

1999 DRAFTING REQUEST

Bill

Received: **03/3/99**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB:

For: **Kimberly Plache (608) 266-1832**

By/Representing: **John Anderson**

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

Drafter: **kuesejt**

May Contact:

Alt. Drafters:

Subject: **Elections - campaign finance**

Extra Copies: **RJM - 1**

Pre Topic:

No specific pre topic given

Topic:

Campaign finance disclosure and penalties

Instructions:

Per LRB-1752/1. OK per Rep. Travis, 3/3.

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 03/3/99	wjackson 03/3/99		_____			
/1			martykr 03/4/99	_____	lrb_docadmin 03/4/99	gretskl 03/11/99	
				_____		lrb_docadmin 03/11/99	

FE Sent For:

Not Needed

<END>

1999 DRAFTING REQUEST

Bill

Received: **03/3/99**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB:

For: **Kimberly Plache (608) 266-1832**

By/Representing: **John Anderson**

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

Drafter: **kuesejt**

May Contact:

Alt. Drafters:

Subject: **Elections - campaign finance**

Extra Copies: **RJM - 1**

Pre Topic:

No specific pre topic given

Topic:

Campaign finance disclosure and penalties

Instructions:

Per LRB-1752/1. OK per Rep. Travis, 3/3.

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 03/3/99	wjackson 03/3/99		_____			
/1			martykr 03/4/99	_____	lrb_docadmin 03/4/99		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **03/3/99**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB:

For: **Kimberly Plache (608) 266-1832**

By/Representing: **John Anderson**

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

Drafter: **kuesejt**

May Contact:

Alt. Drafters:

Subject: **Elections - campaign finance**

Extra Copies: **RJM - 1**

Pre Topic:

No specific pre topic given

Topic:

Campaign finance disclosure and penalties

Instructions:

Per LRB-1752/1. OK per Rep. Travis, 3/3.

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>
1? / 1	kuesejt	3/3	1 WLJ 3/3	2/3	2/3		
			2/4	2/4			

FE Sent For:

<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

2386/1
LRB-1752/1
JTK:wlj&jlg:lp

1999 BILL

1 **AN ACT** ^{Regen} ~~to repeal~~ 11.01 (3); *to renumber* 11.002; *to amend* 11.01 (16) (a) 1., 11.06
2 (2), 11.06 (7) (a), 11.12 (6), 11.16 (1) (a) and (b) and 11.30 (2) (d); and *to create*
3 11.002 (2) and 11.60 (3n), (3p) and (3r) of the statutes; **relating to:** disclosure
4 of certain activity for the purpose of influencing elections and providing
5 penalties.

Analysis by the Legislative Reference Bureau

Currently, if any individual or organization makes expenditures, in cash or in-kind, to make a communication or to engage in some other activity for the purpose of influencing an election for state or local office, that individual or organization is potentially subject to registration and reporting requirements. If the individual is not a candidate or the organization is not a political party, political action committee or some other entity that is organized exclusively for the purpose of influencing elections, the individual is not required to register or report unless the individual or organization makes a contribution or makes expenditures, in cash or in kind, to expressly advocate the election or defeat of a candidate whose name, photograph or drawing is used or who is unambiguously referred to in the activity. If the individual or organization makes expenditures, in cash or in kind, to advocate the election or defeat of such a candidate independently of the candidate who is supported or whose opponent is opposed, the individual or organization must file an oath affirming the independence of the individual or organization before making expenditures to advocate the election or defeat of such a candidate. Violators are subject to a forfeiture (civil penalty) of not more than \$500 for failing to register or to file reports.

BILL

This bill changes the standard for reporting of expenditures to influence an election for state or local office, and the applicability of registration requirements resulting from those expenditures, so that registration and reporting is required if an individual or organization makes expenditures the primary purpose of which is to cause the election, defeat, recall or retention of a candidate. In determining the primary purpose of a communication, the bill provides that the proximity of the communication to an election and the audience to whom the communication is addressed shall be considered. Under the bill, violators of the registration and reporting requirements who or which make expenditures to support the election, defeat, recall or retention of a candidate independently of any candidate who is supported or whose opponent is opposed are subject to a forfeiture of treble the amount of any unreported expenditures or obligations to make expenditures, or treble the difference between the amount of any expenditure or obligation to make an expenditure that is reported and the amount of the expenditure actually made or the obligation to make an expenditure actually incurred.

