

1999 DRAFTING REQUEST

Bill

Received: **11/13/98**

Received By: **kuesejt**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Black (608) 266-7521**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **kuesejt**

May Contact:

Alt. Drafters:

Subject: **Elections - campaign finance
Ethics
Lobbying**

Extra Copies:

Topic:

Contributions by lobbyists to candidates for state office

Instructions:

Per 1997 AB-407

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 11/20/98	gilfokm 11/27/98		_____			
/1			ismith 11/30/98	_____	lrb_docadmin 11/30/98	lrb_docadmin 12/7/98	

FE Sent For:

<END>

Not Needed

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(DNOTE)

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1?/1	kuesejt 11/20	1-11-27-98 JLG JS	11/30	IS/LP 11/30			

FE Sent For:

<END>



State Representative Spencer Black

State Capitol
P.O. Box 8952
Madison, WI 53708
(608) 266-7521

To: Peter Dykman, Chief of Legislative Reference Bureau

From: Representative Spencer Black

Date: November 11, 1998

Re: Redrafts of 1997 Assembly Bills for the upcoming 1999-2000 legislative session.

Please redraft the following 1997 Assembly Bills (as is) for the upcoming session:

AB 13
AB 166
AB 405
AB 407
AB 434
AB 598
AB 822
AB 823
AB 834
AB 835
AB 945

Please redraft the following 1997 Assembly Bills with simple modifications as listed below:

AB 71: Redraft the bill to include only sections 1,2,3.

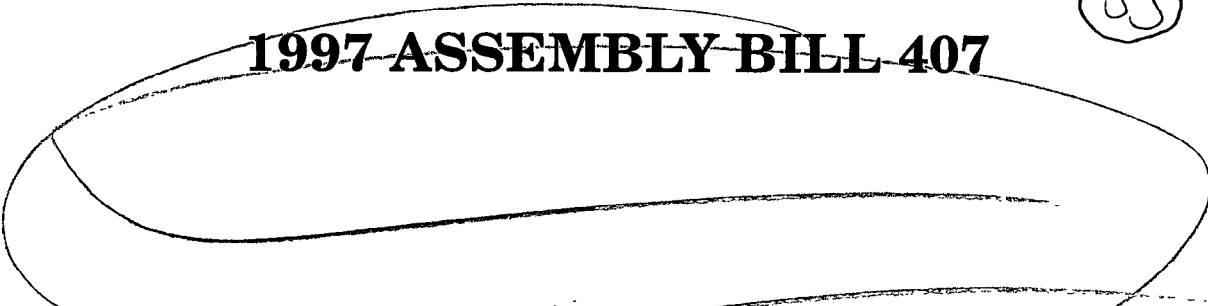
AB 393: In section 1 of the bill, change the cross reference s.59.971(1m) on page 1, line 5, to read s.59.692(1m).

AB 367: Redraft the bill to include Assembly Substitute Amendment 1 to 1997 Assembly Bill 367



jlq

1997 ASSEMBLY BILL 407



June 4, 1997 - Introduced by Representatives BLACK, BAUMGART, R. YOUNG and BOCK. Referred to Committee on Elections and Constitutional Law.

Regen

1 AN ACT *to repeal* 13.625 (1) (c) 1.; *to consolidate, renumber and amend*
 2 13.625 (1) (c) (intro.) and 2.; *to amend* 13.625 (2); and *to create* 13.625 (1m)
 3 and 13.69 (2m) of the statutes; **relating to:** political contributions made or
 4 solicited by lobbyists, principals or former lobbyists to or for the benefit of
 5 certain state officials or candidates, service by lobbyists or former lobbyists as
 6 officers or directors of political committees and providing a penalty. ✓

Analysis by the Legislative Reference Bureau

Currently, no lobbyist or principal may make a campaign contribution to a partisan elective state official for the purpose of promoting the official's election to any national, state or local office, or to a candidate for a partisan elective state office, or to the official's or candidate's personal campaign committee, except during the period from June 1 to the date of a general election at which the official or candidate seeks office. There are ~~2~~ exceptions: 1) a contribution to a candidate for legislative office may be made only if the legislature has concluded its final floor period and is not in special or extraordinary session; and 2) a lobbyist may make a contribution to his or her own campaign for partisan elective state office at any time. =

This bill broadens the application of the law by:

1. Deleting the exception that permits some contributions to be made during the period from June 1 to the date of the general election.
2. Applying the prohibition to any person who was a lobbyist at any time after obtaining a license during the remainder of the biennial period for which the

two

Principals who or which violate the prohibition are subject to a civil penalty of not more than \$5,000. Lobbyists who violate the prohibition are subject to a forfeiture of not more than \$1,000.

ASSEMBLY BILL 407

lobbying license is issued (January 1 of the odd-numbered year to December 31 of the even-numbered year), subject to the same penalty that currently applies to violations by lobbyists.

3. Prohibiting a lobbyist or former lobbyist from soliciting any other person to make a contribution that the lobbyist or former lobbyist is prohibited from making.

