

CHAPTER 11

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11.001 Declaration of policy. (1) The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed. It further finds that excessive spending on campaigns for public office jeopardizes the integrity of elections. It is desirable to encourage the broadest possible participation in financing campaigns by all citizens of the state, and to enable candidates to have an equal opportunity to present their programs to the voters. One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information which aids the public in fully understanding the public positions taken by a candidate or political organization. When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence. The legislature therefore finds that the state has a compelling interest in designing a system for fully disclosing contributions and disbursements made on behalf of every candidate for public office, and in placing reasonable limitations on such activities. Such a system must make readily available to the voters complete information as to who is supporting or opposing which

candidate or cause and to what extent, whether directly or indirectly. This chapter is intended to serve the public purpose of stimulating vigorous campaigns on a fair and equal basis and to provide for a better informed electorate.

(2) This chapter is declared to be enacted pursuant to the power of the state to protect the integrity of the elective process and to assure the maintenance of free government.

History: 1973 c. 334; 1979 c. 328

Campaign finance in Wisconsin after Buckley 1976 WLR 816.

11.002 Construction. This chapter shall be construed to impose the least possible restraint on persons or organizations whose activities do not directly affect the elective process, consistent with the right of the public to have a full, complete and readily understandable accounting of those activities intended to influence elections.

History: 1979 c. 328 ss. 9, 11.

11.01 Definitions. As used in this chapter:

(1) "Candidate" means every person for whom it is contemplated or desired that votes be cast at any election held within this state, other than an election for national office, whether or not the person is elected or nominated, and who either tacitly or expressly consents to be so

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considered. A person does not cease to be a candidate for purposes of compliance with this chapter or ch. 12 after the date of an election and no person is released from any requirement or liability otherwise imposed under this chapter or ch. 12 by virtue of the passing of the date of an election.

(2) "Charitable organization" means any organization described in section 170 (c) (2) of the internal revenue code, and also includes the United States, any state, territory or possession, the District of Columbia and any political subdivision thereof, when a gift is made exclusively for public purposes; but does not include any private organization conducting activities for political purposes.

(3) "Clearly identified", when used with reference to a communication in support of or in opposition to a candidate, means:

(a) The candidate's name appears;

(b) A photograph or drawing of the candidate appears; or

(c) The identity of the candidate is apparent by unambiguous reference.

(4) "Committee" or "political committee" means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements for political purposes, whether or not engaged in activities which are exclusively political, except that a "committee" does not include a political "group" under this chapter.

(5) "Communications media" means newspapers, periodicals, commercial billboards and radio and television stations, including community antenna television stations.

(6) (a) "Contribution" means:

1. A gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business), made for political purposes. In this subdivision "anything of value" means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.

3. A contract, promise or agreement, if legally enforceable, to make a contribution for any such purpose under subd. 1.

4. A transfer of funds between candidates, committees, individuals or groups subject to a filing requirement under this chapter.

5. The purchase of a ticket for a meal, rally or other fund-raising event for a purpose under subd. 1, whether or not actually utilized.

6. The distribution of any publication or advertising matter for any purpose under subd. 1 other than by a registrant under s. 11.05, or as provided in s. 11.29.

(b) Notwithstanding the foregoing meanings of "contribution", the term does not include:

1. Services for a political purpose by an individual on behalf of a registrant under s. 11.05 who is not compensated specifically for such services;

2. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. (a) 1 if no funds are raised with the knowledge of the host;

3. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers the individual's personal services for political purposes;

4. The costs of preparation and transmission of personal correspondence, provided such material is not reproduced by machine for distribution; or

5. Compensation or fringe benefits provided as a result of employment by an employer to regular employes or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employes or pensioners of like status.

6. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a contribution under s. 11.06.

(c) Notwithstanding par. (a), when a committee or group not organized exclusively for political purposes receives a gift, subscription, loan, advance or deposit of anything of value and does not utilize it for political purposes, it is not a "contribution".

(7) (a) "Disbursement" means:

1. A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value (except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business), made for political purposes. In this subdivision, "anything of value" means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies,

valued at the replacement cost at the time of transfer.

3. A contract, promise, or agreement, if legally enforceable, to make a disbursement for any purpose under subd. 1.

(b) Notwithstanding the foregoing meanings of "disbursement", the term does not include:

1. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. (a) 1 if no funds are raised with the knowledge of the host;

2. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers the individual's personal services for political purposes;

3. The costs of preparation and transmission of personal correspondence, provided such material is not reproduced by machine for distribution;

4. Compensation or fringe benefits provided as a result of employment by an employer to regular employes or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employes or pensioners of like status.

5. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a disbursement under s. 11.06.

(8) "Filing officer" means the official or agency determined in accordance with s. 11.02.

(9) "Filing requirement" means the continuing duty to file reports of contributions, disbursements or incurred obligations with the appropriate filing officer.

(10) "Group" or "political group" means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements for the purpose of influencing the outcome of any referendum whether or not engaged in activities which are exclusively political.

(11) "Incurred obligation" means every express obligation to make any contribution or disbursement including all loans, indorsements, undertakings and guarantees of obligations or payments for any goods, or for any services which have been performed or are to be per-

formed in the future, incurred by a candidate, committee, individual or group for political purposes.

(12) "Intentionally" has the meaning given under s. 939.23.

(12m) "Labor organization" means any employe organization in which employes participate and which exists primarily for the purpose of engaging in collective bargaining with any employer concerning grievances, labor disputes, wages, hours or conditions of employment, or the promotion and advancement of the professional or occupational standards and the welfare of its members and families and any organization established for the same purposes composed of individuals or affiliates of any such employe organization.

(15) "Personal campaign committee" means a committee which is formed or operating for the purpose of influencing the election or reelection of a candidate, which acts with the cooperation of or upon consultation with the candidate or the candidate's agent or which is operating in concert with or pursuant to the authorization, request or suggestion of the candidate or the candidate's agent.

(16) An act is for "political purposes" when it is done for the purpose of influencing the election or nomination for election of any individual to state or local office, or for the purpose of influencing the outcome of any referendum. In the case of a candidate, or a committee or group which is organized primarily for the purpose of influencing the election or nomination for election of any individual to state or local office, or for the purpose of influencing the outcome of any referendum, all administrative and overhead expenses for the maintenance of an office or staff which are used principally for any such purpose are deemed to be for a political purpose.

(a) Acts which are for "political purposes" include but are not limited to:

1. The making of a communication which expressly advocates the election or defeat of a clearly identified candidate or the passage or defeat of a referendum.

2. The conduct of or attempting to influence an endorsement or nomination to be made at a convention of political party members or supporters concerning, in whole or in part, any campaign for state or local office.

(b) A "political purpose" does not include expenditures for defense attorney's fees and other legal fees, costs and expenses, or payments supporting any person subject to criminal prosecution for violation of state or federal law, or for any agent or dependent of such a person.

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(17) "Printer" means any person who accepts work for printing, imprinting, lithographing, photolithographing, rotogravure, gravure, letterpress, mimeographing, stenciling, photostating, multilithing, multigraphing, steel die engraving, silkscreening or by any other means reproducing or manufacturing political advertisements or campaign devices of any kind, including but not limited to campaign literature, billboard advertising, special clothing, buttons, pens, stickers, banners and streamers, in support of or in opposition to any candidate, political party or referendum, whether or not a charge is assessed for such work; excepting candidates, committees, individuals and groups subject to a filing requirement under this chapter.

(18) "Referendum" means any advisory, validating or ratifying question to be submitted to the electorate.

(19) "Salary" means the highest salary to which any candidate for a particular office would, if elected, be entitled during the first year of incumbency.

History: 1973 c. 334; 1975 c. 93, 199; 1977 c. 187, 427; 1979 c. 260, 263; 1979 c. 328 ss. 12 to 28, 146; 1979 c. 355 s. 31.

Subs. (9) and (16), 1975 stats., [now subs. (10) and (16)] are constitutional only if narrowly construed to apply only to acts of express advocacy of the election or defeat of an identified candidate or referendum result. 65 Atty. Gen. 145.

11.02 Determination of filing officer. Except where the filing of duplicate reports or statements is specifically required by law, each person, committee or group subject to s. 11.05 shall have one filing officer. Such officer shall be determined as follows:

(1) The "filing officer" for each candidate for state office and for each committee which or individual who is acting in support of or in opposition to any candidate for state office is the board.

(2) The "filing officer" for each committee which or individual who is acting in support of or in opposition to any candidates for state and local offices is the board.

(3) The "filing officer" for each candidate for local office and for each committee which or individual who is acting in support of or in opposition to any candidate for local office, but not any candidate for state office, is the clerk of the most populous jurisdiction for which any candidate who is supported or opposed seeks office.

(4) The "filing officer" for each group which or individual who is acting in support of or in opposition to any statewide referendum is the board.

(5) The "filing officer" for each group which or individual who is acting in support of or in

opposition to any statewide and local referenda is the board.

(6) The "filing officer" for each group which or individual who is acting in support of or in opposition to any local referendum, but not any statewide referendum, is the clerk of the most populous jurisdiction in which any referendum being supported or opposed is conducted.

(7) If the jurisdiction under sub. (3) or (6) is a school district, the appropriate clerk is the city clerk in the case of a city school district. In the case of any other school district, the appropriate clerk is the school district clerk.

History: 1975 c. 93

11.03 Nonapplicability. (1) Elections for the positions of presidential elector, convention delegate and party committeeman are not subject to ss. 11.05 to 11.23 and 11.26 to 11.29.

(2) This chapter does not apply to any candidate for national office acting exclusively in support of the candidate's own campaign, with respect to such activities only.

(3) This chapter does not apply to any individual or committee acting exclusively in support of or in opposition to a) candidates for national office; or b) other individuals and committees exclusively supporting or opposing candidates for national office.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328

11.04 Registration and voting drives. Except as provided in s. 11.25 (2) (b), ss. 11.05 to 11.23 and 11.26 do not apply to nonpartisan campaigns to increase voter registration or participation at any election that are not directed at supporting or opposing any specific candidate, political party, or referendum.

History: 1973 c. 334; 1979 c. 328.

11.05 Registration of political committees, groups and individuals. (1) COMMITTEES AND GROUPS. Every political party committee, every other political committee other than a personal campaign committee, and every political group under s. 11.23 which makes or

accepts contributions, incurs obligations or makes disbursements in a calendar year in an aggregate amount in excess of \$25 shall file a verified statement with the appropriate filing officer giving the information required by sub. (3). In the case of any committee other than a personal campaign committee, the statement shall be filed by the treasurer. A personal campaign committee shall register under sub. (2g) or (2r).

(3) In the case of any committee other than a personal campaign committee, the statement shall be filed by the treasurer. A personal campaign committee shall register under sub. (2g) or (2r).

(2) INDIVIDUALS. Every individual, other than a candidate or agent of a candidate, who accepts contributions, incurs obligations, or makes disbursements in a calendar year in an

aggregate amount in excess of \$25 shall file a verified statement with the appropriate filing officer giving the information required by sub. (3). An individual who guarantees a loan on which an individual, committee or group subject to a registration requirement defaults is not subject to registration under this subsection solely as a result of such default.

(2g) CANDIDATES AND PERSONAL CAMPAIGN COMMITTEES. Every candidate as defined in s. 11.01 (1) shall file a verified registration statement with the appropriate filing officer giving the information required by sub. (3). If a candidate appoints another person as campaign treasurer the candidate's registration statement shall be cosigned by the candidate and the candidate's appointed treasurer. A candidate who receives no contributions and makes no disbursements shall file such statement as provided in s. 11.10 (1) but need not appoint a campaign treasurer or designate a campaign depository until the first contribution is received or disbursement made.

(2r) GENERAL REPORTING EXEMPTIONS. (a) Any person, committee or group other than a committee or individual required to file an oath under s. 11.06 (7), a candidate or personal campaign committee of a candidate for statewide or legislative office or a political party committee who or which does not anticipate accepting contributions, making disbursements or incurring obligations in an aggregate amount in excess of \$500 in a calendar year and does not anticipate accepting any contribution or contributions from a single source exceeding \$100 in that year may indicate on its verified registration statement that the person, committee or group will not accept contributions, incur obligations or make disbursements in the aggregate in excess of \$500 in any calendar year and will not accept any contribution or contributions from a single source exceeding \$100 in such year. Any registrant making such an indication is not subject to any filing requirement if the statement is true. The registrant need not file a termination report. A registrant not making such an indication on a registration statement is subject to a filing requirement. The indication may be revoked and the registrant is then subject to a filing requirement as of the date of revocation, or the date that aggregate contributions, disbursements or obligations for the calendar year exceed \$500, or the date on which the registrant accepts any contribution or contributions exceeding \$100 from a single source during that year, whichever is earlier, but if the revocation is not timely, the registrant violates s. 11.27 (1).

(b) Any political party committee which does not anticipate accepting contributions,

making disbursements or incurring obligations in an aggregate amount in excess of \$1,000 in a calendar year and does not anticipate accepting any contribution or contributions from a single source exceeding \$100 in that year may indicate on its verified registration statement that the committee will not accept contributions, incur obligations or make disbursements in the aggregate in excess of \$1,000 in any calendar year and will not accept any contribution or contributions from a single source exceeding \$100 in that year. Any registrant making such an indication is not subject to any filing requirement if the statement is true. The registrant need not file a termination report. A registrant not making such an indication on a registration statement is subject to a filing requirement. The indication may be revoked and the registrant is then subject to a filing requirement as of the date of revocation, or the date that aggregate contributions, disbursements or obligations for the calendar year exceed \$1,000, or the date on which the registrant accepts any contribution or contributions exceeding \$100 from a single source during that year, whichever is earlier, but if the revocation is not timely, the registrant violates s. 11.27 (1).

