

1999 ASSEMBLY BILL 413

July 15, 1999 – Introduced by Representatives POCAN, BERCEAU, MILLER, BLACK, BOYLE, HUBER, LA FAVE, J. LEHMAN and WASSERMAN, cosponsored by Senators RISSER and CLAUSING. Referred to Committee on Campaigns and Elections.

1 **AN ACT to create** 7.19, 7.21 (1m), 11.21 (17) and 11.55 of the statutes; **relating**
2 **to:** county, city, town and village authority to create local elections boards and
3 to regulate the financing of campaigns for county, city, town and village offices,
4 duties of municipal and county boards of election commissioners and granting
5 rule-making authority.

Analysis by the Legislative Reference Bureau

Currently, state law regulates the financing of campaigns for both state and local offices. Under current law, neither a county nor a town has authority to regulate the financing of campaigns for local office. A city and a village may have this authority under constitutional home rule powers if the subject of the particular city ordinance is considered to be a “local affair”. This bill specifically authorizes a county, city, town or village to enact ordinances regulating the financing of campaigns for county, city, town or village office, respectively. An ordinance enacted under this bill becomes effective in the county, city, town or village after the state elections board (board) certifies that the ordinance is in compliance with this bill. The significant aspects of the authority granted under this bill include:

Local regulation of campaign contributions

Current law limits the amount of contributions that may be given to and accepted by a candidate for local office. The maximum amount that an individual may contribute to a local campaign is the greater of \$250 or one cent times the

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population of the jurisdiction for which the candidate seeks office, but not more than \$3,000. The maximum amount that a committee other than a political party committee or legislative campaign committee may contribute to a local campaign is the greater of \$200 or three-fourths of one cent times the population of the jurisdiction for which the candidate seeks office, but not more than \$2,500. Current law also prohibits an individual from contributing an aggregate total of more than \$10,000 in a calendar year to all candidates for state and local office. Currently, for the purpose of determining compliance with campaign finance laws, a contribution transferred from a conduit is treated as a contribution from the original contributor.

In addition, current law limits the aggregate amount of contributions that a candidate for local office may accept from all political committees, including political party committees. For candidates for county office in a county with a population of 500,000 or more (Milwaukee County), these maximum aggregate amounts are approximately as follows:

- (a) County executive, \$175,200.
- (b) County supervisor, \$11,200.
- (c) Other county offices, \$70,100.

For candidates for city office in a first class city (currently only Milwaukee), these maximum aggregate amounts are approximately as follows:

- (a) Mayor, \$175,200.
- (b) City attorney, \$105,100.
- (c) Alderperson, \$11,200.
- (d) Other city offices, \$70,100.

For candidates for local office in a jurisdiction with a population of less than 500,000, these maximum aggregate amounts are approximately 65% of the greater of \$1,075, 53.91% of the annual salary for the office, or the product of \$32.35 times the population of the jurisdiction for which the candidate seeks office. However, these maximum aggregate amounts may not be more than \$28,000.

Furthermore, current law limits the aggregate amount of contributions that a candidate for local office may accept from committees other than political party and legislative campaign committees. For candidates for county office in a county with a population of 500,000 or more, these maximum aggregate amounts are approximately as follows:

- (a) County executive, \$121,300.
- (b) County supervisor, \$7,800.
- (c) Other county offices, \$48,500.

For candidates for city office in a first class city (currently only Milwaukee), these maximum aggregate amounts are approximately as follows:

- (a) Mayor, \$121,300.
- (b) City attorney, \$72,800.
- (c) Alderperson, \$7,800.
- (d) Other city offices, \$48,500.

For candidates for local office in a jurisdiction with a population of less than 500,000, these maximum aggregate amounts are approximately 45% of the greater of \$1,075, 53.91% of the annual salary for the office, or the product of \$32.35 times

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the population of the jurisdiction for which the candidate seeks office. However, these maximum aggregate amounts may not be more than \$19,400.

This bill permits a county, city, town or village to enact an ordinance that reasonably limits the making and acceptance of contributions with respect to elections for county, city, town or village office, respectively. The ordinance may prohibit a candidate or a committee from accepting any contribution made or transferred in violation of the ordinance. In addition, similar to current law, the ordinance may reasonably limit the aggregate amount of contributions that a candidate may accept from committees. Similar to current law, the ordinance may also reasonably limit the amount of contributions that an individual or a committee may make with respect to a particular election and may limit the aggregate amount of contributions that an individual may make in a calendar year with respect to all elections for county, city, town or village office, as is applicable. An ordinance enacted by a county may exempt from any limitation on contributions created under the ordinance contributions from a political party committee. Unlike current law, however, the maximum amount of allowable individual or committee contributions under the ordinance may be less than the maximum amount allowed under current law. In addition, unlike current law, the ordinance may limit the total amount of contributions that may be transferred by a conduit with respect to elections for county, city, town or village office.

