



## 1995 ASSEMBLY BILL 37

January 19, 1995 - Introduced by Representatives WALKER, FREESE and HANDRICK, cosponsored by Senator DRZEWIECKI. Referred to Committee on Elections and Constitutional Law.

1     **AN ACT to repeal** 11.26 (9) (a) and 11.26 (9) (c); **to renumber and amend** 11.12  
2           (6), 11.26 (9) (b) and 11.50 (9); **to amend** 11.06 (1) (a), 11.19 (1), 11.26 (13) and  
3           25.42; and **to create** 11.01 (14), 11.05 (3) (m), 11.095, 11.12 (6) (b), 11.26 (8m),  
4           11.30 (6), 11.31 (3n), 11.385 and 11.395 of the statutes; **relating to:** various  
5           changes in the campaign finance law.

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### *Analysis by the Legislative Reference Bureau*

This bill makes numerous changes in the campaign financing law. Significant changes include:

1. Under current law, disbursement (expenditure) levels are specified for candidates for various state and local offices. These levels become a binding limitation upon any candidate for state office who accepts a state grant from the Wisconsin election campaign fund or who agrees to be bound by the limitation, unless the candidate is opposed by a major opponent who could have qualified for a grant but declines to accept one. Current law also requires a committee or individual making disbursements independently of a candidate in support of or in opposition to a candidate for a state or local office to inform the appropriate filing officer within 24 hours of making such a disbursement, if the cumulative amount of such disbursements made by the committee or individual later than 15 days prior to a primary or election exceeds \$20. The bill authorizes a candidate to make disbursements exceeding statutory disbursement limits to the extent of independently incurred obligations and disbursements in opposition to his or her candidacy or in support of his or her opponent, if the obligations and disbursements exceed \$250 cumulatively. The bill also replaces the provision requiring reports of cumulative independent disbursements exceeding \$20 made later than 15 days prior to a primary or election with a provision that requires a committee which or an individual who makes disbursements or incurs obligations independently of a

candidate to inform the appropriate filing officer no later than 21 days (14 days in the case of a primary or election that is not held concurrently with the spring or September primary or spring or general election) prior to the activity which the committee or individual intends to fund with cumulative disbursements or obligations of more than \$250.

2. Current law limits the total contributions that a candidate for state or local office may accept from all political committees, including political party and legislative campaign committees, and from the Wisconsin election campaign fund to 65% of the value of the statutory disbursement level specified for the office which the candidate seeks. The total amount that a candidate may accept from committees other than political party and legislative campaign committees and from the Wisconsin election campaign fund is limited to 45% of that disbursement level. The bill:

a. Repeals the limitation on total contributions that a candidate may accept from all committees, including political party and legislative campaign committees, of 65% of the disbursement level for the office which the candidate seeks.

b. Decreases the limitation on total contributions that a candidate may accept from committees other than political party and legislative campaign committees from 45% of the disbursement level for the office which the candidate seeks to 33% of the disbursement level for that office. However, the bill does not change the limitation on the total grant that a candidate for state office may receive from the Wisconsin election campaign fund. Under the bill, grants from the Wisconsin election campaign fund are not subject to the 33% limitation.

3. The bill creates the following new prohibitions concerning political contributions:

a. The bill prohibits any individual or committee from making or transferring a contribution to an individual who is a candidate for a partisan state office which the individual holds at the time that the contribution is made or transferred, or to the personal campaign or authorized support committee of such a candidate, if the contribution is made in connection with any fund-raising event held in Dane County during the period between the first Monday in January of each odd-numbered year and the date of enactment of the biennial budget act. The prohibition does not apply to a contribution made to any individual who is a candidate for the office of district attorney or who represents a legislative district that is wholly or partly contained within Dane County, or to the personal campaign or authorized support committee of such an individual.

Currently, there is no restriction on the periods during which or the places in which such contributions may be made.

b. The bill prohibits a special interest ("political action") committee from making any contribution or contributions to another such committee exceeding \$5,000 within any biennial period starting on January 1 of an odd-numbered year and ending on December 31 of the following even-numbered year. The limitation does not apply to a nonresident committee to the extent that the committee receives contributions from a resident committee in the same biennium.