(3) REQUIRED INFORMATION. The statement of registration shall include, where applicable:

(a) The name and mailing address of the committee, group or individual.

(c) In the case of a committee, a statement as to whether the committee is a personal campaign committee, a political party committee, a legislative campaign committee or a special interest committee.

(d) The area, scope, or jurisdiction of the committee, group or individual.

(e) The name and mailing address of the campaign treasurer and any other custodian of books and accounts. Unless otherwise directed by the registrant on the registration form and except as otherwise provided in this chapter or any rule of the board, all mailings which are required by law or by rule of the board shall be sent to the treasurer at the treasurer's address indicated upon the form.

(f) The name, mailing address, and position of other principal officers, including officers and members of the finance committee, if any.

(fm) A statement as to whether the registrant will be supporting or opposing any candidate, or any other registrant or proposed registrant who will be supporting or opposing any candidate, at any primary or election, and if so which primary and which election.

(g) The name, mailing address, office sought, and party affiliation, if any, of:

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1. Each candidate whom the committee or individual is supporting or opposing, if known at the time of registration.

2. If the committee or individual is supporting the entire ticket of any political party, the name of the party.

(h) The nature of any referendum which is supported or opposed.

(i) A statement whether the committee or group is a continuing one.

(l) The name and address of the campaign depository and of any other institution where funds are kept and the account number of the depository account and of each additional account and safety deposit box used.

(n) In the case of a labor organization or separate segregated fund under s. 11.38 (1) (a) 2 created by a labor organization, a statement as to whether the organization is incorporated, and if so, the date of incorporation and whether or not such incorporation is under ch. 181.

(4) REFERENDUM REGISTRATION. Every committee under this chapter which in addition operates as a political group must register under this section as a group. Every group which in addition operates as a political committee must register under this section as a committee. Except in the case of a personal campaign committee, an organization which operates as both a committee and a group and which has the same filing officer for both operations may file a single registration statement under this section.

(5) CHANGE OF INFORMATION. Any change in information previously submitted in a statement of registration shall be reported to the appropriate filing officer in verified form within 10 days following the change. This period does not apply in case of change of an indication made under sub. (2r), which shall be reported no later than the date that a registrant is subject to a filing requirement under that subsection. Any such change may be attested only by the individual or by the officer who has succeeded to the position of the individual attesting to the original statement; but in the case of a personal campaign committee, a candidate or campaign treasurer may attest to a change in the statement except as provided in s. 11.10 (2), and in the case of any other committee or group, the chief executive officer or treasurer indicated on the statement may attest to a change. If a preexisting committee is adopted by a candidate as his or her personal campaign committee, the candidate shall file an amendment to the committee's statement under this subsection indicating that he or she swears to the veracity of all information contained in the statement.

(6) CONTRIBUTION OR DISBURSEMENT PROHIBITED. Except as provided in subs. (7) and

(13), no person, committee or group subject to a registration requirement may make any contribution or disbursement from property or funds received prior to the date of registration under this section.

(7) CHANGE IN STATUS OF NEW REGISTRANT. Notwithstanding sub. (6), any committee, group or individual who or which has received property or funds which were not intended for political purposes in connection with an election for state or local office at the time of receipt may make contributions or disbursements from such property or funds in connection with an election for state or local office if the committee, group or individual complies with applicable provisions of sub. (1), (2), (2g) or (2r) as soon as such intent changes. For purposes of s. 11.06 (1), all property or funds which are in such a registrant's possession on the date of registration under this section shall be treated as received on the date that such intent changes so that the property or funds are to be used for political purposes in connection with an election for state or local office.

(8) CERTAIN INTRA-REGISTRANT TRANSFERS EXEMPT. If a committee or group which is not organized exclusively for political purposes makes a contribution from its own property or funds to a committee or group, affiliated with such committee or group, which is organized exclusively for political purposes, and the contributing committee or group receives no contribution from a single source in excess of \$20 in the aggregate during any calendar year, and it makes no contributions or disbursements and incurs no obligations other than to make the transactions specified in this subsection, then no registration requirement applies to the contributing committee or group.

(9) CERTAIN CONDUIT ACTIVITY EXEMPT. This section does not require registration by any individual or organization which receives property or funds intended for political purposes and transfers such property or funds to another individual or organization while acting solely as a conduit, if the receiving individual or organization exercises no discretion as to the amount which is transferred and the individual or organization to whom the transfer is made. Whenever an individual or organization acting as a conduit is exempted from registration under this subsection, the original transferor is deemed the contributor and the ultimate transferee is deemed the recipient for reporting purposes.

(10) CERTAIN ACTIVITY BY SPOUSES EXEMPT. For purposes of compliance with the registration requirements of this section a husband and wife acting jointly for political purposes shall be

considered an "individual" rather than a "committee".

(11) EXEMPTION FOR INDIRECT POLITICAL ACTIVITY. If any individual makes only those disbursements and incurs only those obligations which are exempted from reporting under s. 11.06 (2), or if any committee or group makes no contributions, and makes only those disbursements and incurs only those obligations which are exempted from reporting under s. 11.06 (2), then no registration requirement under this section applies to that individual, committee or group.

(12) TIME OF REGISTRATION; ACCEPTANCE OF UNLAWFUL CONTRIBUTIONS. (a) Except as authorized under sub. (13), a candidate shall comply with sub. (2g) no later than the time that he or she becomes a candidate as defined in s. 11.01. No candidate or agent of a candidate may accept any contribution or contributions at any time when the candidate is not registered under this section.

(b) Except as authorized under sub. (13), a committee, group or individual other than a candidate or agent of a candidate shall comply with sub. (1) or (2) no later than the 5th business day commencing after receipt of the first contribution by such committee, group or individual, and before making any disbursement. No committee, group or individual, other than a candidate or agent of a candidate, may accept any contribution or contributions exceeding \$25 in the aggregate during a calendar year at any time when the committee, group or individual is not registered under this section except within the initial 5-day period authorized by this paragraph.

(13) BANK ACCOUNT AND POSTAL BOX; EXEMPTION. An individual, committee or group does not violate this section by making a disbursement in the amount required to rent a postal box, or in the minimum amount required by a bank or trust company to open a checking account, prior to the time of registration, if the disbursement is properly reported on the first report submitted under s. 11.20 after the date that the individual, committee or group is registered, whenever a reporting requirement applies to the registrant.

History: 1973 c. 334; 1975 c. 93, 199, 200; 1977 c. 427; 1979 c. 328; 1979 c. 355 s. 241.

11.06 Financial report information; application; funding procedure. **(1) CONTENTS OF REPORT.** Except as provided in sub. (3) and ss. 11.05 (2r) and 11.19 (2), each registrant under s. 11.05 shall make full reports, upon a form prescribed by the board and signed by the appropriate individual under sub. (5), of all contributions received, contributions or dis-

bursements made, and obligations incurred. Each report shall contain the following information, covering the period since the last date covered on the previous report, unless otherwise provided:

(a) An itemized statement giving the date, full name and street address of each contributor who has made a contribution in excess of \$20, or whose contribution if \$20 or less aggregates more than \$20 for the calendar year, together with the amount of such contribution, and the cumulative total for the calendar year.

(b) The occupation and name and address of the principal place of business, if any, of each individual contributor whose cumulative contributions for the calendar year are in excess of \$100.

(c) The name and address of each registrant from which a transfer of funds was received or to which a transfer of funds was made, together with the date and amount of such transfer, and the cumulative total for the calendar year.

(d) An itemized statement of other income in excess of \$20, including interest, returns on investments, rebates and refunds received.

(e) An itemized statement of contributions over \$20 from a single source returned to donor or donated, with the full name and mailing address of the donor or donee.

(f) An itemized statement of each loan of money made by a commercial lending institution in an aggregate amount or value in excess of \$20 which is not reported as a contribution, together with the full name and mailing address of the lender and endorser, if any, and the date and amount of such loan.

(g) An itemized statement of every disbursement exceeding \$20 in amount or value, together with the name of the person or business to whom the disbursement was made, and the date and specific purpose for which such disbursement was made.

(h) An itemized statement of every obligation exceeding \$20 in amount or value, together with the name of the person or business with whom the obligation was incurred, and the date and the specific purpose for which each such obligation was incurred.

(i) A statement of totals during the reporting period of contributions received and disbursements made, including transfers made to and received from other registrants, other income, loans, and contributions returned to the donor or donated.

(j) In the case of a committee or individual filing an oath under sub. (7), a separate schedule showing for each disbursement which is made independently of a candidate, other than a contribution made to that candidate, the name of the candidate or candidates on whose behalf

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or in opposition to whom the disbursement is made, indicating whether the purpose is support or opposition.

(k) A statement of the balance of obligations incurred as of the end of the reporting period.

(L) A statement of cumulative totals for the calendar year of contributions made, contributions received, and disbursements made, including transfers of funds made to or received from other registrants.

(m) A statement of the cash balance on hand at the beginning and end of the reporting period.

(1m) SURPLUS CAMPAIGN MATERIALS. Notwithstanding sub. (1) (a) and (g), a registrant need not provide an itemized statement of a contribution or disbursement of surplus materials acquired in connection with a previous campaign of the registrant for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if the materials were previously reported as a contribution or disbursement by that registrant.

(2) DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS. Notwithstanding sub. (1), if a disbursement is made or obligation incurred by an individual other than a candidate or by a committee or group which is not primarily organized for political purposes, and the disbursement does not constitute a contribution to any candidate or other individual, committee or group, the disbursement or obligation is required to be reported only if the purpose is to expressly advocate the election or defeat of a clearly identified candidate or the adoption or rejection of a referendum. The exemption provided by this subsection shall in no case be construed to apply to a political party committee or to a personal campaign committee.

(3) NONRESIDENT REPORTING EXEMPTIONS.

(a) A nonresident registrant under s. 11.07 (6) need not report under sub. (1) any contribution received which is specifically designated for use in an election to be held outside this state, any disbursement made in connection with an election to be held outside this state, or any obligation incurred to make such a contribution or disbursement.

(b) Each nonresident registrant under s. 11.07 (6) who or which has filed a current statement of organization with the federal election commission and is required to file reports of receipts and expenditures with that body, and who or which does not make contributions or disbursements and does not incur obligations in an amount or value of more than \$10,000 cumulatively within a calendar year which are required to be reported under this section, and does not make any contribution to a candidate

for state or local office which exceeds one percent of the applicable disbursement level specified in the schedule under s. 11.31 (1), may in lieu of the reports required by sub. (1) and s. 11.20 (3) and (4) file a copy of each report which it files under the federal election campaign act with the appropriate filing officer under s. 11.02, no later than the deadline for filing such report under federal law.

(4) WHEN TRANSACTIONS REPORTABLE. (a)

A contribution is received by a candidate for purposes of this chapter when it is under the control of the candidate or campaign treasurer, or such person accepts the benefit thereof. A contribution is received by an individual, group or committee, other than a personal campaign committee, when it is under the control of the individual or the committee or group treasurer, or such person accepts the benefit thereof.

(b) Unless it is returned or donated within 10 days of receipt, any such contribution must be reported as received and accepted on the date received. This subsection applies notwithstanding the fact that the contribution is not deposited in the campaign depository by the reporting deadline.

(c) All contributions received by any person acting as an agent of a candidate or treasurer shall be reported by such person to the candidate or treasurer within 15 days of receipt. In the case of a contribution of money, the agent shall transmit the contribution to the candidate or treasurer within 15 days of receipt.

(d) A contribution, disbursement or obligation made or incurred to or for the benefit of a candidate is reportable by the candidate or the candidate's personal campaign committee if it is made or incurred with the authorization, direction or control of or otherwise by prearrangement with the candidate or the candidate's agent.

(e) Notwithstanding pars. (a) to (e), receipt of contributions by registrants under s. 11.05 (7) shall be treated as received in accordance with that subsection.

(5) REPORT MUST BE COMPLETE. A registered individual or treasurer of a group or committee shall make a good faith effort to obtain all required information. The first report shall commence no later than the date that the first contribution is received and accepted or the first disbursement is made. Each report shall be filed with the appropriate filing officer on the dates designated in s. 11.20. The individual or the treasurer of the group or committee shall certify to the correctness of each report. In the case of a candidate, the candidate or treasurer shall certify to the correctness of each report. If a treasurer is unavailable, any person designated

as a custodian under s. 11.05 (3) (e) may certify to the correctness of a report.

(6) PURPOSE OF DISBURSEMENTS. An individual, group or committee which is registered under s. 11.05 may make disbursements for any lawful political purpose.

(7) VOLUNTARY OATH. Every committee, other than a personal campaign committee, which and every individual, other than a candidate who desires to make disbursements during any calendar year, which are to be used to advocate the election or defeat of any clearly identified candidate or candidates in any election shall before making any disbursement, except within the amount authorized under s. 11.05 (1) or (2), file with the registration statement under s. 11.05 a statement under oath affirming that the individual or committee does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and that the individual or committee does not act in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed. A committee which or individual who acts independently of one or more candidates or agents or authorized committees of candidates and also in cooperation or upon consultation with, in concert with, or at the request or suggestion of one or more candidates or agents or authorized committees of candidates shall indicate in the oath the names of the candidate or candidates to which it applies. Any person who falsely makes such an oath, or any committee or agent of a committee who carries on any activities with intent to violate such oath is guilty of a violation of this chapter.

