AN ACT** *to amend* 11.06 (2); and *to create* 11.01 (12v), 11.01 (12w), 11.01 (13),
2 11.01 (14), 11.01 (16) (a) 3., 11.05 (3) (s) and 11.12 (7) of the statutes; **relating**
3 **to:** political disbursements and obligations by corporations, cooperative
4 associations, and labor organizations and the scope of regulated activity and
5 reporting of certain activity under the campaign finance law.

Analysis by the Legislative Reference Bureau

Under current law, individuals who accept contributions, organizations that make or accept contributions, and 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.

With certain exceptions, this bill imposes additional registration and reporting requirements on any person who, within 60 days of an election, makes any mass communication, including an electronic communication, a mass distribution, or a mass telephoning, that includes a reference to a clearly identified candidate at that election. In addition, the bill requires a person who becomes subject to a registration requirement by making such a communication to report, upon registration, the information that would have been required to be reported if the person had been registered with respect to any obligation incurred or disbursement made for the purpose of making such a communication prior to registration. The bill, however,

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does not require registration and reporting if the communication is made by a corporation, cooperative, or nonpolitical voluntary association and is limited to the corporation's, cooperative's, or association's members, shareholders, or subscribers.

The change in the scope of reportable activity under the bill also applies to contribution and disbursement (spending) limitations and restrictions by causing reportable "contributions," "obligations," and "disbursements" to include the cost of all reportable communications.

The bill also requires a special report by any campaign finance registrant who makes or incurs an obligation to make a mass communication that becomes reportable under the bill within 60 days of a primary or other election in an amount greater than \$500 cumulatively since the date of the registrant's last report. The special report must be made within 24 hours after the date that disbursements or obligations that exceed \$500 cumulatively are made or incurred and must include the information that would otherwise be reported on the registrant's next regular report in the form prescribed by GAB.

Under current law, violators of registration and reporting requirements are subject to a forfeiture (civil penalty) of not more than \$500 for each violation. In addition, any person who is delinquent in filing a report is subject to a forfeiture of not more than \$50 or 1 percent of the annual salary of the office for which a candidate is being supported or opposed, whichever is greater, for each day of delinquency. Intentional violators of the registration requirements and persons who intentionally file false reports or statements may be fined not more than \$1,000 or imprisoned for not more than six months, or both, if the violation involves less than \$100 in amount or value, and may be fined not more than \$10,000 or imprisoned for not more than three years and six months, or both, if the violation involves more than \$100 in amount or value.

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

1 **SECTION 1.** 11.01 (12v) of the statutes is created to read:

2 11.01 (12v) "Mass communication" means a message that is disseminated by
3 means of one or more communications media, a mass electronic communication, a
4 mass distribution, or a mass telephoning, but not including a bona fide poll
5 conducted for the purpose of objectively identifying or collecting data concerning the
6 attitudes or preferences of electors.

7 **SECTION 2.** 11.01 (12w) of the statutes is created to read:

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1 11.01 (12w) “Mass distribution” means the distribution of 500 or more pieces
2 of substantially identical material.

3 **SECTION 3.** 11.01 (13) of the statutes is created to read:

4 11.01 (13) “Mass electronic communication” means the transmission of 500 or
5 more pieces of substantially identical material by means of electronic mail or
6 facsimile transmission.

7 **SECTION 4.** 11.01 (14) of the statutes is created to read:

8 11.01 (14) “Mass telephoning” means the making of 500 or more telephone calls
9 conveying a substantially identical message.

10 **SECTION 5.** 11.01 (16) (a) 3. of the statutes is created to read:

11 11.01 (16) (a) 3. A mass communication, other than a communication that is
12 exempt from reporting under s. 11.29, that is made during the period beginning on
13 the 60th day preceding an election and ending on the date of that election, and that
14 includes a reference to a clearly identified candidate whose name is certified under
15 s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at that election.

16 **SECTION 6.** 11.05 (3) (s) of the statutes is created to read:

17 11.05 (3) (s) In the case of a registrant that has made a mass communication
18 identified in s. 11.01 (16) (a) 3., a report containing the information specified in s.
19 11.06 (1) with respect to any obligation to make a disbursement incurred or any
20 disbursement made for the purpose of making such a communication prior to
21 registration.

22 **SECTION 7.** 11.06 (2) of the statutes is amended to read:

23 11.06 (2) **DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS.** Notwithstanding
24 sub. (1), if a disbursement is made or obligation incurred by an individual other than
25 a candidate or by a committee or group which is not primarily organized for political

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1 purposes, and the disbursement does not constitute a contribution to any candidate
2 or other individual, committee, or group, and the disbursement is not made or the
3 obligation is not incurred for the purpose of making a mass communication specified
4 in s. 11.01 (16) (a) 3., the disbursement or obligation is required to be reported only
5 if the purpose is to expressly advocate the election or defeat of a clearly identified
6 candidate or the adoption or rejection of a referendum. The exemption provided by
7 this subsection shall in no case be construed to apply to a political party, legislative
8 campaign, personal campaign, or support committee.

9 **SECTION 8.** 11.12 (7) of the statutes is created to read:

10 11.12 (7) If any registrant makes or incurs an obligation to make a
11 disbursement of more than \$500 cumulatively for the purpose of making a
12 communication specified in s. 11.01 (16) (a) 3. later than 60 days prior to a primary
13 or other election without cooperation or consultation with any candidate or agent or
14 authorized committee of any candidate who is supported or opposed, and not in
15 concert with or at the request or suggestion of any such candidate, agent, or
16 committee, the registrant shall, within 24 hours after making the disbursement or
17 incurring the obligation to make the disbursement, inform the appropriate filing
18 officer of the information required under s. 11.06 (1) in such manner as the board may
19 prescribe. The registrant shall also include the information in the next regular
20 report of the registrant under s. 11.20. For purposes of this subsection,
21 disbursements and obligations cumulate beginning with the day after the last date
22 covered on the registrant's immediately preceding report and ending with the day
23 before the election. If a registrant has not filed a previous report, disbursements and
24 obligations cumulate beginning on the date of the registrant's registration. A
25 disbursement that was previously reported in a report under this subsection as

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1 obligated to be made shall not be included in the cumulative total. Upon receipt of
2 a report under this subsection, the filing officer shall, within 24 hours of receipt,
3 transmit a copy of the report to all candidates for any office in support of or opposition
4 to one of whom a disbursement identified in the report is made or obligated to be
5 made.

6 **SECTION 9. Initial applicability.**

7 (1) The treatment of sections 11.01 (12v), (12w), (13), (14), and (16) (a) 3. and
8 11.06 (2) of the statutes first applies with respect to contributions received,
9 disbursements made, and obligations incurred on or after the effective date of this
10 subsection.

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(END)