Local public financing of campaigns for local office

This bill permits a county, city, town or village to enact an ordinance appropriating money to pay for campaign expenses of candidates for county, city, town or village office, respectively. The ordinance may impose reasonable qualifications that a candidate must meet in order to receive funding under the ordinance. The ordinance also may require a candidate, as a condition of receiving funding under the ordinance, to agree to limit the candidate's contributions to his or her own campaign, the candidate's campaign spending or both.

Enforcement of local campaign finance ordinances

Under current law, every city and county with a population of greater than 500,000 must establish a city or county board of election commissioners. The city or county board of election commissioners has general authority to administer elections in the city or county. For example, with certain exceptions, a city or county board of election commissioners is required to carry out all powers and duties assigned to the municipal or county clerks or the city or county board of canvassers under the election laws. Current law does not authorize a city or county with a population of 500,000 or less to establish a board of election commissioners.

This bill permits a city or county that enacts a local campaign finance ordinance under this bill and that has a population of 500,000 or less to create a local elections board to enforce the ordinance. In addition, this bill requires a city or county that enacts a local campaign finance ordinance under this bill and that has a population that is greater than 500,000 to enact an ordinance requiring the city or county board of election commissioners to enforce the local campaign finance ordinance. The ordinance providing for enforcement by either the local elections board or the city or county board of election commissioners (enforcement ordinance) may include

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provisions authorizing the local elections board or the board of election commissioners to do any of the following:

- (a) Investigate any alleged violation of the local campaign finance ordinance.
- (b) Receive and hear any verified complaint alleging a violation of the local campaign finance ordinance.
- (c) Issue subpoenas and administer oaths.
- (d) Refer any complaint or matter investigated by it to the appropriate prosecuting attorney.
- (e) Issue a formal opinion, upon request, regarding the application of the local campaign finance ordinance. Under the bill, the person requesting the formal opinion is not subject to prosecution under the ordinance for acting in accordance with the opinion if the material facts are as stated in the opinion.

In addition, the enforcement ordinance may direct the corporation counsel, or the district attorney in a county that does not have a corporation counsel, to provide counsel to a local elections board created by a county or to a county board of election commissioners regarding the administration of a local campaign finance ordinance enacted under this bill. The enforcement ordinance may also require a city, town or village attorney to provide similar counsel to a city board of election commissioners or to a local elections board created by a city, town or village, respectively. Furthermore, the enforcement ordinance may direct the county, city, town or village clerk to provide administrative support services to the local elections board or city or county board of election commissioners.

Local campaign finance registration and reporting

Under current law, with certain limited exceptions, any candidate for local office and any organization or individual acting in support of or in opposition to any candidate for local office must file a registration statement and various campaign finance reports with the clerk or board of election commissioners in the most populous jurisdiction for which the candidate seeks office. This bill allows a county, city, town or village to enact an ordinance requiring any organization which or individual who takes certain actions regarding the financing of an election for county, city, town or village office to provide the county, city, town or village with a copy of any registration statement or campaign finance report that, under current law, the organization or individual files with the board.

In addition, this bill allows a county, city, town or village to enact an ordinance requiring electronic filing of any campaign finance reports filed with the county, city, town or village. This bill requires a county, city, town or village enacting an electronic filing ordinance to provide an exception from electronic filing for indigent persons. Currently, registrants who or which are required to file campaign finance reports with the board in an electronic format may purchase the necessary computer software from the board. This bill requires the board also to sell a copy of this software to each registrant who is required to file electronically with a county, city, town or village.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 7.19 of the statutes is created to read:

2 **7.19 Local elections board. (1)** Any county or city having a population of
3 500,000 or less and any town or village may enact an ordinance establishing a local
4 elections board to oversee elections for county, city, town or village office, respectively.
5 The ordinance shall specify the membership and the method of appointment and
6 terms of the members.

7 **(2)** An ordinance enacted under this section may contain any of the following
8 provisions:

9 (a) A provision authorizing the local elections board, on its own motion, to
10 investigate any alleged violation of an ordinance enacted under s. 11.55, with respect
11 to an election within the jurisdiction of the local elections board.