(8) RETURN OF CONTRIBUTIONS. A registrant may return a contribution at any time, before or after acceptance. If a contribution is accepted contrary to law, the subsequent return does not constitute a defense to a violation.

(9) SHORT FORM. The board shall prescribe a simplified, short form for compliance with this section by a registrant who has not engaged in any financial transaction since the last date included on the registrant's preceding financial report.

(10) REFERENDUM REPORTING SEPARATED. If a committee which operates as a political group has filed a single registration statement, any report of that committee which concerns activities being carried on as a political group under this chapter shall contain separate itemization of such activities, whenever itemization is required.

History: 1973 c. 334; 1975 c. 93 ss. 47 to 53, 119 (2); 1975 c. 199; 1979 c. 263, 328.

Board should not exercise power of administrative review of minor party exemptions based on reasonable probability of such parties' contributors being subjected to threats, harassment or reprisals. 65 Atty. Gen. 145.

Reporting requirements of (1) may not constitutionally be applied to Socialist Workers' Party contributors. Wis. Soc. Wkrs. 1976 Campaign Committee v. McCann, 433 F. Supp. 540.

11.07 Designation of agent by nonresident individuals, committees and groups.

(1) Every nonresident committee or group making contributions and every nonresident individual, committee or group making disbursements exceeding \$25 cumulatively in a calendar year within this state shall file name, mailing and street address and the name and the mailing and street address of a designated agent within the state with the office of the secretary of state. An agent may be any adult individual who is a resident of this state. After any change in the name or address of such agent the new address or name of the successor agent shall be filed within 30 days. Service of process in any proceeding under this chapter or ch. 12, or service of any other notice or demand may be made upon such agent.

(2) During any period within which any individual or organization under sub. (1) fails to appoint or maintain in this state a registered agent, or whenever any such registered agent cannot with reasonable diligence be found at the street address listed on the registration, the secretary of state shall be an agent and representative of such individual or organization upon whom any process, notice or demand may be served. Service on the secretary of state of any such process, notice or demand against any such individual or organization shall be made by delivering to and leaving with him, or with any clerk having charge of his office, duplicate copies of such process, notice or demand. If any process, notice or demand is served on the secretary of state, he shall immediately cause one of such copies to be forwarded by registered mail, addressed to such individual, committee or group at its mailing address as the same appears in the records of the secretary of state. The time within which the defendant may demur or answer does not start to run until 10 days after the date of such mailing.

(3) The secretary of state shall keep a record of all processes, notices and demands served upon him under this section, which shows the date and hour of service and the date of mailing. The certificate of the secretary of state that he was served with a summons and complaint or notice of object of action or with any notice or demand required or permitted by law and that he mailed the same as required by law, shall be evidence of service. If the address of the individual, committee or group is not known or readily

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ascertainable, mailing is dispensed with, and a copy of the process shall then be published as a class 1 notice, under ch. 985, in the county wherein the last-known registered agent was located and, if unknown, in Dane county.

(4) Nothing in this section limits or affects the right to serve any process, notice or demand required or permitted by law to be served upon a nonresident individual or organization in any other manner permitted by law.

(5) Any campaign treasurer or individual who knowingly receives a contribution made by an unregistered nonresident in violation of this section may not use or expend such contribution but shall immediately return it to the source or at his option, donate the contribution to a charitable organization or to the common school fund.

(6) For purposes of this section, a nonresident individual or organization is one who or which does not maintain an office or street address within the state.

History: 1973 c. 334; 1975 c. 93, 199

11.08 Reports by party committees. Every committee of a political party which is required to file statements and reports under this chapter shall file all statements and reports with the board. A state committee of a political party may be designated by a congressional, legislative, county or local party committee as its reporting agent for purposes of this chapter, but such designation does not permit combination of reports. If any committee is so designated, the treasurer of the state committee shall so inform the board.

History: 1973 c. 334; 1975 c. 93; 1979 c. 328

11.09 Duplicate reports required in certain cases. (1) The board shall transmit a certified duplicate copy of the financial report of each candidate for state senator, representative to the assembly, court of appeals judge and circuit judge or such person's personal campaign committee, if any, within 72 hours after receipt, to the county clerk or board of election commissioners of each county any part of which is contained in the district or circuit of the candidate.

(2) Every financial report of a committee or individual making disbursements or incurring obligations in support of or in opposition to a candidate under sub. (1) and filing an oath under s. 11.06 (7) shall also be filed by the board in accordance with sub. (1).

(3) Each registrant whose filing officer is the board, who or which makes disbursements in connection with elections for offices which serve or referenda which affect only one county or portion thereof, except a candidate or commit-

tee covered under sub. (1) or (2), shall file a duplicate original of each financial report filed with the board with the county clerk or board of election commissioners of the county in which the elections in which the registrant participates are held. Such reports shall be filed no later than the dates specified under s. 11.20 (3) and (4) for the filing of each report with the board.

(4) In every case where a duplicate report is filed by the board or by any person under subs. (1) to (3), the board shall transmit a certified duplicate copy of the registration statement to each county clerk or board of election commissioners with whom a duplicate report is filed.

(5) Whenever a filing officer receives a financial report from an individual or committee which has filed an oath under s. 11.06 (7) and the report contains a separate schedule as required by s. 11.06 (1) (j), the filing officer shall place a copy of such schedule in the file of each candidate to whom it relates.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 32, 328

11.10 Campaign treasurers and campaign depositories.

(1) Each candidate in an election shall appoint one campaign treasurer. Except as provided in s. 11.14 (3), each candidate shall designate one campaign depository within 5 business days after the candidate receives his or her first contribution and before the candidate makes or authorizes any disbursement in behalf of his or her candidacy. If a candidate adopts a preexisting committee as his or her personal campaign committee, the candidate shall make such designation within 5 business days of adoption. The person designated as campaign treasurer shall be the treasurer of the candidate's personal campaign committee, if any. The candidate may appoint himself or herself or any other elector as campaign treasurer. A verified registration statement under s. 11.05 (2g) or (2r) must be filed jointly by every candidate and his or her campaign treasurer. The candidate does not qualify for ballot placement until this requirement is met. Except as authorized under s. 11.06 (5), the campaign treasurer or candidate shall certify as to the correctness of each report required to be filed, and the candidate shall bear the responsibility for the accuracy of each report for purposes of civil liability under this chapter, whether or not the candidate certifies it personally.

(2) A candidate may remove a campaign treasurer at any time. In case of the death, resignation or removal of a campaign treasurer, the candidate shall designate a successor and shall file the successor's name and address with the appropriate filing officer as provided in s. 11.05 (5). Until the successor's name and

address is filed, the candidate shall be deemed his or her own campaign treasurer.

(3) Every committee shall appoint a treasurer. Every individual under s. 11.06 (7) shall be deemed his or her own treasurer. No disbursement may be made or obligation incurred by or on behalf of a committee without the authorization of the treasurer or designated agents. No contribution may be accepted and no disbursement may be made or obligation incurred by any committee at a time when there is a vacancy in the office of treasurer.

(4) No candidate may establish more than one personal campaign committee. Such committee may have subcommittees provided that all subcommittees have the same treasurer, who shall be the candidate's campaign treasurer. The treasurer shall deposit all funds received in the campaign depository. Any committee which is organized or acts with the cooperation of or upon consultation with a candidate or agent or authorized committee of a candidate, or which acts in concert with or at the request or suggestion of a candidate or agent or authorized committee of a candidate is deemed a subcommittee of the candidate's personal campaign committee.

(5) Candidates for governor and lieutenant governor of the same political party may receive contributions and make disbursements for both candidates from either depository.

History: 1973 c. 334; 1975 c. 93, 199, 200; 1979 c. 328.

11.12 Campaign contributions and disbursements; election reports. (1) (a) No contribution may be made or received and no disbursement may be made or obligation incurred by a person or committee, except within the amount authorized under s. 11.05 (1) and (2), in support of or in opposition to any specific candidate or candidates in an election, other than through the campaign treasurer of the candidate or the candidate's opponent, or by or through an individual or committee registered under s. 11.05 and filing a statement under s. 11.06 (7).

(b) The requirement of par. (a) may not be construed to apply to a contribution which is made to a continuing political party or ongoing committee, other than a personal campaign committee, provided that the contribution is not made in contravention of s. 11.16 (4) or 11.24.

(c) Where a disbursement is made in support of more than one candidate, the disbursement shall be apportioned reasonably among the candidates.

(d) Paragraph (a) does not apply to disbursements and obligations which are exempted from reporting under s. 11.06 (2).

(2) Any anonymous contribution exceeding \$10 received by a campaign or committee treasurer or by an individual under s. 11.06 (7) may not be used or expended. The contribution shall be donated to the common school fund or to any charitable organization at the option of the treasurer.

(3) All contributions, disbursements and incurred obligations exceeding \$10 shall be recorded by the campaign or committee treasurer or the individual under s. 11.06 (7). He or she shall maintain such records in an organized and legible manner, for not less than 3 years after the date of an election in which the registrant participates. If a report is submitted under s. 11.19 (1), the records may be transferred to a continuing committee or to the appropriate filing officer for retention. Records shall include the information required under s. 11.06 (1).

(4) All contributions, disbursements and incurred obligations shall be reported in accordance with s. 11.20. Except as permitted under s. 11.06 (2) and (3), each election report shall contain the same information which is required under s. 11.06 (1).

(5) If any contribution of more than \$500 cumulatively is received by a candidate for state office or by a committee from a single contributor later than 15 days prior to a primary or election such that it is not included in the preprimary or preelection report submitted under s. 11.20 (3) (a), the treasurer of the committee or the individual receiving such contribution shall within 24 hours of receipt inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the next regular report. Contributions under this subsection cumulate beginning with the day after the last date covered on the preprimary or preelection report, and ending with the day before the primary or election.

History: 1973 c. 334; 1975 c. 93 ss. 59, 60, 119 (2); 1975 c. 199; 1979 c. 328 ss. 53, 69 to 71, 146.

11.14 Deposit of contributions. (1) Except as authorized in sub. (3), all funds received by a campaign or committee treasurer, group treasurer, candidate or other individual shall be deposited in a separate campaign depository account designated in accordance with s. 11.16 (3). Except as authorized in sub. (3), such depository shall be established by every candidate no later than the time prescribed in s. 11.10 (1), and by every other individual or treasurer no later than the 5th business day after becoming subject to a registration requirement under s. 11.05 and before making any disbursement. Any bank or trust company which is authorized

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to transact business in this state may be selected as the depository. The individual or treasurer shall deposit all funds received in the campaign depository no later than the 5th business day commencing after receipt. This subsection does not apply to a contributor committee or group which is exempt from registration under s. 11.05 (8).

(2) After deposit in the campaign depository, funds may be transferred by the individual or treasurer to any other account which is identified under s. 11.05 (3) (1). Funds deposited in other accounts may not be directly disbursed but shall be returned to the depository for purposes of disbursement. Disbursements shall be made only in accordance with s. 11.16 (3).

(3) Notwithstanding sub. (1), any candidate other than a candidate for statewide or legislative office who serves as his or her own campaign treasurer and who is authorized to make and makes an indication on his or her registration statement under s. 11.05 (2r) (a) that he or she will not accept contributions, make disbursements or incur obligations in an aggregate amount exceeding \$500 in a calendar year, may designate a single personal account as his or her campaign depository, and may intermingle personal and other funds with campaign funds in an amount not exceeding \$500 per calendar year. If a separate depository is later established, all campaign funds in the personal account shall be transferred to the new depository account. Disbursements made from such personal account need not be identified in accordance with s. 11.16 (3).

History: 1973 c. 334; 1975 c. 93; 1979 c. 328.

11.16 Campaign contributions and disbursements; restrictions. (1) **AUTHORIZATION; LIABILITY.** No disbursement may be made or obligation incurred by a candidate, or by any other person or committee in support of or in opposition to a candidate, other than an individual who, or a committee which, has registered under s. 11.05 and filed an oath under s. 11.06 (7), except by the campaign treasurer of the candidate or other agent designated by the candidate and acting under his or her authority. In the event that an obligation is incurred or disbursement made by the campaign treasurer or other authorized agent of the candidate, the action is imputable to the candidate for purposes of civil liability under this chapter. This subsection does not apply to disbursements and obligations which are exempted from reporting under s. 11.06 (2).

(2) **LIMITATION ON CASH CONTRIBUTIONS.** Every contribution of money exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized credit card bear-

ing on the face the name of the remitter. No treasurer may accept a contribution made in violation of this subsection. The treasurer shall promptly return the contribution, or donate it to the common school fund or to a charitable organization in the event that the donor cannot be identified.

(3) **FORM OF DISBURSEMENTS.** Every disbursement which is made by a registered individual or treasurer from the campaign depository shall be made by negotiable instrument. Such instrument shall bear on the face the full name of the candidate, committee, individual or group as it appears on the registration statement filed under s. 11.05 and where necessary, such additional words as are sufficient to clearly indicate the political nature of the registrant or account of the registrant. The name of a political party shall include the word "party".

(4) **EARMARKING.** (a) The treasurer of a personal campaign committee may agree with a prospective contributor that a contribution is received to be utilized for a specific purpose not prohibited by law. Such purpose may not include a disbursement in support of or in opposition to another candidate or the transfer to an individual or committee acting in support of or in opposition to another candidate.

(b) When a contribution is made to a political party or to an individual or committee other than a candidate or the candidate's personal campaign committee, the purpose may not be specified, except where a precampaign committee is established for adoption by a candidate in accordance with s. 11.10 (1).

