

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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RJM&JTK:jlj:jf

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1. This draft provides for 100% funding of spring election campaigns by candidates for member of the board of regents at the spring election. It accomplishes this by providing sum sufficient GPR funding under the existing Wisconsin election campaign fund. That fund does not provide for financing of primary campaigns. In nonpartisan elections, primaries are not held unless there are more than two candidates.

AB-377, which is the "Impartial Justice Bill", provides for primary financing. Using that model would add 22 pages to this draft. If you intend to provide primary financing, we would either use that model or we can amend primary financing into the WECF. Amending it into the WECF is an involved process that would probably take at least 8 hours of uninterrupted time, which may not be available soon. Using AB-377 would also take some time, but probably not as much.

However, in either case, you may not want 100% public funding. For example, there needs to be a mechanism by which a candidate qualifies for public funding and, typically, this mechanism involves raising a certain level of campaign contributions. Also, a candidate would need to spend some money initially to get organized and test the waters. AB-377 does not include 100% public funding, in part for these reasons.

2. The treatment of ss. 15.91 and 36.115, stats., contained in this draft, which empowers students of the UW system to elect some of the members of the UW board of regents may be an unconstitutional violation of the equal protection clause of the 14th Amendment. In *Kramer v. Union Free Sch. Dist. No 15*, 89 S. Ct. 1886 (1969), the U.S. Supreme Court held that the one-person, one vote principle extends to elective units of government with or without legislative authority. In this case, the court voided a New York law which limited the right to vote in school district elections to owners of real property in the school district and parents and guardians of children who are enrolled in the district's schools. Also, in *Freeman v. Dies*, 307 F. Supp. 1028 (N.D. Tex., 1969), a U.S. District Court voided, on the same basis, malapportioned districts for the election of the Texas state board of education. In so ruling, the court held that this board was vested with significant and important powers of government having a broad range of impacts on all citizens of the state and, therefore, is subject to the one-person, one vote rule. However, the courts have made clear that the one-person, one vote rule does not impinge upon the state's ability to prescribe qualifications (short of invidiously discriminatory qualifications) for appointive positions.

3. Under the draft, the student members are elected from 4 districts that are substantially equal in population, according to the federal decennial census. Please let us know if you prefer a different method for delineating the student districts.

4. Please review the method by which the staggered terms of elected members of the board of regents are established in the nonstatutory material. Under this draft, the members elected from congressional districts 1 to 3 initially serve a 2-year term. If you prefer to have members elected from other congressional districts serve this abbreviated initial term, please let us know.

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