

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2975/P1dn
RJM:cmh:jf

June 1, 1999

1. Attached is a preliminary draft allowing a city or county to regulate the financing of campaigns for city or county offices. Although I have several questions regarding your intent, the attached draft hopefully will provide a starting point. After you have reviewed this draft and the following questions, please contact me so that I will know how you intend to proceed.

2. Per your instructions, the attached draft applies only to cities and counties. You may want to allow villages and towns to regulate campaign financing, as well. In Wisconsin, some towns have a larger population than some cities. If you intend to allow villages and towns to regulate campaign financing, please let me know.

3. You requested that a city or county be allowed to enact campaign financing ordinances that are more strict than state law. I was not sure exactly what aspects of these ordinances you intend to be more strict. Proposed s. 11.55 (2) allows a city or county to require a candidate to agree to limit his or her campaign expenditures as a condition of receiving a local campaign grant. The ordinance may require the candidate to agree to a spending limit that is more restrictive than that provided under s. 11.31 (1) (g) or (h), stats. If this restriction is not what you intended by "more strict," please let me know.

In addition, proposed s. 11.55 (1) authorizes a city or county to enact a limitation on contributions to local campaigns that is more restrictive than the limitation on contributions under s. 11.26 (1) (d) and (2) (e), stats. However, please note that an ordinance enacted under proposed s. 11.55 (1) would likely be subject to challenge as an unconstitutional burden on the freedom of political association under the First Amendment if the limitation on contributions under the ordinance was unreasonably strict. See *Buckley v. Valeo*, 424 U.S. 1 (1976).

If there are other aspects of these ordinances that you specifically intend to be potentially more restrictive than state law, please let me know.

4. Currently, s. 11.26 (4), stats., generally prohibits an individual from making greater than \$10,000 in political contributions in a calendar year. The attached draft does not allow a city or county to provide a similar limitation on total contributions to all city or county campaigns. Although a city may currently have the authority to enact a similar limitation under constitutional home rule powers, if you intend to allow a city or county to enact an ordinance similar to s. 11.26 (4), stats., I would recommend specifying this authority in this draft.

5. Please review proposed s. 11.55 (3) (a) and (b), regarding city and county registration and campaign finance reporting requirements. Current law already requires most registration statements and reports regarding local elections to be filed with the city clerk or county clerk. This provision generally allows a city or county also to require a person to provide the city or county with a copy of any registration or report that, under current law, the person files with the state elections board. If this treatment is not consistent with your intent please let me know.

6. Per my discussions with your office, under proposed s. 11.55 (3) (c), a city or county may require electronic filing of campaign finance reports. In order to avoid a potential First Amendment challenge, this section requires a city or county to exempt from the electronic filing requirements an indigent person, who may not be able to afford the computer hardware and software necessary for completing an electronic filing. Another option would be to require each county and city to provide a computer equipped with the necessary software for a person to use to complete an electronic filing. Please let me know if you desire any changes to this provision.

7. You may want to consider allowing or requiring a city or county to form a local elections board to administer city or county campaign financing ordinances. Without a local elections board, it is likely that a city or county would require the city clerk or county clerk to administer these ordinances. City clerks and county clerks are very busy during election periods and may not have enough time to adequately administer these ordinances. If you intend to address this issue, please call.

I look forward to hearing from you regarding these issues.

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