(c) Except for transfers of membership-related moneys between committees of the same political party, no committee may act as a conduit for the earmarked contributions of others. Transfers of membership-related moneys between political party committees shall be treated in the same manner as other transfers.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328.

11.17 Treatment of commercial loan guaranties. (1) **DEFINITIONS.** In this section:

(a) "Commercial loan" means a loan of money by a commercial lending institution made in accordance with applicable laws and regulations in the ordinary course of business.

(b) "Registrant" means any committee, group, individual or candidate who or which is required to register with a filing officer under s. 11.05.

(2) **TREATMENT OF GUARANTY ON DEFAULTED LOAN.** (a) In the event that any registrant defaults on a commercial loan, the unpaid balance shall be apportioned among the guarantors as loans from each guarantor, in that proportion of the unpaid balance which each guar-

antor bears to the total number of guarantors. Each such loan shall be reported by the registrant as a contribution and as an incurred obligation under s. 11.06 (1). The registrant shall specify that the obligation arose out of the guaranty of a commercial loan, and shall describe the commercial loan by listing the name of the commercial lender and the date on which the loan was made.

(b) If the registrant reduces the unpaid balance by payment to the commercial lender or reimburses a guarantor from whom the commercial lender has collected on a guaranty contract, the amount of each guarantor's loan shall be reduced in that proportion of the payment or reimbursement which each guarantor bears to the total number of guarantors. A reduction in the amount of the loan from a guarantor shall be reported by the registrant as a corresponding reduction in the amount of the guarantor's contribution and the amount of the registrant's incurred obligation to the guarantor.

(3) **NONPOLITICAL LOANS.** Nothing in this section applies to loans secured by candidates or other individuals for nonpolitical purposes.

History: 1979 c. 328.

11.19 Dissolution of registrants; termination reports. (1)

Whenever any registrant disbands or determines that obligations will no longer be incurred, and contributions will no longer be received nor disbursements made during a calendar year, and the registrant has no outstanding incurred obligations, the registrant shall file a termination report with the appropriate filing officer. Such report shall indicate a cash balance on hand of zero at the end of the reporting period and shall indicate the disposition of residual funds. Residual funds may be used for any political purpose not prohibited by law, returned to the donors in an amount not exceeding the original contribution, or donated to a charitable organization or the common school fund. The report shall be filed and certified as were previous reports, and shall contain the information required by s. 11.06 (1). If a termination report or suspension report under sub. (2) is not filed, the registrant shall continue to file periodic reports with the appropriate filing officer, no later than the dates specified in s. 11.20. This subsection does not apply to any registrant making an indication under s. 11.05 (2r).

(2) Notwithstanding sub. (1), any registrant who or which determines that obligations will no longer be incurred, contributions will no longer be made or received or disbursements made during a calendar year in an aggregate amount of more than \$500 may file a suspension report with the appropriate filing officer. The report

shall be filed and certified as were previous reports and shall contain the information required under s. 11.06 (1). Upon receipt of a properly executed report, the registrant shall be granted a suspension of the filing requirement under s. 11.20 (9) by the appropriate filing officer. Such suspension is effective only for the calendar year in which it is granted, unless the registrant alters its status before the end of such year or files a termination report under sub. (1).

(3) In no case may a candidate or personal campaign committee file a termination or suspension report covering any period ending sooner than the date of the election in which the candidate or committee is participating.

(4) If a registrant files a termination report under sub. (1) or (2) and within 60 days thereafter receives and accepts unanticipated contributions, the registrant may file an amended termination report. An amended report supersedes the previous report. The individual who certifies to the accuracy of the report shall also certify to a statement that the amended report is filed on account of the receipt of unanticipated contributions and the failure to file a correct termination report was not intentional.

History: 1973 c. 334; 1975 c. 93; 1979 c. 328.

11.20 Filing requirements. (1) Except as provided in ss. 11.08 and 11.09 (3), all reports required by s. 11.06 which relate to activities which promote or oppose candidates for state office or statewide referenda and all reports under s. 11.08 shall be filed with the board. All such reports which relate to activities which promote or oppose candidates for local office or local referenda shall be filed with the appropriate filing officer under s. 11.02.

(3) Election reports under s. 11.12 shall be received by the appropriate filing officer no earlier than 14 days and no later than 8 days preceding the primary and the election.

(a) A candidate and personal campaign committee of a candidate at a primary shall file a preprimary and preelection report.

(b) A candidate and personal campaign committee of a candidate at an election shall file a preelection report.

(c) A registered committee or individual other than a candidate or personal campaign committee making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to one or more candidates for office at a primary, or supporting or opposing other committees or individuals who are engaging in such activities, shall file a preprimary and preelection report.

(d) A registered committee or individual other than a candidate or personal campaign

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committee making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to one or more candidates for office at an election, or supporting or opposing other committees or individuals who are engaging in such activities, shall file a preelection report.

(e) Notwithstanding pars. (c) and (d), every committee of a political party shall file a preprimary and preelection report for every September primary and general election.

(f) A contribution, disbursement or obligation in support of or in opposition to a candidate at a primary which is made, accepted or incurred during the period covered by the preprimary report is considered to be made, accepted or incurred in support of or in opposition to that candidate at the primary, regardless of whether the candidate is opposed at the primary.

(g) A contribution, disbursement or obligation in support of or in opposition to a candidate at an election which is made, accepted or incurred during the period covered by the preelection report is considered to be made, accepted or incurred in support of or in opposition to that candidate at the election, regardless of whether the candidate is opposed at the election.

(h) A registrant who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candidate at a primary during the period covered by the preprimary report shall file both the preprimary and preelection reports, regardless of whether the registrant engages in such activity during the period covered by the preelection report.

(i) Notwithstanding pars. (c) and (d), a registrant other than a candidate, personal campaign committee or political party committee who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candidate at a primary during the period covered by the preelection report, but does not engage in such activity during the period covered by the preprimary report, is not required to file a preprimary report.

(j) Notwithstanding pars. (c) and (d), a registrant other than a candidate, personal campaign committee or political party committee who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candidate at an election during the period covered by the report which follows the preelection report, but does not engage in such activity during the period covered by the preelection report, is not required to file a preelection report.

(k) A registered group or individual making or accepting contributions, making disbursements or incurring obligations in support of or in

opposition to a referendum appearing on a primary ballot shall file a preprimary and preelection report.

(L) A registered group or individual making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to a referendum appearing on an election ballot shall file a preelection report.

(4) Continuing reports under s. 11.06 (1) by committees or individuals supporting or opposing candidates for office, including committees of a political party, and by individuals or groups supporting or opposing a referendum shall be received by the appropriate filing officer no earlier than January 1 and no later than January 31; and no earlier than July 1 and no later than July 10.

(5) Notwithstanding sub. (3), in a special primary or election, a committee or group which is not formed exclusively to influence the outcome of such special primary or election need only comply with sub. (3) for purposes of that special primary or election if it makes a disbursement for the purpose of influencing the outcome of that primary or election in a form other than a contribution which is reported by the recipient.

(5g) Notwithstanding sub. (3), a personal campaign committee which is not formed to support or oppose a candidate in a partisan primary or election need only comply with sub. (3) for purposes of a partisan primary and election if it makes a disbursement for the purpose of influencing the outcome of that primary or election in a form other than a contribution which is reported by the recipient.

(5r) Notwithstanding sub. (3), a personal campaign committee which is not formed to support or oppose a candidate in a nonpartisan primary or election need only comply with sub. (3) for the purposes of a nonpartisan primary or election if it makes a disbursement for the purpose of influencing the outcome of that primary or election in a form other than a contribution which is reported by the recipient.

(6) Reports required to be filed under s. 11.06 (3) (b) shall be received by the appropriate filing officer no later than the dates prescribed for filing such reports with the federal election commission under the federal election campaign act and shall cover the period required under such act.

(7) In the event that any report is required to be filed under this section on a nonbusiness day, it may be filed on the next business day thereafter.

(8) Reports filed under subs. (3) and (4) shall include all contributions received and transactions made as of the end of:

(a) The 15th day preceding the primary or election in the case of the pre-primary and pre-election report;

(b) December 31 in the case of the continuing report required by January 31; and

(c) June 30 in the case of the continuing report required by July 10.

(9) Except as provided in ss. 11.05 (2r) and 11.19 (3) [11.19 (2)], the duty to file reports under this section continues until a termination report is filed in accordance with s. 11.19.

(10) (a) Where a requirement is imposed under this section for the filing of a financial report which is to be received by the appropriate filing officer no later than a certain date, the requirement may be satisfied either by actual receipt of the report by the prescribed time for filing at the office of the filing officer, or by filing a report with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no later than the date provided by law for receipt of such report.

(b) In any case where the postal service is employed by a person subject to a filing requirement as the agent for transmittal of a report, the burden is upon such person to show that a report has been filed with the postal service.

(c) It is presumed until the contrary is established that the date shown by the postal service cancellation mark on the envelope containing the report is the date that it was deposited in the mail.

(11) All reports required by this chapter shall be open to public inspection.

(12) If a candidate is unopposed in a primary or election, the obligation to file the reports required by this chapter does not cease. Except as provided in ss. 11.05 (2r) and 11.19 (2), a registrant who makes or receives no contributions, makes no disbursements or incurs no obligations shall so report on the dates designated in subs. (3) and (4).

(13) In the event of failure of a candidate or treasurer to file a report or statement required by this chapter by the time prescribed by law, action may be commenced against the candidate, the campaign treasurer, or the candidate's personal campaign committee, if any, or any combination of them.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328 ss. 58, 82 to 92, 146.

11.21 Duties of the elections board. The board shall:

(1) Prescribe forms for making the reports, statements and notices required by this chapter and furnish such forms to local filing officers for distribution under s. 11.22 (1).

(2) Furnish to each registrant prescribed forms for the making of reports and statements. Forms shall be sent by 1st class mail not later than 14 days prior to the applicable filing deadline under s. 11.20, and addressed to the attention of the treasurer or other person indicated on the registration statement. Forms need not be sent to a registrant who has made an indication that aggregate contributions, disbursements and obligations will not exceed the amount specified under s. 11.05 (2r) or to a registrant who has been granted a suspension under s. 11.19 (2). Whenever any notice of filing requirements under this chapter is sent to a candidate's campaign treasurer, the board shall also send a notice to the candidate if he or she has appointed a separate treasurer. Failure to receive any form or notice does not exempt a registrant from compliance with this chapter.

(3) Prepare, publish, and furnish each person required to file reports and statements with a manual setting forth simply and concisely recommended uniform methods of bookkeeping and reporting. Manuals shall also be furnished to local filing officers for distribution under s. 11.22 (1).

(4) Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.

(5) Make the reports and statements filed with it available for public inspection and copying, commencing as soon as practicable but not later than the end of the 2nd day following the day during which they are received, and permit copying of any report or statement by hand or by duplicating machine at cost, as requested by any person. No information copied from such reports and statements may be sold or utilized by any person for the purpose of soliciting contributions from individuals identified in the reports or statements or for any commercial purpose.

(6) Compile and maintain a current list of all reports and statements or parts thereof pertaining to each candidate, individual, committee or group.

(7) Include in its annual report under s. 5.05 (5) compilations of any of the following in its discretion:

(a) Total reported contributions, disbursements and incurred obligations for all candidates, individuals, committees and groups during the year.

(b) Total amounts expended according to such categories as it may determine and separated according to candidate, political party, and nonparty disbursements.

(c) Total amounts expended for influencing nominations and elections stated separately whenever separate information is reported.

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(d) Total amounts contributed according to such categories of amounts as it determines for candidates, individuals, committees and groups.

(e) Aggregate amounts contributed by any contributors shown to have contributed more than \$100.

(8) Prepare and publish from time to time special reports comparing the various totals and categories of contributions and disbursements made with respect to preceding elections.

(10) Make available a list of delinquents for public inspection.

(11) Receive and maintain in an orderly manner all reports and statements required to be filed with the state under the federal election campaign act, and in addition shall:

(a) Preserve such reports and statements for a period of 10 years from date of receipt, except that reports and statements relating solely to candidates for the U.S. house of representatives need be preserved for only 6 years from the date of receipt.

(b) Notwithstanding sub. (5), make each report and statement transmitted to it under s. 14.38 (7) available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which it is received from the secretary of state.

(c) Compile and maintain a current list of all reports and statements or parts thereof pertaining to each candidate who is required to file a report or statement under such act.

(d) Promptly compile and release for public inspection a list of all reports received from candidates for national office and from committees supporting or opposing such candidates which are required to be filed with the state under the federal election campaign act, as soon as possible after each deadline for receipt of such reports as provided by federal law.

(12) No earlier than 10 days and no later than 7 days prior to each reporting date under s. 11.20, send to every candidate for state or national office and to every committee, group or individual registered under s. 11.05 with it, notice of the reports required by this chapter, of the place and the deadline for filing such reports, and of the penalties for neglecting to file a report. Mailing shall be in the same manner as prescribed by sub. (2). Failure to receive such notification does not exempt any registrant from compliance with this chapter.

(13) Determine whether each financial report or statement required to be filed under this chapter has been filed in the form and by the time prescribed by law, and whether it conforms on its face to the requirements of this chapter. In addition to the notice required by sub. (12), the

board shall immediately send to any registrant who is delinquent in filing, or who has filed otherwise than in the proper form, a notice that the registrant has failed to comply with this chapter. Whenever a candidate has appointed another person as campaign treasurer, the board shall send the notice to both persons.

