

2001 DRAFTING REQUEST

Bill

Received: 01/04/2001

Received By: **kuesejt**

Wanted: **Today**

Identical to LRB:

For: **Glenn Grothman (608) 264-8486**

By/Representing: **Maggie Grimm**

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

Drafter: **kuesejt**

May Contact:

Alt. Drafters: **rmarchan**

Subject: **Elections - campaign finance**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Definition of political purpose; nonresident reporting

Instructions:

Per LRB-0977.

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 01/04/2001 | wjackson 01/04/2001 | | | | | |
| /1 | | | kfollet 01/04/2001 | | lrb docadmin 01/04/2001 | lrb docadmin 01/04/2001 | |

FE Sent For:

<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /? | kuesejt | /1 wlj 1/4 | gj 1/4 | lg/self 1/4 | | | |

FE Sent For:

<END>



(D No 12)

State of Wisconsin
2001 - 2002 LEGISLATURE

-1808/1
LRB-09771

JTK&RJM:cjs:pg
E. W. J.

(wanted thru 1/4)

2001 BILL

REGEN

1 **AN ACT to repeal** 11.06 (3) (b); **to amend** 11.06 (1) (intro.), 11.06 (2) and 11.12
2 (4); and **to create** 11.01 (13) and (20) and 11.01 (16) (a) 3. of the statutes;
3 **relating to:** the scope of regulation and reporting of information by
4 nonresident registrants under the campaign finance law.

Analysis by the Legislative Reference Bureau

This bill is introduced as required by s. 227.19 (5) (e), stats., in support of the objections of the assembly committee on campaigns and elections on February 16, 2000, and of the senate committee on economic development, housing and government operations on February 14, 2000, and the objection of the joint committee for review of administrative rules on April 14, 2000, to the issuance of clearinghouse rule number 99-150 by the elections board. The proposed rule relates to the subject of disclosure and record-keeping requirements under the campaign finance law.

Currently, individuals who accept contributions, organizations which make or accept contributions, or individuals who or organizations which incur obligations or make disbursements for the purpose of influencing an election for state or local office are generally required to register with the appropriate filing officer and to file financial reports with that officer, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed.

With certain exceptions, this bill imposes registration and reporting requirements, in addition, upon any individual who or organization that, within 60 days of an election and by means of a newspaper, periodical, commercial billboard,

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radio station, television station, mass mailing, or telephone bank operator, makes a communication which includes the name or likeness of a candidate at that election, an office to be filled at that election, or a political party. The bill, however, does not require registration and reporting if the communication is made by a corporation, cooperative, or nonpolitical voluntary association and is limited to the corporation's, cooperative's, or association's members, shareholders, or subscribers.

Currently, with certain exceptions, registrants under the campaign finance law are required to file regular reports with the appropriate filing officer or agency. The reports must identify contributors of more than \$20 cumulatively within a calendar year; the occupation and principal place of employment, if any, of each contributor whose cumulative contributions within a calendar year exceed \$100; the registrants from whom or to whom funds are transferred; other income exceeding \$20; contributions donated to a charitable organization or the common school fund; loans exceeding \$20 together with the identity of the lenders and guarantors, if any; disbursements (expenditures) and obligations exceeding \$20; and certain information from registrants making disbursements independently of candidates. However, if a registrant does not maintain an office or street address within this state, the registrant need only identify contributions, transfers, loans, and other income received from sources in this state and disbursements and obligations incurred with respect to elections for state or local office in this state.

This bill deletes the exception for registrants who or which do not maintain an office or street address within this state, so that these registrants are required to report the same information as other registrants.

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

1 **SECTION 1.** 11.01 (13) and (20) of the statutes are created to read:

2 11.01 (13) "Mass mailing" means the distribution of 50 or more pieces of
3 substantially identical material.

4 (20) "Telephone bank operator" means any person who places or directs the
5 placement of telephone calls to individuals.

6 **SECTION 2.** 11.01 (16) (a) 3. of the statutes is created to read:

7 11.01 (16) (a) 3. A communication that is made by means of one or more
8 communications media or a mass mailing, or through a telephone bank operator,
9 other than a communication that is exempt from reporting under s. 11.29, that is

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1 made during the period beginning on the 60th day preceding an election and ending
2 on the date of that election and that includes a name or likeness of a candidate whose
3 name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at that
4 election, the name of an office to be filled at that election, or the name of a political
5 party.