Violations are punishable by a forfeiture (civil penalty) of up to treble the amount of the contribution. Intentional violations are punishable by a fine of not more than \$1,000 or by imprisonment for not more than 6 months or both (a misdemeanor).

4. Under current law, a “conduit” is an individual or organization that receives a contribution and transfers the contribution to another individual or organization without exercising discretion as to the amount that is transferred and the individual to whom or the organization to which the transfer is made. The campaign financing reports filed by the candidate identify only the original contributor, not the conduit. The bill requires the campaign financing reports filed by candidates to identify any conduit from whom a contribution is received, as well as the original contributor.

5. Under current law, residual funds remaining when a person who is required to register under the campaign financing law disbands or ceases incurring obligations, making disbursements or accepting contributions may be used for any lawful political purpose, returned to the original contributors or donated to a charitable organization or the common school fund. The bill allows residual funds remaining when a registrant disbands or ceases incurring obligations, making disbursements or accepting contributions to be transferred to the Wisconsin election campaign fund.

6. The bill requires any paid telephone bank operator who or which contacts more than one potential voter for the purpose of asking any question concerning the preferences of the potential voters with respect to any candidate, political party or issue of public concern in relation to an election, or to present any information or viewpoint with respect to any candidate, political party or issue of public concern in relation to an election, to file a report with the elections board containing the text of any substantially identical question asked or statement made by the operator no later than 24 hours before the time that the operator makes more than one contact. The report must also include the names and addresses of the operator and the person who retained the operator, the election with respect to which the telephoning is conducted, and if the telephoning is not conducted on a statewide basis, the name of each jurisdiction or district within which the telephoning is conducted. Currently, there is no such requirement.

7. The bill requires any person who publishes, distributes or broadcasts a communication which advocates the election or defeat of a candidate for state or local office independently of any candidate who is supported or whose opponent is opposed to file with the state elections board a copy of the text of the communication no later than 24 hours before the time that the communication is first published, distributed or broadcast. Currently, there is no such requirement.

8. The bill prohibits any deduction from being made by an employer, or from being received by an employer or an employe organization, from the wages or reimbursements or allowances for expenses payable to an employe for the purpose of making or transferring a political contribution to a special interest (“political action”) committee in connection with a state or local election, unless the employe specifically authorizes the deduction in writing and the authorization is revocable by similar means. Currently, there is no such restriction.

With the exception of unlawful contributions, violations of the prohibitions or requirements created by the bill are punishable by a forfeiture (civil penalty) of not more than \$500 for each offense. Intentional violations are punishable by a fine of not more than \$1,000 or imprisonment for not more than 6 months, or both, for each offense (a misdemeanor).

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

1           **SECTION 1.** 11.01 (14) of the statutes is created to read:

2           11.01 **(14)** “Partisan state office” means the office of governor, lieutenant  
3 governor, secretary of state, state treasurer, attorney general, state senator, state  
4 representative to the assembly or district attorney.

5           **SECTION 2.** 11.05 (3) (m) of the statutes is created to read:

6           11.05 **(3)** (m) In the case of a personal campaign committee, the name of the  
7 candidate on whose behalf the committee was formed or intends to operate and the  
8 office or offices that the candidate seeks.

9           **SECTION 3.** 11.06 (1) (a) of the statutes is amended to read:

10           11.06 **(1)** (a) An itemized statement giving the date, full name and street  
11 address of each contributor who has made a contribution in excess of \$20, or whose  
12 contribution if \$20 or less aggregates more than \$20 for the calendar year, together  
13 with the amount of the contribution and the cumulative total contributions made by  
14 that contributor for the calendar year and, if the contributor made the contribution  
15 through a conduit, the identity of the conduit.

16           **SECTION 4.** 11.095 of the statutes is created to read:

17           **11.095 Regulation of certain telephoning activities.** **(1)** In this section,  
18 “telephone bank operator” means any person who, for remuneration, places or  
19 directs the placement of telephone calls to individuals.