(14) Prepare, publish and periodically revise as necessary, a manual simply and concisely describing the filing and registration requirements established in this chapter in detail, as well as other major provisions of chs. 11 and 12. The board shall cause the manual to be distributed to election officials, to each candidate for state or local office upon filing nomination papers and to every committee, individual or group upon registering under s. 11.05. Distribution to others shall be made upon request.

(15) Inform each candidate who files an application to become eligible to receive a grant from the Wisconsin election campaign fund of the dollar amount of the applicable current disbursement limitation under s. 11.31 which applies to the office for which such person is a candidate. Failure to receive the notice required by this subsection does not constitute a defense to a violation of s. 11.27 (1) or 11.31.

History: 1973 c. 334; 1975 c. 93 ss. 73 to 78, 119 (2); 1977 c. 107; 1979 c. 260, 328.

11.215 Federal election campaign reports. For such period as the federal election campaign act may require, the secretary of state shall receive all reports and statements required to be filed with the state under such act, and shall promptly transmit copies thereof to the board. In the event that the federal law at any time permits the state to designate which officer or agency shall receive and maintain reports and statements under the federal election campaign act, the board is designated to be the agency which shall carry out such duties. The secretary of state shall:

(1) Preserve such reports and statements for a period of 10 years from date of receipt, except that reports and statements relating solely to candidates for the U.S. house of representatives need be preserved for only 6 years from the date of receipt.

(2) Compile and maintain a current list of all reports and statements or parts thereof pertaining to each candidate who is required to file a report or statement under such act.

(3) Develop a filing, coding, and cross-indexing system consonant with the purposes of such act.

(4) Make the reports and statements filed with him or her available for public inspection and copying, commencing as soon as practicable but not later than the end of the day during

which they are received, and, notwithstanding s. 14.38 (9), permit copying of any such report or statement by hand or by duplicating machine at cost, as requested by any person, provided that any information copied from such reports and statements may not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose.

History: 1975 c. 93, 199; 1979 c. 328

11.22 Duties of local filing officer. Each local filing officer shall:

(1) Obtain reporting forms, manuals and election laws provided by the board under ss. 7.08 (4) and 11.21 (1), (3) and (14) and make them available to registrants under this chapter, to election officials and to members of the general public. Fees shall be collected where required.

(2) Develop a filing, coding and cross-indexing system consonant with the purposes of this chapter.

(3) Furnish to each registrant prescribed forms for the making of reports and statements. Forms shall be sent by 1st class mail not later than 14 days prior to the applicable filing deadline under s. 11.20 and addressed to the attention of the treasurer or other person indicated on the registration statement. Forms need not be sent to a registrant who has made an indication that aggregate contributions, disbursements and obligations will not exceed the amount specified under s. 11.05 (2r) or to a registrant who has been granted a suspension under s. 11.19 (2). Whenever any notice of the filing requirements under this chapter is sent to a candidate's campaign treasurer, the filing officer shall also send a notice to the candidate if he or she has appointed a separate treasurer. Failure to receive any form or notice does not exempt a registrant from compliance with this chapter.

(4) Notify the district attorney, or the attorney general where appropriate under ss. 11.60 (4) and 11.61 (2), in writing, of any facts within the filing officer's knowledge or evidence in the officer's possession, including errors or discrepancies in reports or statements and delinquencies in filing which may be grounds for civil action or criminal prosecution. The filing officer shall transmit a copy of such notification to the board. The district attorney or the attorney general shall advise the filing officer in writing at the end of each 30-day period of the status of such matter until the time of disposition. The district attorney or attorney general shall transmit a copy of each such notice to the board.

(5) Make available a list of delinquents for public inspection.

(6) Compile and maintain a current list of all reports and statements or parts thereof pertaining to each candidate, individual, committee or group.

(7) No earlier than 10 days and no later than 7 days prior to each reporting date under s. 11.20, send to every candidate for local office and to every committee, group or individual registered under s. 11.05 with his or her office, notice of the reports required by this chapter, of the place and the deadline for filing such reports, and of the penalties for neglecting to file a report. Mailing shall be in the same manner as prescribed by sub. (3). Failure to receive such notification does not exempt any registrant from compliance with this chapter.

(8) Make the reports and statements filed with the filing officer available for public inspection and copying, commencing as soon as practicable but not later than the end of the 2nd day following the day during which they are received, and permit copying of any report or statement by hand or by duplicating machine at cost, as requested by any person. No information copied from such reports and statements may be sold or utilized by any person for the purpose of soliciting contributions from individuals identified in the reports or statements or for any commercial purpose.

(9) Determine whether each financial report or statement required to be filed under this chapter has been filed in the form and by the time prescribed by law, and whether it conforms on its face to the requirements of this chapter. In addition to the notice required by sub. (7), the officer shall immediately send to any registrant who is delinquent in filing, or who has filed otherwise than in the proper form, a notice that the registrant has failed to comply with this chapter. Whenever a candidate has appointed another person as campaign treasurer, the filing officer shall send the notice to both persons.

History: 1973 c. 334; 1975 c. 41; 1975 c. 93 ss. 80 to 86, 119 (2); 1975 c. 199; 1979 c. 328

11.23 Political groups and individuals; referendum questions.

(1) Any group or individual may promote or oppose any referendum in this state. Before making disbursements, receiving contributions or incurring obligations in excess of \$25 in the aggregate in a calendar year for such purposes, the group or individual shall file a verified registration statement under s. 11.05 (1), (2) or (2r). In the case of a group the name and mailing address of each of its officers shall be given in the statement. Every group and every individual under this section shall designate a campaign depository under s. 11.14. Every group shall appoint a treasurer, who may delegate authority but is jointly re-

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sponsible for the actions of his or her authorized designee for purposes of civil liability under this chapter. The appropriate filing officer shall be notified by a group of any change in its treasurer within 10 days of the change under s. 11.05 (5). The treasurer of a group shall certify the correctness of each statement or report submitted by it under this chapter.

(2) Any anonymous contribution exceeding \$10 received by an individual or group treasurer may not be used or expended. The contribution shall be donated to the common school fund or to any charitable organization at the option of the treasurer.

(3) All contributions, disbursements and incurred obligations exceeding \$10 shall be recorded by the group treasurer or the individual. He or she shall maintain such records in an organized and legible manner, for not less than 3 years after the date of a referendum in which the group or individual participates. If a report is submitted under s. 11.19 (1), the records may be transferred to a continuing group or to the appropriate filing officer for retention. Records shall include the information required under s. 11.06 (1).

(4) Each group or individual shall file periodic reports as provided in ss. 11.06, 11.19 and 11.20. Every individual acting for the purpose of influencing the outcome of a referendum shall be deemed his or her own treasurer. No disbursement may be made or obligation incurred by or on behalf of a group without the authorization of the treasurer or the treasurer's designated agents. No contribution may be accepted and no disbursement may be made or obligation incurred by any group at a time when there is a vacancy in the office of treasurer.

(5) If a group which operates as a political committee has filed a single registration statement, any report of that group which concerns activities being carried on as a political committee under this chapter shall contain a separate itemization of such activities, whenever itemization is required.

(6) If any contribution exceeding \$500 cumulatively is received from a single contributor later than 15 days prior to an election such that it is not included in the preprimary or pre-election report submitted under s. 11.20 (3) (a), the treasurer of the group or the individual receiving such contribution shall within 24 hours of receipt inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the next regular report. Contributions under this subsection cumulate beginning with the day after the last date covered on the pre-

election report, and ending with the day before the election.

History: 1973 c. 334; 1975 c. 93 ss. 87, 119 (1), (2); 1975 c. 199; 1979 c. 328 ss. 103, 146

If narrowly construed to apply only to financial transactions directly related to express advocacy of a particular result in a referendum, this section is constitutional. 65 Atty. Gen. 145.

School board which informs electorate of facts pertinent to subject of school district referendum need not register or file campaign financing reports under ch. 11. 68 Atty. Gen. 167.

11.24 Unlawful political contributions.

(1) No person may, directly or indirectly, make any contribution other than from funds or property belonging to the contributor. No person may, directly or indirectly, furnish funds or property to another person for the purpose of making a contribution in other than his own name. No person may intentionally accept or receive any contribution made in violation of this subsection.

(2) No person may intentionally accept or receive any contribution made in violation of this chapter.

History: 1973 c. 334.

"Unit of prosecution" under (1) is every transfer of funds to another person accompanied by the false listing of any single contributor. See note to 11.38, citing *State v. Dreske*, 88 W (2d) 60, 276 NW (2d) 324 (Ct. App. 1979).

11.25 Unlawful political disbursements and obligations.

(1) No person, committee or group may intentionally receive or accept any thing of value, or any promise or pledge thereof, constituting a disbursement made or obligation incurred for political purposes contrary to law.

(2) (a) No person, committee or group may make or authorize a disbursement or the inurrence of an obligation from moneys solicited for political purposes for a purpose which is other than political, except as specifically authorized by law.

(b) Notwithstanding the definition of "political purposes" in s. 11.01 (16), a registrant may accept contributions and make disbursements from a campaign depository for the purposes of payment of legal fees and other expenses as a result of a recount at any election; for payment of civil penalties incurred by the registrant under this chapter; or for payment of the expenses of nonpartisan campaigns to increase voter registration or participation. If such expenses are paid from contributions made to the campaign depository, they are reportable under s. 11.06 (1) as disbursements. Otherwise, such expenses are not reportable under s. 11.06 (1). If contributions from the campaign depository are used for such expenses, they are subject to s. 11.26.

(3) No moneys solicited for political purposes and reported under this chapter may be invested for the purpose of producing income

unless the investment is in direct obligations of the United States and of agencies and corporations wholly owned by the United States, commercial paper maturing within one year from the date of investment, preferred shares of a corporation or an interest-bearing account at any financial institution as defined in s. 705.01 (3).

History: 1973 c. 334; 1975 c. 93; 1979 c. 328.

11.26 Limitation on contributions. (1) No individual may make any contribution or contributions to a candidate for election or nomination to any of the following offices and to any individual or committee under s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the candidate's opponent to the extent of more than a total of the amounts specified per candidate:

(a) Candidates for governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent of public instruction and justice of the supreme court, \$10,000.

(b) Candidates for state senator, \$1,000.

(c) Candidates for representative to the assembly, \$500.

(d) Candidates for all other state and local offices, an amount equal to the greater of 1) \$250; or 2) one cent times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than \$3,000.

(2) No committee other than a political party committee may make any contribution or contributions to a candidate for election or nomination to any of the following offices and to any individual or committee under s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the candidate's opponent to the extent of more than a total of the amounts specified per candidate:

(a) Candidates for governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent or justice, 4% of the value of the disbursement level specified in the schedule under s. 11.31 (1).

(b) Candidates for state senator, \$1,000.

(c) Candidates for representative to the assembly, \$500.

(cm) Candidates for court of appeals judge, except as provided in par. (d) 2, \$1,600.

(d) In any jurisdiction or district with a population of 500,000 or more according to the most recent federal census covering the entire jurisdiction or district:

1. For the following county offices:

a. Candidates for county executive, \$6,250.

b. Candidates for district attorney, \$3,750.

c. Candidates for county supervisor, \$400.

2. Candidates for court of appeals judge, circuit judge or any countywide elective office not specified in subd. 1, \$2,500.

3. For the following offices in cities of the 1st class:

a. Candidates for mayor, \$6,250.

b. Candidates for city attorney, \$3,750.

c. Candidates for any other citywide office, \$2,500.

d. Candidates for alderman, \$400.

(e) Candidates for circuit judge, except as provided in par. (d), and local offices, an amount equal to the greater of 1) \$200; or 2) three-fourths of one cent times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer; or 3) one percent of the annual salary of the office sought.

(3) The contribution limitations of subs. (1) and (2) apply cumulatively to the entire primary and election campaign in which a candidate participates, whether or not there is a contested primary election. The total limitation may be apportioned in any manner desired between the primary and election. All moneys cumulate regardless of the time of contribution.

(4) No individual may make any contribution or contributions to all candidates for state and local offices and to any individuals or committees acting in support of or in opposition to such candidates who are subject to a registration requirement under s. 11.05, including committees of a political party, to the extent of more than a total of \$10,000 in any calendar year.

(5) The contribution limits provided in subs. (1) and (4) do not apply to a candidate who makes any contribution or contributions to his or her own campaign for office from such individual's personal funds or property or the personal funds or property which are owned jointly with the individual's spouse, with respect to any contribution or contributions made to that candidate's campaign only. A candidate's personal contributions shall be deposited in his or her campaign depository and reported in the normal manner.

(6) If a candidate adopts a preexisting committee as his or her personal campaign committee, such preexisting committee is deemed to have been the same committee as the candidate's personal campaign committee for purposes of the application of subs. (1), (2) and (9). The limitations prescribed in subs. (2) and (9) do not apply to the transfer of contributions which is made at the time of such adoption, but

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do apply to the contributions which have been made by any other committee to such preexisting committee at the time of adoption.

(8) (a) No political party as defined in s. 5.02 (13) may receive more than a total of \$75,000 in value of its contributions in any calendar year from all other committees, excluding transfers between party committees of such party.

(b) No such political party may receive more than a total of \$6,000 in value of its contributions in any calendar year from any specific committee or its subunits or affiliates, excluding political party committees.

(c) No committee, other than a political party committee, may make any contribution or contributions, directly or indirectly, to a political party under s. 5.02 (13) in a calendar year exceeding a total value of \$6,000.

(9) (a) No candidate for state or local office may receive and accept more than 65% of the value of the total disbursement level specified in the schedule under s. 11.31 (1) for the office for which he or she is a candidate during any primary and election campaign combined from all committees subject to a filing requirement, including political party committees.