12 (b) A provision authorizing the local elections board to receive and hear any
13 verified complaint alleging a violation of an ordinance enacted under s. 11.55, with
14 respect to an election within the jurisdiction of the local elections board. The
15 ordinance may permit the local elections board to summarily dismiss any complaint
16 that it finds to be without merit.

17 (c) A provision authorizing a local elections board created by a county to refer
18 any complaint or matter investigated by it to the corporation counsel, or to the
19 district attorney if the county does not have a corporation counsel, or authorizing a
20 local elections board created by a city, town or village to refer any complaint or matter
21 investigated by it to the city, town or village attorney, respectively.

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1 (d) A provision authorizing the local elections board to issue subpoenas and
2 administer oaths for the purpose of carrying out its functions.

3 (e) A provision empowering the local elections board to issue a formal, written
4 opinion concerning the application of an ordinance enacted under s. 11.55 with
5 respect to an election within the jurisdiction of the local elections board to any person
6 upon request. No person acting in good faith upon a formal opinion issued to the
7 person by the local elections board is subject to civil prosecution for so acting, if the
8 material facts are as stated in the opinion request.

9 (f) A provision directing the corporation counsel, or the district attorney if a
10 county does not have a corporation counsel, to provide counsel regarding the
11 administration of an ordinance enacted under s. 11.55 to a local elections board
12 created by a county or directing the city, town or village attorney to provide counsel
13 regarding the administration of an ordinance enacted under s. 11.55 to a local
14 elections board created by a city, town or village, respectively.

15 (h) A provision directing the county, city, town or village clerk to provide
16 administrative support services to a local elections board created by a county, city,
17 town or village, respectively.

18 **(3)** The creation of a local elections board under sub. (1) does not affect the
19 statutory authority or functions of the district attorney or the county, city, town or
20 village clerk.

21 **SECTION 2.** 7.21 (1m) of the statutes is created to read:

22 **7.21 (1m)** If the city council or county board enacts an ordinance under s. 11.55
23 regarding the financing of elections for city or county offices, the city council or
24 county board shall, by ordinance, authorize the municipal or county board of election
25 commissioners to enforce the ordinance enacted under s. 11.55. An ordinance

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1 enacted under this subsection may contain provisions with regard to the activities
2 and support of the municipal or county board of election commissioners as are
3 allowed under s. 7.19 (2) with regard to the activities and support of a local elections
4 board.

5 **SECTION 3.** 11.21 (17) of the statutes is created to read:

6 11.21 (17) Provide a copy of the software specified under sub. (16) to any person
7 who is required to submit campaign finance reports in electronic format under an
8 ordinance enacted under s. 11.55 (3) (c). The board shall fix the price of software
9 provided under this subsection at an amount that may not exceed cost.

10 **SECTION 4.** 11.55 of the statutes is created to read:

11 **11.55 Local regulation of campaign financing. (1) REASONABLE LIMITATION**
12 **ON CONTRIBUTIONS.** (a) *Elections for county office.* The board of supervisors of any
13 county may, by ordinance, regulate the making and acceptance of contributions with
14 respect to elections for county office. The ordinance may reasonably limit the
15 contributions that an individual or a committee may make with respect to an election
16 for county office and may reasonably limit the total contributions that an individual
17 may make in a calendar year with respect to all elections for county office. The
18 maximum amount of contributions that an individual or committee may make under
19 the ordinance may be less than the maximum amount for that contributor under s.
20 11.26 (1) (d), (2) (e) or (4). The ordinance may limit the total contributions that may
21 be transferred by a conduit with respect to an election for county office. The
22 ordinance may also prohibit a candidate or a committee from accepting any
23 contribution made or transferred in violation of the ordinance. In addition, the
24 ordinance may reasonably limit the aggregate amount of contributions that a
25 candidate for county office may accept from committees. The maximum aggregate

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1 amount of contributions that a candidate may accept from committees under the
2 ordinance may be less than the maximum amount for that candidate under s. 11.26
3 (9). The ordinance may exempt from any limitation on contributions created under
4 the ordinance contributions from a political party committee.