1           **(2)** Each telephone bank operator who or which contacts, by telephone, more  
2 than one potential voter for the purpose of asking questions concerning the  
3 preferences of the potential voters with respect to any candidate, political party or  
4 issue of public concern in relation to an election or to present any information or  
5 viewpoint with respect to any candidate, political party or issue of public concern in  
6 relation to an election shall file a report with the board containing the text of any  
7 substantially identical question asked or statement made by the operator to more  
8 than one potential voter, in such a manner that the board receives the report no later  
9 than 24 hours before the time that the operator makes an initial contact with more  
10 than one potential voter during which the question is asked or the statement is made.  
11 The report shall include the name and address of the telephone bank operator; the  
12 name and address of the individual, committee or group who or which retained the  
13 telephone bank operator; the name and date of the election with respect to which the  
14 telephoning is conducted; and if the telephoning is not conducted on a statewide  
15 basis, the name of each jurisdiction or district within which the telephoning is  
16 conducted. No person is required to file a report required under this section  
17 containing any information that has been previously filed by that person or another  
18 person.

19           **SECTION 5.** 11.12 (6) of the statutes is renumbered 11.12 (6) (a) and amended  
20 to read:

21           11.12 **(6)** (a) If any Except as provided in par. (b), if an individual or committee  
22 incurs or intends to incur an obligation or makes or intends to make a disbursement  
23 of more than \$20 \$250 cumulatively is made to advocate the election or defeat of a  
24 clearly identified candidate by an individual or committee later than 15 days prior  
25 to a primary or election in which the candidate's name appears on the ballot without

1 cooperation or consultation with a candidate or agent or authorized committee of a  
2 candidate who is supported or whose opponent is opposed, and not in concert with  
3 or at the request or suggestion of such a candidate, agent or committee, the  
4 individual or treasurer of the committee shall, ~~within 24 hours of making~~ no later  
5 than 21 days prior to the activity intended to be funded by the incurred obligation  
6 or disbursement, inform the appropriate filing officer of the information required  
7 under s. 11.06 (1) in such manner as the board may prescribe. The information shall  
8 also be included in the next regular report of the individual or committee under s.  
9 11.20. For purposes of this subsection, obligations and disbursements cumulate  
10 beginning with the day after the last date covered on the preprimary or preelection  
11 report and ending with the day before the primary or election. Upon receipt of a  
12 report under this subsection paragraph, the filing officer shall, within 24 hours of  
13 receipt, mail a copy of the report to all candidates for any office in support of or  
14 opposition to one of whom a an incurred obligation or disbursement identified in the  
15 report is to be made.

16 **SECTION 6.** 11.12 (6) (b) of the statutes is created to read:

17 11.12 (6) (b) If the independently incurred obligation or disbursement  
18 described in par. (a) relates to a special primary or election not held concurrently with  
19 the spring or September primary or the spring or general election, the individual who  
20 or committee which incurs or intends to incur the obligation or makes or intends to  
21 make the disbursement shall inform the appropriate filing officer no later than 14  
22 days prior to the activity intended to be funded by the incurred obligation or  
23 disbursement.

24 **SECTION 7.** 11.19 (1) of the statutes is amended to read:

1           11.19 (1) Whenever any registrant disbands or determines that obligations will  
2 no longer be incurred, and contributions will no longer be received nor disbursements  
3 made during a calendar year, and the registrant has no outstanding incurred  
4 obligations, the registrant shall file a termination report with the appropriate filing  
5 officer. Such report shall indicate a cash balance on hand of zero at the end of the  
6 reporting period and shall indicate the disposition of residual funds. Residual funds  
7 may be used for any political purpose not prohibited by law, returned to the donors  
8 in an amount not exceeding the original contribution, transferred to the board for  
9 crediting to the Wisconsin election campaign fund, or donated to a charitable  
10 organization or the common school fund. The report shall be filed and certified as  
11 were previous reports, and shall contain the information required by s. 11.06 (1). If  
12 a termination report or suspension report under sub. (2) is not filed, the registrant  
13 shall continue to file periodic reports with the appropriate filing officer, no later than  
14 the dates specified in s. 11.20. This subsection does not apply to any registrant  
15 making an indication under s. 11.05 (2r).