(b) No candidate for state or local office may receive and accept more than 45% of the value of the total disbursement level specified in the schedule under s. 11.31 (1) for the office for which he or she is a candidate during any primary and election campaign combined from all committees other than political party committees subject to a filing requirement.

(c) For purposes of this subsection, a "committee" includes the Wisconsin election campaign fund.

(10) Except as authorized in s. 11.50 (2) (i), no candidate for state office who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund and who receives and accepts any such grant may make contributions of more than 200% of the amounts specified in sub. (1) to the candidate's own campaign from such individual's personal funds or property or the personal funds or property which are owned jointly with the individual's spouse. The contribution limit of sub. (4) applies to amounts contributed by such a candidate personally to the candidate's own campaign and to other campaigns, except that a candidate may exceed the limitation if authorized under this subsection to contribute more than the amount specified to the candidate's own campaign, up to the amount of the limitation.

(11) Excess contributions shall be returned to the donor or treated in accordance with s.

11.12 (2) or 11.23 (2), at the option of the treasurer.

(12) In computing the limitations under this section, any transfer of funds between the candidates for governor and lieutenant governor of the same political party in the general election may be excluded.

(13) Except as provided in sub. (9), contributions received from the Wisconsin election campaign fund are not subject to limitation by this section.

(14) No candidate or committee may receive and accept any contribution or contributions made in violation of this section.

(15) The fact that 2 or more committees, other than personal campaign committees, utilize common policies and practices concerning the endorsement of candidates or agree to make contributions only to such endorsed candidates does not affect the right of each committee independently to make contributions up to the amount specified under sub. (2).

(16) Contributions constituting surplus materials acquired in connection with a previous campaign of a registrant for or against the same candidate, candidates or party in connection with which the materials are utilized are not subject to limitation by this section, if the materials were previously reported as a contribution by that registrant.

(17) (a) For purposes of application of the limitations imposed in subs. (1), (2), (9) and (10), the "campaign" of a candidate begins and ends at the times specified in this subsection.

(b) In the case of a candidate who has not been a candidate in a previous election for which he or she continues to be registered under s. 11.05, the "campaign" of the candidate begins when the candidate or the candidate's personal campaign committee is required to file a registration statement with the appropriate filing officer.

(c) In the case of a candidate who has been a candidate in a previous election for which he or she continues to be registered under s. 11.05, the "campaign" of the candidate begins on the day after the closing date for the period covered by the first financial report filed by or on behalf of the candidate subsequent to the date of the previous election, or if the candidate has incurred obligations from a previous campaign, the date on which the candidate receives sufficient contributions to retire those obligations.

(d) In the case of any candidate, the "campaign" of the candidate ends on the last day of the month following the month in which the election or primary is held in which the candidate is elected or defeated, or the date on which the candidate receives sufficient contributions to

retire any obligations incurred in connection with that contest, whichever is later.

(e) The campaign of a candidate in a future election who has incurred obligations from a previous campaign may begin before the candidate receives sufficient contributions to retire all obligations incurred in connection with the previous contest.

History: 1973 c. 334; 1975 c. 93 ss. 89 to 95, 119 (1); 1975 c. 200; 1977 c. 107, 187; 1977 c. 427 s. 132; 1979 c. 263, 328; 1979 c. 355 s. 32.

Constitutionality of various provisions discussed. 65 Atty. Gen. 237.

11.265 Legislative campaign committees. (1)

A legislative campaign committee, which is a committee organized in either house of the legislature, may accept no contributions and make no contributions or disbursements exceeding the amounts authorized for a political party under this chapter.

(2) No legislative campaign committee is subject to the limitations specified in s. 11.26 (2) (b) and (c).

(3) Amounts contributed by a legislative campaign committee to a political party are not subject to limitation by this chapter.

History: 1979 c. 328.

11.27 False reports and statements. (1)

No person may prepare or submit a false report or statement to a filing officer under this chapter.

(2) In civil actions under this chapter, the acts of every member of a personal campaign committee are presumed to be with the knowledge and approval of the candidate, until it has been clearly proved that the candidate did not have knowledge of and approve the same.

History: 1973 c. 334; 1979 c. 328.

11.29 Communications for political purposes. (1)

Nothing in this chapter restricts any corporation, cooperative or voluntary association other than a political party or personal campaign committee from making disbursements for the purpose of communicating only with its members, shareholders or subscribers to the exclusion of all other persons, with respect to endorsements of candidates, positions on a referendum or explanation of its views or interests, without reporting such activity. No such corporation, cooperative or voluntary association may solicit contributions from persons who are not members, shareholders or subscribers to be used for such purposes.

(2) Notwithstanding s. 11.12 (1), a political party committee may make single communications to its members at periodic intervals with respect to an explanation of its views or interests, a position on a referendum to be submitted to

the voters, or endorsement of an entire slate of candidates at any jurisdictional level or levels. Such activity shall be reported by the party committee.

(3) No communications medium may be utilized for communications authorized under this section unless the medium is restricted solely to members, shareholders or subscribers.

(4) For purposes of this section, the members of a local or regional cooperative are deemed to be members of a state cooperative if the local or regional cooperative is a member of the state cooperative.

History: 1973 c. 334; 1975 c. 93 s. 119 (1); 1979 c. 328.

11.30 Identification of political contributions, disbursements and communications. (1)

No disbursement may be made or obligation incurred anonymously, and no contribution or disbursement may be made or obligation incurred in a fictitious name or by one person or organization in the name of another for any political purpose.

(2) (a) The source of all printed advertisements, billboards, handbills, sample ballots, paid television and radio advertisements and other communications shall clearly appear thereon if they are paid for by or through any contribution, disbursement or incurred obligation, except as exempted from reporting under s. 11.06 (2).

(b) Every such communication the cost of which is paid for or reimbursed by a committee or group, or for which a committee or group assumes responsibility, whether by the acceptance of a contribution or by the making of a disbursement, shall be identified by the words "Paid for by" followed by the name of the committee or group making the payment or reimbursement or assuming responsibility for the communication and the name of the treasurer or other authorized agent of such committee or group. A communication the cost of which is reimbursed by or for which responsibility is assumed by a committee or group shall carry the attribution of that committee or group.

(c) Every such communication which is directly paid for or reimbursed by an individual, including a candidate without a personal campaign committee who is serving as his or her own treasurer, or for which an individual assumes responsibility, whether by the acceptance of a contribution or by the making of a disbursement, shall be identified by the words "Paid for by" followed by the name of the candidate or other individual making the payment or reimbursement or assuming responsibility for the communication. A communication the cost of which is reimbursed by an individual or for

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which an individual assumes responsibility shall carry the attribution of that individual.

(d) In addition to the requirements of pars. (a) to (c), a committee or individual required to file an oath under s. 11.06 (7) shall also in every communication in support of or in opposition to any clearly identified candidate or candidates affirm that the communication is made without cooperation or consultation with any candidate or candidates or any agent or authorized committee of any candidate or candidates who are supported or opposed, and it is not made in concert with or at the request or suggestion of any candidate or candidates who are supported or opposed by the committee or individual.

(e) Communications under this section by a personal campaign committee may identify the committee or any bona fide subcommittee thereof.

(f) This subsection does not apply to the transmittal of personal correspondence which is not reproduced by machine for distribution.

(g) This subsection does not apply to nonadvertising material contained in a regularly published newsletter by an organization which is expressing its political views with respect to elections which are of concern to its membership, provided that distribution of such newsletter is restricted to such membership.

(h) Notwithstanding par. (a), the attributions required by this subsection in written communications shall be readable, legible and readily accessible.

(i) No person may publish or disseminate, or cause to be published or disseminated any communication in violation of this subsection. A communications medium which in good faith relies on the representations of any person who places an advertisement with such medium as to the applicability of this subsection to such person does not violate this paragraph as a result of publication or dissemination of that advertisement based on such representations, provided that the representations are reasonable.

(3) (a) This subsection applies to the following persons who own any financial interest in a newspaper or periodical circulating in this state or in any radio or television station located in this state:

1. Every person occupying any office or position with an annual compensation over \$300, under the constitution or laws of the United States or of this state or under an ordinance of any municipality of this state.

2. Every candidate or member of any committee or group under this chapter.

3. Every individual registered under s. 11.05.

(b) Any person named in par. (a) is guilty of a violation of this chapter unless, before using the communications medium for political pur-

poses other than as provided for in sub. (2), there is filed with the board a verified declaration specifically stating the communications medium in which he has financial interest or over which he has control and the exact nature and extent of the interest or control.

(4) No owner or other person with a financial interest in a communications medium may utilize such medium in support of or in opposition to a candidate or referendum except as provided in this chapter. This chapter shall not be construed to restrict fair coverage of bona fide news stories, interviews with candidates and other politically active individuals, editorial comment or endorsement. Such activities need not be reported as a contribution or disbursement.

History: 1973 c. 334; 1975 c. 93, 199, 224, 422; 1979 c. 328.

11.31 Disbursement levels and limitations; calculation. (1) SCHEDULE.

The following levels of disbursements are established with reference to the candidates listed below. Except as provided in sub. (2), such levels do not operate to restrict the total amount of disbursements which are made or authorized to be made by any candidate in any primary or other election.

(a) Candidates for governor, \$150,000 in the primary, and \$350,000 in the election.

(b) Candidates for lieutenant governor, \$100,000 in the primary, and \$50,000 in the election.

(c) Candidates for attorney general, \$125,000 in the primary, and \$125,000 in the general election.

(d) Candidates for secretary of state, state treasurer, justice or state superintendent, \$40,000 in the primary and \$60,000 in the election.

(dm) Candidates for court of appeals judge, \$15,000 in the primary, and \$25,000 in the election.

(e) Candidates for state senator, \$16,000 total in the primary and election, with disbursements not exceeding \$10,000 for either the primary or the election.

(f) Candidates for representative to the assembly, \$8,000 total in the primary and election, with disbursements not exceeding \$5,000 for either the primary or the election.

(fm) Candidates for circuit judge, \$40,000.

(g) In any jurisdiction or district other than a judicial district or circuit with a population of 500,000 or more according to the most recent federal census covering the entire jurisdiction or district:

1. For the following countywide offices:

a. Candidates for county executive, \$125,000.

b. Candidates for district attorney, \$75,000.

c. Candidates for county supervisor, \$8,000.

2. Candidates for any countywide elective office not specified in par. (dm) or (fm) or subd. 1, \$50,000.

3. For the following offices in cities of the 1st class:

a. Candidates for mayor, \$125,000.

b. Candidates for city attorney, \$75,000.

c. Candidates for any other city-wide office, \$50,000.

d. Candidates for alderman, \$8,000.

(h) Candidates for any local office, who are elected from a jurisdiction or district with less than 500,000 inhabitants according to the latest federal census or census information on which the district is based, as certified by the appropriate filing officer, an amount equal to the greater of 1) \$500; or 2) one-fourth of the annual salary for the office sought; or 3) 15 cents per inhabitant of the jurisdiction or district, but in no event more than \$20,000.

NOTE: The disbursement levels under sub. (1) are changed by the board by rule under sub. (9). For the levels in effect see Wis. Adm. Code section El Bd. 1.44 or check with the elections board.

(2) LIMITATION IMPOSED. Except as authorized in s. 11.50 (2) (i), no candidate for state office who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund and who receives and accepts any such grant may make or authorize total disbursements from the campaign treasury in any campaign to the extent of more than the amounts specified in sub. (1). The limitations upon authorized disbursements prescribed under sub. (1) apply equally to all candidates for the same office, regardless of whether a candidate is opposed at a primary or election.

(3) GUBERNATORIAL CAMPAIGNS. For purposes of compliance with the limitations imposed under sub. (2), candidates for governor and lieutenant governor of the same political party who both accept grants from the Wisconsin election campaign fund may agree to combine disbursement levels under sub. (1) (a) and (b) in the general election and reallocate the total level between them. If separate limitations do not apply to all candidates for both governor and lieutenant governor under sub. (3m), the candidates of the same party in the general election may reallocate the remaining authorized disbursement levels between them after the date of the primary election. The candidates shall each inform the board of any such agreement.

(3m) UNOPPOSED CANDIDATES; EXCEPTION. Notwithstanding subs. (1) and (2), if all candidates for an office who are certified under s. 7.08 (2) (a) to appear on the primary ballot of all parties recognized under s. 5.62 (1) (b) or (2)

have no opponent who is certified to appear on the same primary ballot, the separate limitation specified in sub. (1) for disbursements during the primary and election period does not apply to candidates for that office in that primary and election, and the candidates are bound only by the total limitations specified for the primary and election.

(4) ALLOCATION. Except as provided in sub. (3m), whenever a separate disbursement level is specified for a primary and election under sub. (1), a candidate who disburses less than the authorized level in the primary may not reallocate the balance to increase the level in the election. Whenever a separate disbursement level is not specified for a primary and election under sub. (1), a candidate may allocate disbursements between the primary and election campaign within the total level of disbursements specified in sub. (1) in any proportion desired, and may carry over unexpended contributions from a primary campaign to an election campaign.

(5) SEPARATION OF PERIODS. A disbursement is made for the purposes of the election under this section when a person or committee contracts for goods to be delivered or services to be performed after the date of the primary, regardless of the time at which the contract is entered into by the contracting person or committee.

(6) EXCLUSIONS. In computing the limitations under this section an individual or campaign treasurer may exclude any recount expenses paid from the campaign depository under s. 11.25 (2) (b); all federal, state or local taxes paid; and the cost of facilities rental, entertainment expense, food and beverages (including the preparation and service thereof if contracted to an outside agency), if utilized for a meal, sale, rally or similar fund raising effort or program which is intended for political purposes. Any such exclusion claimed shall be reported to the appropriate filing officer in such form as the board may require.