5 (b) *Elections for city office.* The common council of any city may, by ordinance,
6 regulate the making and acceptance of contributions with respect to elections for city
7 office. The ordinance may reasonably limit the contributions that an individual or
8 a committee may make with respect to an election for city office any may reasonably
9 limit the total contributions that an individual may make in a calendar year with
10 respect to all elections for city office. The maximum amount of contributions that an
11 individual or committee may make under the ordinance may be less than the
12 maximum amount for that contributor under s. 11.26 (1) (d), (2) (e) or (4). The
13 ordinance may limit the total contributions that may be transferred by a conduit with
14 respect to an election for city office. The ordinance may also prohibit a candidate or
15 a committee from accepting any contribution made or transferred in violation of the
16 ordinance. In addition, the ordinance may reasonably limit the aggregate amount
17 of contributions that a candidate for city office may accept from committees. The
18 maximum aggregate amount of contributions that a candidate may accept from
19 committees under the ordinance may be less than the maximum amount for that
20 candidate under s. 11.26 (9).

21 (c) *Elections for town office.* The board of supervisors of any town may, by
22 ordinance, regulate the making and acceptance of contributions with respect to
23 elections for town office. The ordinance may reasonably limit the contributions that
24 an individual or a committee may make with respect to an election for town office and
25 may reasonably limit the total contributions that an individual may make in a

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1 calendar year with respect to all elections for town office. The maximum amount of
2 contributions that an individual or committee may make under the ordinance may
3 be less than the maximum amount for that contributor under s. 11.26 (1) (d), (2) (e)
4 or (4). The ordinance may limit the total contributions that may be transferred by
5 a conduit with respect to an election for town office. The ordinance may also prohibit
6 a candidate or a committee from accepting any contribution made or transferred in
7 violation of the ordinance. In addition, the ordinance may reasonably limit the
8 aggregate amount of contributions that a candidate for town office may accept from
9 committees. The maximum aggregate amount of contributions that a candidate may
10 accept from committees under the ordinance may be less than the maximum amount
11 for that candidate under s. 11.26 (9).

12 (d) *Elections for village office.* The board of trustees of any village may, by
13 ordinance, regulate the making and acceptance of contributions with respect to
14 elections for village office. The ordinance may reasonably limit the contributions
15 that an individual or a committee may make with respect to an election for village
16 office and may reasonably limit the total contributions that an individual may make
17 in a calendar year with respect to all elections for village office. The maximum
18 amount of contributions that an individual or committee may make under the
19 ordinance may be less than the maximum amount for that contributor under s. 11.26
20 (1) (d), (2) (e) or (4). The ordinance may limit the total contributions that may be
21 transferred by a conduit with respect to an election for village office. The ordinance
22 may also prohibit a candidate or a committee from accepting any contribution made
23 or transferred in violation of the ordinance. In addition, the ordinance may
24 reasonably limit the aggregate amount of contributions that a candidate for village
25 office may accept from committees. The maximum aggregate amount of

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1 contributions that a candidate may accept from committees under the ordinance may
2 be less than the maximum amount for that candidate under s. 11.26 (9).

3 **(2) ELECTION CAMPAIGN FUND.** The board of supervisors of any county or town,
4 the common council of any city or the board of trustees of any village may, by
5 ordinance, provide appropriations to pay for any lawful disbursements made by a
6 candidate for county, town, city or village office, respectively. An ordinance enacted
7 under this subsection may establish reasonable qualifications that a candidate must
8 meet to receive funding from the county, town, city or village. An ordinance enacted
9 under this subsection may require a candidate to agree, as a condition of receiving
10 funding, that he or she will make no contributions to his or her own campaign, no
11 disbursements or neither contributions to his or her own campaign nor
12 disbursements, in excess of an aggregate amount specified in the ordinance. The
13 aggregate amount of disbursements specified in the ordinance may be less than the
14 applicable amount specified for that candidate under s. 11.31 (1) (g) or (h).

15 **(3) ADMINISTRATION.** (a) *County registration and reporting.* The board of
16 supervisors of any county may, by ordinance, require any committee, group or
17 individual who or which is required to file a registration statement or report under
18 this chapter and who or which makes, transfers or accepts contributions, incurs
19 obligations or makes disbursements with respect to a county referendum or an
20 election for county office but for whom or which the county clerk is not the filing
21 officer under s. 11.02 or 11.20 to file with the county clerk by no later than the date
22 provided for filing the registration statement under s. 11.05 (12) (b) a copy of any
23 registration statement filed by the committee, group or individual and to file with the
24 county clerk by no later than the date provided for filing the report under s. 11.12 (5)
25 or (6) or 11.20 a copy of any report filed by the committee, group or individual.