4. Prohibiting a lobbyist or former lobbyist to whom the prohibition applies from serving as an officer or director of any political committee (including a committee organized as a conduit) after obtaining a license during the remainder of the biennial period for which the lobbyist or former lobbyist is or was licensed.

5. Applying the prohibition to contributions made to the state superintendent of public instruction and candidates for that office.

The bill also makes a former lobbyist who violates the prohibition liable for the same penalty that applies to a lobbyist who violates the prohibition.

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

1 SECTION 1. 13.625 (1) (c) (intro.)^X and 2.^X of the statutes are consolidated,
2 renumbered 13.625 (1) (c)[✓] and amended to read:

3 13.625 (1) (c) Except as permitted in this subsection, make a campaign
4 contribution, as defined in s. 11.01 (6), to a partisan elective state official or the state
5 superintendent of public instruction[✓] for the purpose of promoting the official's or
6 superintendent's election to any national, state or local office, or to a candidate for
7 a partisan elective state office ~~to be filled at the general election or a special election~~
8 or state superintendent of public instruction, or to the official's or candidate's
9 personal campaign committee, or solicit any other person to do so. A lobbyist who
10 becomes a candidate for such an office may make a campaign contribution to a
11 ~~partisan elective state official or candidate for partisan elective state office or his or~~
12 ~~her personal campaign committee may be made in the year of a candidate's election~~
13 ~~between June 1 and the day of the general election, except that:~~[✓] 2. A campaign
14 ~~contribution by a lobbyist to himself or herself or to the lobbyist's personal~~ campaign
15 ~~for partisan elective state office may be made~~ committee or solicit any other person
16 to do so at any time.

PROOF W/STATS.

ASSEMBLY BILL 407

1 SECTION 2. 13.625 (1) (c) 1. of the statutes is repealed.

2 SECTION 3. 13.625 (1m) of the statutes is created to read:

3 13.625 (1m) No person who is licensed as a lobbyist under s. 13.63 (1), at any
4 time after obtaining a license during the biennial period under that subsection to
5 which the license applies, may make a campaign contribution which a lobbyist is
6 prohibited from making under sub. (1) (c) or solicit any other person to do so, or serve
7 as an officer or director of any political committee as defined in s. 11.01 (4), regardless
8 of whether the license is effective at the time that the contribution is made or solicited
9 to be made or at the time that the service is performed.

10 SECTION 4. 13.625 (2) of the statutes is amended to read:

11 13.625 (2) No principal may engage in the practices prohibited under sub. (1)
12 (b) and or make any campaign contribution prohibited under sub. (1) (c). This
13 subsection does not apply to the furnishing of transportation, lodging, food, meals,
14 beverages or any other thing of pecuniary value which is also made available to the
15 general public.

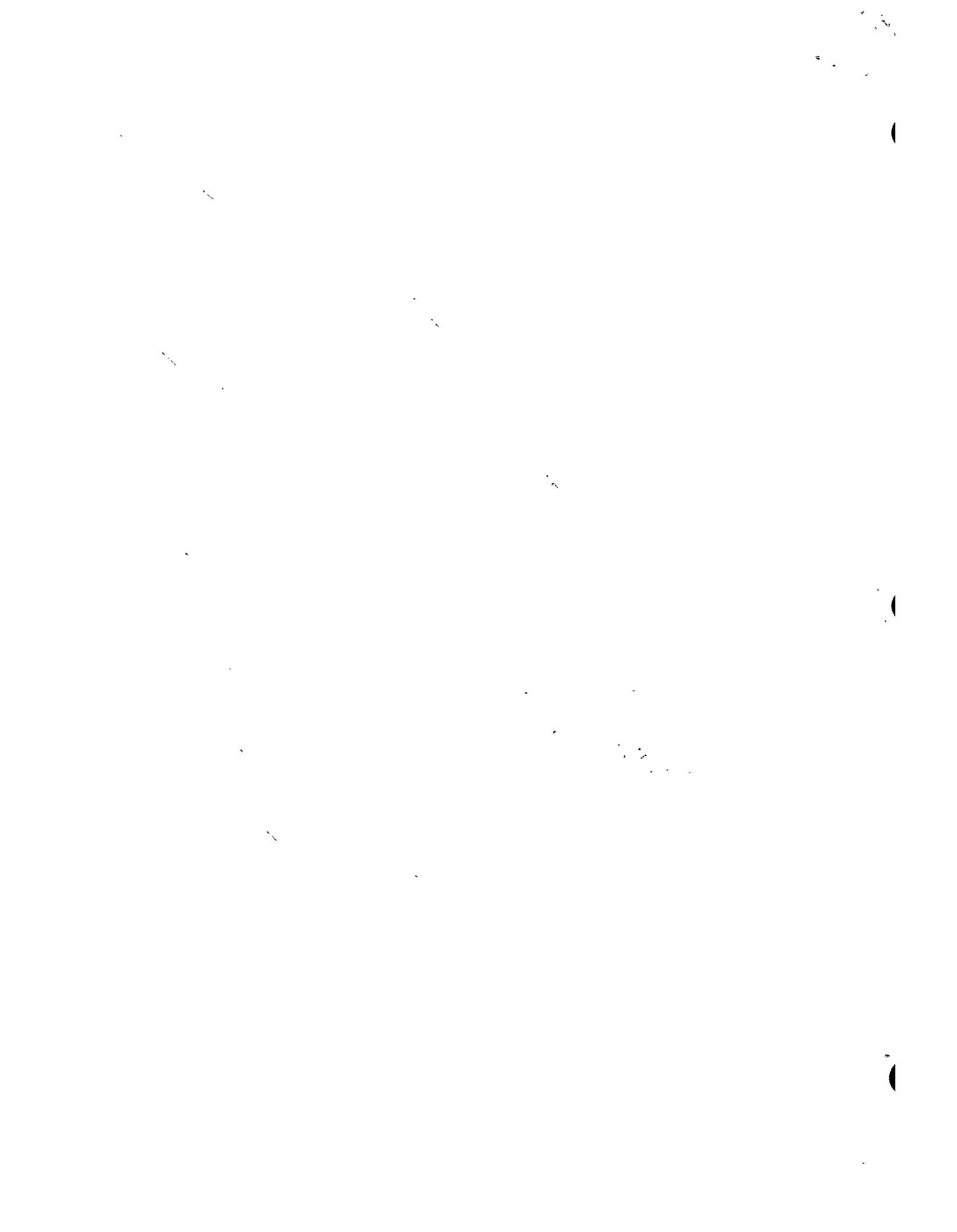
16 SECTION 5. 13.69 of the statutes is created to read:

17 13.69 Any person, other than a lobbyist, to whom s. 13.625 (1m) applies
18 who violates that subsection or a rule of the board promulgated under that
19 subsection may be required to forfeit not more than \$1,000.

20 (END)

PROOF W/STATS.

dn →



NOTE:

~~this opinion, the constitutionality of disclosure statutes such as proposed s. 11.095, relating to persuasive telephoning, is not clear at this point. We will have to await further decisions from the court before we know the exact limits of a state's ability to regulate in this field.~~

~~I want to note briefly that a few of the provisions of this draft are innovative, and we do not yet have, to my knowledge, specific guidance from the federal courts concerning the enforceability of provisions of these types. It is well possible that a court may find a rational basis for these provisions that would permit them to be upheld. However, because of the concerns expressed by the U.S. Supreme Court in Buckley v. Valeo, et al., 96 S. Ct. 612 (1976), and certain other cases that attempts to regulate campaign financing activities may, in some instances, impermissibly intrude upon freedom of speech or association, or equal protection guarantees, it is possible that enforceability problems with these provisions may occur. In particular, those provisions concerning which we do not have specific guidance at this time are:~~

- a. Proposed s. 11.26 (8m), which prohibits committees from making contributions to certain other committees.
- b. The proposed revision of s. 13.625 (1)(c), stats., which prohibits lobbyists from making any campaign contributions.

If you need further information or would like to make any changes based on the above information, please let me know.

Jeffery T. Kuesel
Assistant Chief Counsel
266-6778

this type of
this
this

ban on
campaign
contributions
to certain
candidates
by lobbyists
and
principals,
and which
prohibit
lobbyists
and
certain
former
lobbyists
as from serving
as officers or
of
Political
committees,
is an
innovative
proposal

NO #
The strongest argument in favor of this type of provision is that it prohibits activity which is tantamount to bribery, and the power of the state to prohibit bribery is well accepted.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0862/1dn
JTK:jlg:ijs

November 30, 1998

The proposed changes to s. 13.625, stats., which impose a virtually total ban on campaign contributions to certain candidates by lobbyists and principals, and which prohibit lobbyists and certain former lobbyists from serving as officers or directors of political committees, is an innovative proposal and we do not yet have, to my knowledge, specific guidance from the federal courts concerning the enforceability of this type of provision. It is well possible that a court may find a rational basis for this provision that would permit it to be upheld. The strongest argument in favor of this type of provision is that it prohibits activity which is tantamount to bribery, and the power of the state to prohibit bribery is well accepted. However, because of the concerns expressed by the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612 (1976), and certain other cases that attempts to regulate campaign financing activities may, in some instances, impermissibly intrude upon freedom of speech or association, or equal protection guarantees, it is possible that enforceability problems with this provision may occur.

If you need further information or would like to make any changes based on the above information, please let me know.

Jeffery T. Kuesel
Assistant Chief Counsel
266-6778

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 11/30/98

To: Representative Black

Relating to LRB drafting number: LRB-0862

Topic

Contributions by lobbyists to candidates for state office

Subject(s)

Elections - campaign finance, Ethics, Lobbying

1. **JACKET** the draft for introduction _____



in the **Senate** ____ or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jeffery T. Kuesel, Assistant Chief Counsel
Telephone: (608) 266-6778