(7) CAMPAIGN DEFINED. (a) For purposes of this section, the "campaign" of a candidate extends from July 1 preceding the date on which the spring primary or election occurs or January 1 preceding the date on which the September primary or general election occurs for the office which the candidate seeks, or from the date of the candidate's public announcement, whichever is earlier, through the last day of the month following the month in which the election or primary is held.

(b) Disbursements which are made before a campaign period for goods to be delivered or services to be rendered in connection with the

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campaign are charged against the disbursement limitation for that campaign.

(c) Disbursements which are made after a campaign to retire a debt incurred in relation to a campaign are charged against the disbursement limitation for that campaign.

(d) Disbursements which are made outside a campaign period and to which par. (b) or (c) does not apply are not subject to any disbursement limitation. Such disbursements are subject to s. 11.25 (2).

(8) CERTAIN CONTRIBUTIONS EXCLUDED. The limitations imposed under this section do not apply to a gift of anything of value constituting a contribution made directly to a registrant by another, but the limitations shall apply to such gift when it is received and accepted by the recipient or if received in the form of money, when disbursed.

(9) COST OF LIVING ADJUSTMENT. The disbursement levels specified in sub. (1) shall be subject to a biennial cost-of-living adjustment to be determined by rule of the board in accordance with this subsection. The percentage difference between the consumer price index for the 12-month period ending on December 31 of each odd-numbered year and the price index for the base period (calendar year 1974) shall be calculated. The disbursement level specified under sub. (1) shall be increased by such amount each biennium, rounded to the nearest multiple of \$25 in the case of amounts of \$1 or more, which amount shall be in effect until a subsequent rule is adopted under this subsection. In this subsection, "consumer price index" means the average of the consumer price index over each 12-month period (all items—U.S. city average) as determined by the bureau of labor statistics of the U.S. department of labor. Determinations under this subsection may be adopted as an emergency rule under s. 227.027.

(10) SURPLUS MATERIALS EXCLUDED. Disbursements constituting surplus materials acquired in connection with a previous campaign of the registrant for or against the same candidate or candidates in connection with which the materials are utilized are not subject to limitation by this section, if the materials were previously reported as a disbursement by that registrant.

History: 1973 c. 334; 1975 c. 93 ss. 97 to 102, 119 (1), (2); 1975 c. 199, 422; 1977 c. 107, 187, 272, 449; 1979 c. 263, 328.

11.315 Special advertisement by candidate. Notwithstanding ss. 11.12 (1), 11.14, 11.16 (3), 11.26 and 11.31, a candidate may personally make a disbursement from personal funds within 15 days after the general election in which the candidate's name appears on the ballot for the purpose of placing a single adver-

tisement not exceeding 15 column inches in any or all newspapers in the jurisdiction or district in which a candidate for the purpose of thanking supporters. Such disbursement shall be reported by the candidate or the campaign treasurer under s. 11.06 (1). The advertisement shall be identified in accordance with s. 11.30 (2).

History: 1975 c. 93, 199.

This section unconstitutionally abridges candidate's 1st amendment rights. 65 Atty. Gen. 145.

11.32 Compensation for political advertisements. (1) No owner, agent or employe of any communications medium may solicit, receive or accept any payment, promise or compensation, nor may any person pay, promise to pay or compensate such person, for the purpose of influencing voting at any election through any broadcast or printed matter unless designated as a paid advertisement under s. 11.30.

(2) No person publishing a newspaper or periodical or operating a radio or television station may receive rates for publishing or broadcasting advertising for political purposes in excess of the rate regularly charged for commercial advertising of a similar character and classification. No person, committee or group placing such advertising may pay any rate or charge in excess of the regularly charged rate.

History: 1973 c. 334.

11.33 Use of government materials by candidates. No person elected to state office may use public funds for the cost of materials or distribution for 50 or more pieces of substantially identical material after the first day for circulation of nomination papers as a candidate for national, state or local office, until after the date of the election or after the date of the primary election if such person is not nominated. This section does not apply to answers to communications of constituents.

History: 1973 c. 334; 1975 c. 369; 1979 c. 328.

11.34 Solicitation of contributions from candidates restricted. (1) No person may demand, solicit, take, invite or receive from a candidate any payment for a contribution of any thing of value for a religious, charitable or fraternal cause or for any organization other than for a state or county committee of a political party. A candidate may not make, intimate or promise such payment or contribution.

(2) This section does not apply to payment of a regular subscription or contribution by a person to an organization of which he is a member or to which he may have been a regular contributor prior to his candidacy or to ordinary contributions at a regular church service.

History: 1973 c. 334.

11.36 Political solicitation involving public officials and employes restricted. (1)

No person may solicit or receive from any state officer or employe any contribution or service for any political purpose while the officer or employe is on state time or is engaged in his or her official duties, except that an elected state official may solicit and receive services not constituting a contribution from a state officer or employe with respect to a referendum only. Agreement to perform services authorized under this subsection may not be a condition of employment for any state officer or employe.

(2) No person may solicit or receive from any officer or employe of a political subdivision of this state any contribution or service for any political purpose during established hours of employment or while the officer or employe is engaged in his or her official duties.

(3) Every person who has charge or control in a building, office or room occupied for any purpose by this state or any political subdivision thereof shall prohibit the entry of any person into that building, office or room for the purpose of making or receiving a contribution.

(4) No person may enter or remain in any building, office or room occupied for any purpose by the state or any political subdivision thereof or send or direct a letter or other notice thereto for the purpose of requesting or collecting a contribution.

History: 1973 c. 334; 1979 c. 328, 355

11.37 Use of state-owned vehicles and aircraft restricted.

No person may use any state-owned vehicle or aircraft primarily for the purposes of campaigning in support of or in opposition to any candidate for national, state or local office, unless the person pays to the state a fee prescribed by the secretary of administration which is comparable to the commercial market rate for a vehicle or aircraft of similar design. Such fees shall be deposited in the account under s. 20.865 (5) (h).

History: 1973 c. 334; 1979 c. 221, 328, 355

11.38 Contributions and disbursements by corporations and cooperatives. (1) (a)

1. No foreign or domestic corporation, or association organized under ch. 185, may make any contribution or disbursement, directly or indirectly, either independently or through any political party, committee, group, candidate or individual for any purpose other than to promote or defeat a referendum.

2. Notwithstanding subd. 1, any such corporation or association may establish and administer a separate segregated fund and solicit contributions from individuals to such fund to be utilized by such corporation or association, for

the purpose of supporting or opposing any candidate for state or local office but the corporation or association may not make any contribution to such fund. The fund shall appoint a treasurer and shall register as a political committee under s. 11.05. A parent corporation or association engaging solely in this activity is not subject to registration under s. 11.05, but shall register and file special reports on forms prescribed by the board disclosing its administrative and solicitation expenses on behalf of such fund. The reports shall be filed with the filing officer for the fund specified in s. 11.02 in the manner in which continuing reports are filed under s. 11.20 (4) and (8). A corporation or association may not expend more than \$500 annually for solicitation of contributions to a fund established under this subdivision.

(b) No political party, committee, group, candidate or individual may accept any contribution or disbursement made to or on behalf of such individual or entity which is prohibited by this section.

(2) (a) This section does not affect the right of any individual to support candidates and purposes of his own choosing or his right to subscribe to a regularly published organization newspaper.

(b) This section does not prohibit the publication of periodicals by a corporation or a cooperative in the regular course of its affairs which advise the members, shareholders or subscribers of the disadvantages or advantages to their interests of the election to office of persons espousing certain measures, without reporting such activity.

(c) This section does not apply to any labor organization which is incorporated under ch. 181 prior to January 1, 1978.

(3) A violation of this section by an officer or employe of a corporation is prima facie evidence of a violation by the corporation.

(4) Any corporation which violates this section shall forfeit double the amount of any penalty assessed under s. 11.60 (3).

(5) An action against a corporation pursuant to a violation of this section may be brought either in the circuit court for the county in which the registered office or principal place of business of the corporation is located, or in the circuit court for the county in which the violation is alleged to have occurred. The proceedings may be brought by the district attorney of either such county, by the attorney general or by the board.

(6) Any individual or campaign treasurer who receives funds in violation of this section shall promptly return such funds to the contributor or donate the funds to the common school

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fund or a charitable organization, at the treasurer's option.

(7) This section may not be construed to authorize any national bank or any corporation organized by authority of any law of congress to make a contribution or expenditure as defined by federal law in connection with any election to state or local office which is prohibited by federal law.

(8) (a) A corporation or association organized under ch. 185 which makes or accepts contributions or makes disbursements for the purpose of influencing the outcome of a referendum is a political group and shall comply with s. 11.23 and other applicable provisions of this chapter.

(b) Except as authorized in s. 11.05 (12) (b) and (13), prior to making any contribution to or disbursement on behalf of a political group which is expressly advocating the adoption or rejection of a referendum and prior to accepting any contribution or making any direct disbursement to expressly advocate adoption or rejection of a referendum, a corporation or association organized under ch. 185 shall register with the appropriate filing officer specified in s. 11.02 and appoint a treasurer. The registration form of the corporation or association under s. 11.05 shall designate an account separate from all other corporation or association accounts as a campaign depository, through which all moneys received or expended for the adoption or rejection of the referendum shall pass. The corporation or association shall file periodic reports under s. 11.20 providing the information required under s. 11.06 (1).

(c) Expenditures by a corporation or association to establish and administer a campaign depository of a political group need not be made through the depository and need not be reported.

History: 1973 c. 334; 1975 c. 93; 1977 c. 427; 1979 c. 328

Individual illegally furnishing funds from a corporate account may be convicted under 11.24 (1). *State v. Dreske*, 88 W (2d) 60, 276 NW (2d) 324 (Ct. App. 1979).

This section's prohibition against corporate political contributions and disbursements is broad and probably would bar, in most cases, purchases of advertising by a corporation in a political party publication. 65 Atty. Gen. 10.

See note to Art. I, s. 3, citing 68 Atty. Gen. 64.

11.40 Special privileges from public utilities. (1) In this section:

(a) "Public utility" means any corporation, company, individual or association which furnishes products or services to the public, and which is regulated under ch. 195 or 196, including but not limited to, railroads, telephone or telegraph companies and any company furnishing or producing heat, light, power or water.

(b) "Special privilege" or "privilege" means any thing of value not available to the general public. The term does not include compensation

or fringe benefits provided as a result of employment by a public utility to regular employes or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employes or pensioners of like status.

(2) No public utility or anyone connected therewith may offer or give any special privilege to any candidate for public office or any committee or its members or employes, or any individual under s. 11.06 (7), or to any 3rd party at the request of or for the advantage of any of them.

(3) No candidate for public office or any committee or member or employe thereof or any individual under s. 11.06 (7) may ask for or accept any special privilege from any public utility.

(4) This section does not apply to notaries public or to regular public utility employes or pensioners who are candidates for or hold public offices for which the annual compensation is not more than \$300 so long as the privilege does not exceed those extended to other regular employes or pensioners of the utility.

History: 1973 c. 334; 1975 c. 93; 1977 c. 29 s. 1656 (43); 1979 c. 328.

11.50 Wisconsin election campaign fund.

(1) DEFINITIONS. For the purposes of this section:

(a) "Eligible candidate" means any individual who is certified under s. 7.08 (2) (a) as a candidate in the spring election for justice or state superintendent, or an individual who receives at least 6% of the vote cast for all candidates on all ballots for any state office for which the individual is a candidate at the September primary and who is certified under s. 7.08 (2) (a) as a candidate for state office in the general election, or an individual who has been lawfully appointed and certified to replace either such individual on the ballot at the spring or general election; and who has qualified for a grant under sub. (2).

(b) "Fund" means the Wisconsin election campaign fund.

(c) "Grant" means a contribution received from the fund.

(2) PARTICIPATION; APPLICATION. (a) Any individual who desires to qualify as an eligible candidate may file an application with the board requesting approval to participate in the fund. The application shall be filed no later than the applicable deadline for filing nomination papers under s. 8.10 (2), 8.15 (1) or 8.20 (8) (a), no later than 4:30 p.m. on the 7th day after the primary in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day after appointment in the case of candidates appointed to fill

vacancies. The application shall contain a sworn statement that the candidate and his or her authorized agents have complied with the contribution limitations prescribed in s. 11.26 and the disbursement limitations prescribed in s. 11.31 at all times to which such limitations have applied to his or her candidacy and will continue to comply with such limitations at all times to which such limitations apply to his or her candidacy for the office in contest, except as authorized in par. (i).

(b) The board shall approve the application of an eligible candidate for participation if:

1. The application is timely;
2. The candidate is certified under s. 7.08 (2)

(a) to appear upon the spring or general election ballot;

3. The candidate has an opponent who is certified for placement on the election ballot as a candidate for the same office;

4. The financial reports filed by or on behalf of the candidate as of the date of the spring or September primary indicate that his or her statement filed with the application under par. (a) is true; and

5. The financial reports filed by or on behalf of the candidate as of the date of the spring or September primary indicate that the candidate has received at least the percentage of the amount of his or her total authorized disbursement limitation under s. 11.31 which is provided in this subdivision, from contributions of individuals, other than loans, which have been received during the period ending on the date of the spring primary and July 1 preceding such date, or the date of the September primary and January 1 preceding such date in the case of partisan candidates, which contributions are in the aggregate amount of \$100 or less, and which are fully identified and itemized as to the exact source thereof. Only the first \$100 of an aggregate contribution of more than \$100 may be counted toward the required percentage. For candidates identified in s. 11.26 (1) (a), the required percentage is 5%. For other candidates, the required percentage is 10%.