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1 (b) *City registration and reporting.* The common council of any city may, by
2 ordinance, require any committee, group or individual who or which is required to
3 file a registration statement or report under this chapter and who or which makes,
4 transfers or accepts contributions, incurs obligations or makes disbursements with
5 respect to a city referendum or an election for city office but for whom or which the
6 city clerk is not the filing officer under s. 11.02 or 11.20 to file with the city clerk by
7 no later than the date provided for filing the registration statement under s. 11.05
8 (12) (b) a copy of any registration statement filed by the committee, group or
9 individual and to file with the city clerk by no later than the date provided for filing
10 the report under s. 11.12 (5) or (6) or 11.20 a copy of any report filed by the committee,
11 group or individual.

12 (c) *Town registration and reporting.* The board of supervisors of any town may,
13 by ordinance, require any committee, group or individual who or which is required
14 to file a registration statement or report under this chapter and who or which makes,
15 transfers or accepts contributions, incurs obligations or makes disbursements with
16 respect to a town referendum or an election for town office but for whom or which the
17 town clerk is not the filing officer under s. 11.02 or 11.20 to file with the town clerk
18 by no later than the date provided for filing the registration statement under s. 11.05
19 (12) (b) a copy of any registration statement filed by the committee, group or
20 individual and to file with the town clerk by no later than the date provided for filing
21 the report under s. 11.12 (5) or (6) or 11.20 a copy of any report filed by the committee,
22 group or individual.

23 (d) *Village registration and reporting.* The board of trustees of any village may,
24 by ordinance, require any committee, group or individual who or which is required
25 to file a registration statement or report under this chapter and who or which makes,

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1 transfers or accepts contributions, incurs obligations or makes disbursements with
2 respect to a village referendum or an election for village office but for whom or which
3 the village clerk is not the filing officer under s. 11.02 or 11.20 to file with the village
4 clerk by no later than the date provided for filing the registration statement under
5 s. 11.05 (12) (b) a copy of any registration statement filed by the committee, group
6 or individual and to file with the village clerk by no later than the date provided for
7 filing the report under s. 11.12 (5) or (6) or 11.20 a copy of any report filed by the
8 committee, group or individual.

9 (e) *Local filing of campaign finance reports; electronic format.* The board of
10 supervisors of any county or town, the common council of any city or the board of
11 trustees of any village may, by ordinance, require a campaign finance report filed
12 with the county clerk, town clerk, city clerk or village clerk, respectively, to be filed
13 by means of electronic transmission. An ordinance under this paragraph shall
14 require a person to use software obtained from the elections board under s. 11.21 (17).
15 The ordinance shall provide an exception from filing by means of electronic
16 transmission for an indigent person. The ordinance may provide an exception from
17 filing by means of electronic transmission for a person who or which accepts
18 contributions in an aggregate amount that is less than an amount specified in the
19 ordinance. The ordinance may require a person filing by means of electronic
20 transmission to file a signed copy of the report recorded on a medium specified in the
21 ordinance with the county clerk, town clerk, city clerk or village clerk by no later than
22 the date prescribed for filing the report under the ordinance.

23 (f) *Penalties determined by local governments.* The board of supervisors of any
24 county or town, the common council of any city or the board of trustees of any village
25 may, by ordinance, provide for a civil penalty for any violation of an ordinance

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1 enacted under this section or any agreement entered into under an ordinance
2 enacted under this section.

3 **(4) CERTIFICATION BY BOARD.** The board shall promulgate rules establishing a
4 procedure for board review of each ordinance enacted under this section. The rules
5 shall require the board to certify each ordinance that complies with this section. An
6 ordinance enacted under this section is not effective in any county, city, town or
7 village until the date that the board certifies that the ordinance complies with this
8 section.

9 **SECTION 5. Nonstatutory provisions.**

10 **(1) SUBMISSION OF PROPOSED RULES GOVERNING CERTIFICATION OF LOCAL CAMPAIGN**
11 **FINANCE ORDINANCES.** No later than the first day of the 6th month beginning after
12 publication, the elections board shall submit in proposed form the rules governing
13 certification of county, city, town and village campaign finance ordinances under
14 section 11.55 (4) of the statutes, as created by this act, to the legislative council staff
15 under section 227.15 (1) of the statutes.

16 **SECTION 6. Effective date.**

17 **(1)** The treatment of sections 7.19, 7.21 (1m), 11.55 and 11.21 (17) of the statutes
18 takes effect on the first day of the 12th month beginning after publication.

19 **(END)**