16           **SECTION 8.** 11.26 (8m) of the statutes is created to read:

17           11.26 (8m) No committee, other than a personal campaign committee, support  
18 committee under s. 11.18, political party committee or legislative campaign  
19 committee, may make any contribution or contributions, directly or indirectly, to  
20 another committee, other than a personal campaign committee, support committee  
21 under s. 11.18, political party committee or legislative campaign committee  
22 exceeding a total of \$5,000 in value in any biennium. This limitation does not apply  
23 to any contribution or contributions made by a committee which does not maintain  
24 an address within this state, to the extent that the committee receives any  
25 contribution or contributions in a corresponding amount from a committee which

1 maintains an address in this state in the same biennium. In this subsection, a  
2 biennium commences with January 1 of each odd-numbered year and ends with  
3 December 31 of the following even-numbered year.

4 **SECTION 9.** 11.26 (9) (a) of the statutes is repealed.

5 **SECTION 10.** 11.26 (9) (b) of the statutes is renumbered 11.26 (9) and amended  
6 to read:

7 11.26 (9) No individual who is a candidate for state or local office may receive  
8 and accept more than 45% 33% of the value of the total disbursement level, as  
9 determined under s. 11.31 (1), for the office for which he or she is a candidate during  
10 any primary and election campaign combined from all committees other than  
11 political party and legislative campaign committees subject to a filing requirement.

12 **SECTION 11.** 11.26 (9) (c) of the statutes is repealed.

13 **SECTION 12.** 11.26 (13) of the statutes is amended to read:

14 11.26 (13) ~~Except as provided in sub. (9), contributions~~ Contributions received  
15 from the Wisconsin election campaign fund are not subject to limitation by this  
16 section.

17 **SECTION 13.** 11.30 (6) of the statutes is created to read:

18 11.30 (6) Every person who publishes, distributes or broadcasts, or causes to  
19 be published, distributed or broadcast, any communication which advocates the  
20 election or defeat of a clearly identified candidate without cooperation or  
21 consultation with a candidate or agent or authorized committee of a candidate who  
22 is supported or whose opponent is opposed, and not in concert with or at the request  
23 or suggestion of such a candidate, agent or committee shall file with the board, in  
24 writing, a copy of the text of the communication, together with the name of the person  
25 who is publishing, distributing or broadcasting the communication or causing it to

1 be published, distributed or broadcast and that person's address, in such manner  
2 that the text is received by the board no later than 24 hours prior to the time that the  
3 communication is first published, distributed or broadcast. No person is required to  
4 file the text of a communication with the board under this subsection that has been  
5 previously filed by that person or another person.

6 **SECTION 14.** 11.31 (3n) of the statutes is created to read:

7 11.31 **(3m)** INDEPENDENT DISBURSEMENTS; EXCEPTION. Notwithstanding subs. (1)  
8 and (2), if any incurred obligation or disbursement of more than \$250 cumulatively  
9 is incurred or made by an individual or committee to advocate the election or defeat  
10 of a clearly identified candidate whose name appears on the ballot at an election and  
11 the incurred obligation or disbursement is incurred or made without cooperation or  
12 consultation with any candidate who is supported or whose opponent is opposed or  
13 such a candidate's agent or authorized committee, and not in concert with, or at the  
14 request or suggestion of, any such candidate, agent or authorized committee, then  
15 each candidate whose name appears on the same ballot and who is opposed or whose  
16 opponent is supported by that advocacy may make or authorize total disbursements  
17 from the campaign treasury in excess of the amount prescribed in sub. (1) but not to  
18 exceed the amount prescribed in sub. (1) plus the total amount of incurred  
19 obligations and disbursements not previously reported as incurred obligations that  
20 are reported to the appropriate filing officer under s. 11.12 (6). For the purposes of  
21 this subsection, obligations and disbursements cumulate as provided in s. 11.12 (6)  
22 (a).