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

1 **SECTION 1.** 11.002 of the statutes is renumbered 11.002 (1).

2 **SECTION 2.** 11.002 (2) of the statutes is created to read:

3 11.002 (2) In determining the primary purpose of a communication, the
4 proximity of the communication to an election and the audience to whom the
5 communication is addressed shall be considered.

6 **SECTION 3.** 11.01 (3) of the statutes is repealed.

7 **SECTION 4.** 11.01 (16) (a) 1. of the statutes is amended to read:

8 11.01 (16) (a) 1. The making of a communication the primary purpose of which
9 ~~expressly advocates the~~ is to cause the election, defeat, recall or retention of a ~~clearly~~
10 ~~identified~~ candidate or a particular vote at a referendum.

11 **SECTION 5.** 11.06 (2) of the statutes is amended to read:

12 11.06 (2) **DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS.** Notwithstanding
13 sub. (1), if a disbursement is made or obligation incurred by an individual other than
14 a candidate or by a committee or group which is not primarily organized for political

BILL

1 purposes, and the disbursement does not constitute a contribution to any candidate
2 or other individual, committee or group, the disbursement or obligation is required
3 to be reported only if the primary purpose is to ~~expressly advocate~~ cause the election
4 ~~or~~ defeat, recall or retention of a clearly identified candidate or the adoption or
5 rejection of a referendum. The exemption provided by this subsection shall in no case
6 be construed to apply to a political party, legislative campaign, personal campaign
7 or support committee.

8 **SECTION 6.** 11.06 (7) (a) of the statutes is amended to read:

9 11.06 (7) (a) Every committee, other than a personal campaign committee,
10 which and every individual, other than a candidate, who desires to make
11 disbursements during any calendar year, ~~the primary purpose of which are to be used~~
12 is to advocate cause the election ~~or~~ defeat, recall or retention of any clearly identified
13 candidate or candidates in any election shall before making any disbursement,
14 except within the amount authorized under s. 11.05 (1) or (2), file with the
15 registration statement under s. 11.05 a statement under oath affirming that the
16 committee or individual does not act in cooperation or consultation with any
17 candidate or agent or authorized committee of a candidate who is supported, that the
18 committee or individual does not act in concert with, or at the request or suggestion
19 of, any candidate or any agent or authorized committee of a candidate who is
20 supported, that the committee or individual does not act in cooperation or
21 consultation with any candidate or agent or authorized committee of a candidate who
22 benefits from a disbursement made in opposition to a candidate, and that the
23 committee or individual does not act in concert with, or at the request or suggestion
24 of, any candidate or agent or authorized committee of a candidate who benefits from
25 a disbursement made in opposition to a candidate. A committee which or individual

BILL**SECTION 6**

1 who acts independently of one or more candidates or agents or authorized
2 committees of candidates and also in cooperation or upon consultation with, in
3 concert with, or at the request or suggestion of one or more candidates or agents or
4 authorized committees of candidates shall indicate in the oath the names of the
5 candidate or candidates to which it applies.

6 **SECTION 7.** 11.12 (6) of the statutes is amended to read:

7 11.12 (6) If any disbursement of more than \$20 cumulatively is made to
8 ~~advocate the election or defeat of a clearly identified candidate~~ by an individual or
9 committee later than 15 days prior to a primary or election in which ~~the a~~ candidate's
10 name appears on the ballot, and the primary purpose of the disbursement is to cause
11 the election, defeat, recall or retention of that candidate, and the disbursement is
12 made without cooperation or consultation with a candidate or agent or authorized
13 committee of a candidate who is supported or opposed, and not in concert with or at
14 the request or suggestion of such a candidate, agent or committee, the individual or
15 treasurer of the committee shall, within 24 hours of making the disbursement,
16 inform the appropriate filing officer of the information required under s. 11.06 (1) in
17 such manner as the board may prescribe. The information shall also be included in
18 the next regular report of the individual or committee under s. 11.20. For purposes
19 of this subsection, disbursements cumulate beginning with the day after the last
20 date covered on the preprimary or preelection report and ending with the day before
21 the primary or election. Upon receipt of a report under this subsection, the filing
22 officer shall, within 24 hours of receipt, mail a copy of the report to all candidates for
23 any office in support of or opposition to one of whom a disbursement identified in the
24 report is made.