(c) If a candidate has not filed financial reports as of the date of the spring or September primary which indicate that he or she has met the qualification under par. (b) 5, the candidate may file a special report with the board. Such report shall be filed not later than the 7th day after the primary, and shall include all information required under s. 11.06 (1), including any supplementary information as to sources of contributions which may be necessary. The special report shall cover the period from the day after the last date covered on the candidate's most recent report, or from the date on which the first contribution was received or the first disburse-

ment was made, whichever is earlier, if the candidate has not previously filed a report, to the date of such report.

(d) For purposes of qualification under par. (b) 4 and 5, the financial reports of a former candidate are considered to be same as if filed by the candidate who is lawfully appointed to replace such candidate whenever a vacancy after nomination occurs.

(e) Whenever a candidate who files nomination papers is unopposed on the deadline for filing such papers but is later opposed by a write-in candidate who qualifies for ballot placement, the application deadline under par. (a) is the same for the candidate who files nomination papers as for his or her opponent.

(f) The board shall inform each candidate in writing of the approval or disapproval of the candidate's application, as promptly as possible after the date of the spring or September primary.

(g) An eligible candidate who voluntarily files an application to receive a grant in accordance with this subsection accepts and agrees to comply with the contribution limitations prescribed in s. 11.26 and the disbursement limitations imposed under s. 11.31 as binding upon himself or herself and his or her agents during the campaign as defined in s. 11.31 (7), as a precondition to receipt of a grant under this section, except as authorized in par. (i).

(h) An eligible candidate who files an application under par. (a) may file a written withdrawal of the application, together with a sworn statement that he or she will no longer subscribe to the statement filed with the application. A withdrawal of an application may be filed with the board no later than the 7th day after the day of the primary in which the person withdrawing the application is a candidate. If an application is withdrawn in accordance with this paragraph, the person withdrawing the application is no longer bound by the statement filed under par. (a) after the date of the withdrawal.

(i) Notwithstanding par. (g), if an eligible candidate who accepts a grant is opposed by a candidate in the spring or general election, and in the case of a candidate for a partisan office, the eligible candidate's opponent received at least 6% of the vote cast for all candidates for the same office on all ballots at the September primary, and the eligible candidate's opponent does not receive or accept a grant under this section in whole or in part, the eligible candidate is not bound by the pledge made in his or her application to adhere to the contribution limitation prescribed in s. 11.26 (10) and the disbursement limitation prescribed under s. 11.31.

(3) **NONPARTISAN CANDIDATES.** Annually on August 15, all moneys appropriated to the

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fund shall be apportioned as follows by the state treasurer:

(a) If an election for state superintendent is scheduled in the following year, 8% of the fund shall be placed in a superintendency account. From this account, an equal amount shall be disbursed to the campaign depository of each eligible candidate by the state treasurer.

(b) If an election for justice is scheduled in the following year, 8% of the fund shall be placed in a supreme court account. From this account, an equal amount shall be disbursed to the campaign depository of each eligible candidate by the state treasurer.

(c) The balance shall be apportioned under sub. (4).

(4) PARTISAN CANDIDATES. After apportionment under sub. (3), the remaining moneys shall constitute the partisan campaign account.

(a) In the partisan campaign account, 25% of the moneys shall be apportioned into an executive campaign account and 75% of the moneys shall be apportioned into a legislative campaign account.

(b) The executive campaign account shall be divided into accounts for each executive office as provided in this paragraph. The apportionment of moneys in the executive campaign account shall be made as follows:

1. Sixty-seven percent to be apportioned between all eligible candidates for governor.

2. Eight percent to be apportioned between all eligible candidates for lieutenant governor.

3. Seventeen percent to be apportioned between all eligible candidates for attorney general.

4. Four percent to be apportioned between all eligible candidates for state treasurer.

5. Four percent to be apportioned between all eligible candidates for secretary of state.

(c) The legislative campaign account shall be divided into a senate campaign account to receive 25% of the moneys, and an assembly campaign account to receive 75% of the moneys. Each account shall then be apportioned between all eligible candidates for the same office in the entire state. No apportionment shall be made by legislative district.

(d) Within the account established under pars. (b) and (c) for each office, the entire amount of all available moneys shall be apportioned equally to all eligible candidates.

(5) TIME OF DISBURSEMENT. The state treasurer shall make the disbursements to the campaign depository of each eligible candidate under subs. (3) and (4) by the end of the 3rd business day following notice from the board under s. 7.08 (2) (c). Eligible candidates for governor and lieutenant governor of the same political party may combine accounts if desired.

(6) EXCESS MONEYS. If the amounts which are to be apportioned to each eligible candidate under subs. (3) and (4) are more than the amount which a candidate may accept under sub. (9), or more than the amount which a candidate elects to accept under sub. (10), the excess moneys shall be retained in the fund.

(7) UTILIZATION. Grants distributed under this section may be utilized only for deposit in a campaign depository account under s. 11.10. Grants may be expended only for the purchase of services from a communications medium or printer, and for office supplies and postage.

(8) LAPSING GRANTS. All grants disbursed under sub. (5) remain the property of the state until disbursed or encumbered for a lawful purpose. All grants and all private contributions which are unspent and unencumbered by any candidate on the day after the election shall revert to the state, up to the total amount of grants awarded to the candidate and shall be deposited in the fund. Any other contributions in excess of this amount shall be treated in the same manner as excess contributions of candidates not receiving grants.

(9) LIMITATION ON CONTRIBUTIONS FROM FUND. The total grants available to any eligible candidate in an election may not exceed that amount which, when added to all other contributions accepted from sources other than individuals and committees of a political party, is equal to 45% of the disbursement level specified for the applicable office in the schedule under s. 11.31 (1). The board shall scrutinize accounts and reports and records kept under this chapter to assure that applicable limitations under ss. 11.26 (9) and 11.31 are not exceeded and any violation is reported. No candidate or campaign treasurer may accept grants exceeding the amount authorized by this subsection.

(10) VOLUNTARY LIMITATION. Any eligible candidate may by written request limit his or her participation in the fund to a lesser amount than that authorized under sub. (9).

(11) USE RESTRICTED. (a) No grant may be utilized in any primary or special election.

(b) No person may expend, authorize the expenditure of or incur any obligation to expend a grant for any purpose other than to advance the candidacy by lawful means of the specific candidate or candidates who qualify for the grant.

(c) No person may expend, authorize the expenditure of or incur any obligation to expend a grant except for a purpose authorized by sub. (7).

(d) No person may expend, authorize the expenditure of or incur any obligation to expend a grant or other contribution after the date of

any election where the moneys contained in such contribution are returnable to the state under sub. (8).

(e) No candidate may expend, authorize the expenditure of or incur any obligation to expend any grant if he or she violates the pledge required under sub. (2) (a) as a precondition to receipt of a grant, except as authorized in sub. (2) (i).

(f) No person may prepare or transmit to a registrant under this chapter or to the board any evidence which purports to demonstrate the amount or purpose for which a grant has been used if such evidence specifies an amount or purpose for which a payment is received other than the true amount or purpose.

(g) If any person violates pars. (a) to (f), such person shall be liable to the state in a civil action brought by the board for conversion, for treble the amount of the moneys wrongfully expended, and in addition is subject to penalties as provided in ss. 11.60 and 11.61.

(12) PROOF OF PAYMENT. No later than 30 days after each election in which a candidate receives any grant, the candidate or his or her campaign treasurer shall deliver or transmit to the board by first class mail, sufficient proof of payment for all disbursements made from grants distributed under this section. This subsection does not restrict the authority of the board to audit records under ss. 5.05 (2) and 13.94 (1) (k).

History: 1977 c. 107, 272; 1979 c. 328.

This section's limits on primary election campaign expenditures are constitutional. 67 Atty. Gen. 321

11.60 Civil penalties. (1) Any person, committee or group who violates this chapter may be required to forfeit not more than \$500 for each violation.

(2) In addition to the penalty under sub. (1), any person, committee or group who is delinquent in filing a report required by this chapter may be required to forfeit not more than \$50 or one per cent of the annual salary of the office for which the candidate is being supported or opposed, whichever is greater, for each day of delinquency.

(3) Notwithstanding sub. (1), whoever makes any contribution in violation of this chapter may be required to forfeit treble the amount of the contribution or portion thereof which is illegally contributed.

(4) Actions under this section arising out of an election for state office or a statewide referendum may be brought by the board or by the district attorney of the county where the violation is alleged to have occurred, except as specified in s. 11.38. Actions under this section arising out of an election for local office or local

referendum may be brought by the district attorney of the county where the violation is alleged to have occurred. If a violation concerns a district attorney or circuit judge or candidate for such offices, the action shall be brought by the attorney general. If a violation concerns the attorney general or a candidate for such office, the governor may appoint special counsel under s. 14.11 (2) to bring suit in behalf of the state. The counsel shall be independent of the attorney general and need not be a state employe at the time of appointment.

(5) Any elector may file a verified petition with the board or the appropriate district attorney or both where the authority is concurrent under sub. (4), requesting that civil action under this chapter be brought against any person, committee or group. The petition shall allege such facts as are within the knowledge of the petitioner to show probable cause that a violation of this chapter has occurred.

History: 1973 c. 334; 1977 c. 449; 1979 c. 328.

This is a civil penalty section even though some violations of it involve intent. State v. Dreske, 88 W (2d) 60, 276 NW (2d) 324 (Ct. App. 1979).

11.61 Criminal penalties; prosecution.

(1) (a) Whoever intentionally violates ss. 11.05 (1), (2), (2g) and (2r), 11.07 (1) and (5), 11.10 (1), 11.12 (5), 11.23 (6) and 11.24 (1) may be fined not more than \$10,000 or imprisoned not more than 3 years or both.

(b) Whoever intentionally violates s. 11.25, 11.26, 11.27 (1), 11.30 (1) or 11.38 where the intentional violation does not involve a specific figure, or where the intentional violation concerns a figure which exceeds \$100 in amount or value may be fined not more than \$10,000 or imprisoned not more than 3 years or both.

(c) Whoever intentionally violates any provision of this chapter other than those provided in par. (a) and whoever intentionally violates any provision under par. (b) where the intentional violation concerns a specific figure which does not exceed \$100 in amount or value may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

(2) Except as provided in s. 11.38 (5), all prosecutions under this section shall be conducted by the district attorney of the county where the violation is alleged to have occurred. In the event that the district attorney does not act upon a sworn complaint by any person within 60 days of the date on which such complaint is received, the attorney general may then conduct the prosecution under this section. If a violation concerns a district attorney or circuit judge or candidate for such offices, the prosecution shall be conducted by the attorney general. If a violation concerns the attorney general or a candidate for such office, the governor may

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appoint a special prosecutor under s. 14.11 (2) to conduct the prosecution in behalf of the state. The prosecutor shall be independent of the attorney general and need not be a state employe at the time of appointment.

(3) (a) If a successful candidate for public office, other than a candidate for the legislature, is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) or (b), or of any violation of ch. 12 under s. 12.60 (1) (a) committed during his or her candidacy, the court shall after entering judgment enter a supplemental judgment declaring a forfeiture of the candidate's right to office. The supplemental judgment shall be transmitted to the officer or agency authorized to issue the certificate of nomination or election to the office for which the person convicted is a candidate. If the candidate's term has not yet begun, the candidate shall not thereafter succeed to office. If the candidate's term has begun, the office shall become vacant. The office shall then be filled in the manner provided by law.

(b) If a successful candidate for the legislature is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) or (b), or of any violation of ch. 12 under s. 12.60 (1) (a) committed during his or her candidacy, the court shall after entering judgment certify its findings to the presiding officer of the house of the legislature to which the candidate was elected.

History: 1973 c. 334; 1975 c. 93 ss. 117, 119 (1); 1977 c. 449; 1979 c. 328.

Sub. (1) (a) does not require state to prove that defendant had actual knowledge of violated statute. *State v. Dreske*, 88 W (2d) 60, 276 NW (2d) 324 (Ct. App. 1979).

See note to 903.03, citing *Dreske v. Wis. Dept. of Health and Soc. Serv.* 483 F Supp. 783 (1980).

11.64 Defense fund authorized. (1) Any candidate or public official who is charged with or being investigated for a criminal violation of this chapter or ch. 12, or whose agent is so charged or investigated, may establish a defense fund for legal expenses, costs, fees and payments supporting agents or dependents of persons accused or convicted of criminal violations.

(2) No person may utilize a contribution received from a contributor to a campaign fund for a purpose under sub. (1) unless the authorization of the contributor is obtained. Notwithstanding s. 11.25, any contributor may authorize the transfer of all or part of a contribution from a campaign fund to a defense fund.

History: 1973 c. 334; 1975 c. 93.

11.66 Elector may compel compliance.

The board or any elector may sue for injunctive relief to compel compliance with this chapter. No bond is required where the board commences action. Before commencing any action concerning a state office or statewide referendum, an elector shall file a verified petition with the board alleging such facts as are within his or her knowledge to show probable cause that a violation has occurred or is occurring. If the board fails to commence action within 10 days of the filing of such petition, the elector may commence action. Separate from any other bond which may be required by the court, the elector shall be required to post a surety bond in an amount determined by the court sufficient to cover the actual costs, including reasonable attorney's fees, of both parties. If the elector's action is not successful, he or she shall pay the costs of the action.

History: 1973 c. 334; 1979 c. 328.