23 **SECTION 15.** 11.385 of the statutes is created to read:

24 **11.385 Negative option deductions prohibited.** (1) In this section:

1 (a) "Employe organization" means any association consisting of 2 or more  
2 employes of one or more employers.

3 (b) "Employer" includes the state and every local governmental unit as defined  
4 in s. 16.97 (7).

5 (2) No employer may deduct any amount from the wages or allowances or  
6 reimbursements for expenses payable to an employe for the purpose of making or  
7 transferring a contribution to a committee, other than a political party, legislative  
8 campaign, or personal campaign committee or a support committee under s. 11.18,  
9 without a written authorization, signed by the employe, which specifically  
10 authorizes the deduction for the purpose of making or transferring such a  
11 contribution.

12 (3) No employer or employe organization may make or transfer a contribution  
13 to a committee other than a political party, legislative campaign or personal  
14 campaign committee or support committee under s. 11.18 unless the deduction is  
15 made in compliance with sub. (2).

16 (4) Every employer who makes a deduction and every employer and employe  
17 organization to which a deduction is payable for the purpose of making a contribution  
18 specified in sub. (3) shall provide to the employe who authorizes the deduction to be  
19 made an opportunity to terminate the deduction upon written notice to the employer  
20 making the deduction, or to the employer or employe organization for which the  
21 deduction is made. A termination of an authorization under this subsection is  
22 effective at such time as may be agreed between the employe and the employe's  
23 employer or the employer or employe organization for which the deduction is made,  
24 but in no case later than the number of days after notice of termination if filed equal

1 to the interval between regular payments to the employe from which the deduction  
2 is taken.

3 **SECTION 16.** 11.395 of the statutes is created to read:

4 **11.395 Certain contributions in Dane County prohibited.** No individual  
5 or committee may make or transfer a contribution to an individual who is a candidate  
6 for a partisan state office which the individual holds at the time the contribution is  
7 made or transferred, to the personal campaign committee of such a candidate or to  
8 the support committee of such a candidate authorized under s. 11.05 (3) (p), if the  
9 contribution is made in connection with any fund-raising event held in Dane County  
10 during the period commencing on the first Monday in January of each  
11 odd-numbered year and ending with the date of enactment of the biennial budget  
12 act. This section does not apply to a contribution made to an individual who is a  
13 candidate for the office of district attorney or who represents a legislative district  
14 that is wholly or partly contained within Dane County, to the personal campaign  
15 committee of such an individual or to the support committee of such an individual  
16 authorized under s. 11.05 (3) (p).

17 **SECTION 17.** 11.50 (9) of the statutes is renumbered 11.50 (9) (a) and amended  
18 to read:

19 11.50 (9) (a) The total grant available to an eligible candidate may not exceed  
20 that amount which, when added to all other contributions accepted from sources  
21 other than individuals, political party committees and legislative campaign  
22 committees, is equal to 45% of the disbursement level specified for the applicable  
23 office, as determined under s. 11.31 (1).

24 (b) The board shall scrutinize accounts and reports and records kept under this  
25 chapter to assure that applicable limitations under ~~ss. 11.26 (9) and s.~~ 11.31 are not

1 exceeded and any violation is reported. No candidate or campaign treasurer may  
2 accept grants exceeding the amount authorized by this subsection.

3 **SECTION 18.** 25.42 of the statutes is amended to read:

4 **25.42 Wisconsin election campaign fund.** All moneys appropriated under  
5 s. 20.855 (4) (b) together with all moneys credited under s. 11.19 (1), all moneys  
6 reverting to the state under s. 11.50 (8) and all gifts, bequests and devises received  
7 under s. 11.50 (13) constitute the Wisconsin election campaign fund, to be expended  
8 for the purposes of s. 11.50. All moneys in the fund not disbursed by the state  
9 treasurer shall continue to accumulate indefinitely.

10 **SECTION 19. Effective dates.** This act takes effect on the day after  
11 publication, except as follows:

12 (1) The treatment of section 11.06 (1) (a) of the statutes takes effect on January  
13 1, 1996.

14 (2) The treatment of section 11.385 of the statutes takes effect on the first day  
15 of the 2nd month commencing after publication.

16 (END)