25 **SECTION 8.** 11.16 (1) (a) and (b) of the statutes are amended to read:

BILL

1 11.16 (1) (a) No disbursement may be made or obligation incurred by a
2 ~~candidate, or by any other person or committee to advocate, other than by an~~
3 ~~individual who or a committee that has filed an oath under s. 11.06 (7), the primary~~
4 ~~purpose of which is to cause the election or, defeat, recall or retention~~ of a clearly
5 identified candidate, ~~other than an individual who, or a committee which, has~~
6 ~~registered under s. 11.05 and filed an oath under s. 11.06 (7), except by the campaign~~
7 treasurer of the candidate or other agent designated by the candidate and acting
8 under his or her authority.

9 (b) The treasurer of each committee and each individual who proposes to make
10 a disbursement ~~the primary purpose of which is to advocate~~ cause the election or,
11 ~~defeat, recall or retention~~ of a clearly identified candidate shall notify the treasurer
12 or other agent designated under par. (a) of the candidate who is supported or whose
13 opponent is opposed and obtain the authorization of the treasurer prior to making
14 the disbursement. This paragraph does not apply to an individual or committee
15 filing an oath under s. 11.06 (7) with respect to the candidate who is supported or
16 opposed.

17 **SECTION 9.** 11.30 (2) (d) of the statutes is amended to read:

18 11.30 (2) (d) In addition to the requirements of pars. (a) to (c), a committee that
19 or individual who is required to file an oath under s. 11.06 (7) shall also in every
20 communication ~~in support of or in opposition to any clearly identified~~ the primary
21 ~~purpose of which is to cause the election, defeat, recall or retention of a candidate or~~
22 candidates include the words "Not authorized by any candidate or candidate's agent
23 or committee".

24 **SECTION 10.** 11.60 (3n), (3p) and (3r) of the statutes are created to read:

BILL

1 11.60 **(3n)** Notwithstanding sub. (1), if an individual who or committee that is
2 required to file an oath under s. 11.06 (7) files a report under this chapter which
3 overstates the amount of a disbursement made or obligation incurred by the
4 individual or committee in support of or in opposition to any candidate, the
5 individual or committee shall forfeit an amount equal to treble the difference
6 between the amount of the disbursement actually made or the obligation actually
7 incurred and the amount reported.

8 **(3p)** Notwithstanding sub. (1), if an individual who or committee that is
9 required to file an oath under s. 11.06 (7) files a report under this chapter which
10 understates the amount of a disbursement made or obligation incurred by the
11 individual or committee in support of or in opposition to any candidate, the
12 individual or committee shall forfeit an amount equal to treble the difference
13 between the amount of the disbursement actually made or the obligation actually
14 incurred and the amount reported.

15 **(3r)** Notwithstanding sub. (1), if an individual who or committee that is
16 required to register under s. 11.05 and to file an oath under s. 11.06 (7) fails to register
17 under s. 11.05 or to file a report required under s. 11.12 (6) or 11.20, or files a report
18 which fails to identify any obligations or disbursements that are required to be
19 reported under s. 11.06 or 11.12 (6), the individual or committee shall forfeit an
20 amount equal to treble the amount of any obligations incurred and disbursements
21 not previously reported as obligations made by the individual or committee that were
22 not reported as required under s. 11.06 or 11.12 (6).

23

(END)

**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: 3/4/99

To: Senator Plache

Relating to LRB drafting number: LRB-2386

Topic

Campaign finance disclosure and penalties

Subject(s)

Elections - campaign finance

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, Managing Attorney
Telephone: (608) 266-6778