6 **SECTION 3.** 11.06 (1) (intro.) of the statutes is amended to read:

7 11.06 (1) CONTENTS OF REPORT. (intro.) Except as provided in subs. (2), ~~(3)~~ and
8 (3m) and ss. 11.05 (2r) and 11.19 (2), each registrant under s. 11.05 shall make full
9 reports, upon a form prescribed by the board and signed by the appropriate
10 individual under sub. (5), of all contributions received, contributions or
11 disbursements made, and obligations incurred. Each report shall contain the
12 following information, covering the period since the last date covered on the previous
13 report, unless otherwise provided:

14 **SECTION 4.** 11.06 (2) of the statutes is amended to read:

15 11.06 (2) DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS. Notwithstanding
16 sub. (1), if a disbursement is made or obligation incurred by an individual other than
17 a candidate or by a committee or group which is not primarily organized for political
18 purposes, and the disbursement does not constitute a contribution to any candidate
19 or other individual, committee or group, the disbursement or obligation is required
20 to be reported only if the purpose is to expressly advocate the election or defeat of a
21 clearly identified candidate or the adoption or rejection of a referendum or if the
22 disbursement is made or the obligation incurred to make a communication that is
23 specified in s. 11.01 (16) (a) 3. The exemption provided by this subsection shall in no
24 case be construed to apply to a political party, legislative campaign, personal
25 campaign or support committee.

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1 **SECTION 5.** 11.06 (3) (b) of the statutes is repealed.

2 **SECTION 6.** 11.12 (4) of the statutes is amended to read:

3 11.12 (4) Each registrant shall report contributions, disbursements and
4 incurred obligations in accordance with s. 11.20. Except as permitted under s. 11.06
5 (2), ~~(3)~~ and (3m), each report shall contain the information which is required under
6 s. 11.06 (1).

7 **SECTION 7. Initial applicability.**

8 (1) The treatment of sections 11.06 (1) (intro.) and (3) (b) and 11.12 (4) of the
9 statutes first applies with respect to reporting periods which begin on or after the
10 effective date of this subsection.

11

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

-1508/1
LRB-00777rdn
JTK:cjs:pg

November 20, 2000

Currently, ch. 11., stats., generally requires disclosure of financial activity by individuals and committees seeking to influence the election or defeat of candidates for state or local office [see ss. 11.01 (6), (7), (11) and (16), 11.05 and 11.06, stats.], unless a disbursement is made or obligation incurred by an individual other than a candidate or by a committee which is not organized primarily for political purposes, the disbursement is not a contribution as defined in the law, and the disbursement is not made to expressly advocate the election or defeat of a clearly identified candidate [see s. 11.06 (2), stats.]. This language pretty closely tracks the holding of the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612, 656-664 (1976), which prescribes the boundaries of disclosure that may be constitutionally enforced (except as those requirements affect certain minor parties and independent candidates).

Proposed s. 11.01 (16) (a) 3., which requires registration and reporting by individuals who or committees that make certain mass communications within 60 days of an election containing a name or likeness of a candidate at that election, an office to be filled at that election or a political party, appears to extend beyond the boundaries which the court permitted in 1976. As a result, its enforceability at the current time appears to rest upon a shift by the court in its stance on this issue.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1808/1dn
JTK:cjs&wlj:kjf

January 4, 2001

Currently, ch. 11., stats., generally requires disclosure of financial activity by individuals and committees seeking to influence the election or defeat of candidates for state or local office [see ss. 11.01 (6), (7), (11) and (16), 11.05 and 11.06, stats.], unless a disbursement is made or obligation incurred by an individual other than a candidate or by a committee which is not organized primarily for political purposes, the disbursement is not a contribution as defined in the law, and the disbursement is not made to expressly advocate the election or defeat of a clearly identified candidate [see s. 11.06 (2), stats.]. This language pretty closely tracks the holding of the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612, 656-664 (1976), which prescribes the boundaries of disclosure that may be constitutionally enforced (except as those requirements affect certain minor parties and independent candidates).

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Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Gretschmann, Karen

From: Kuesel, Jeffery
Sent: Thursday, January 04, 2001 3:00 PM
To: Gretschmann, Karen
Subject: FW: JCRAR bill - Campaign finance

-----Original Message-----

From: Austin, David
Sent: Thursday, January 04, 2001 9:26 AM
To: Kuesel, Jeffery
Subject: RE: JCRAR bill - Campaign finance

Thanks. I have attached the committee's Report to the Legislature. This version does not need any changes - it is ready to go.

David



CR99-150 Report to
the Legisla...

-----Original Message-----

From: Kuesel, Jeffery
Sent: Thursday, January 04, 2001 9:23 AM
To: Austin, David
Subject: JCRAR bill - Campaign finance

David,

We have entered LRB-0977 as a new request for you. It is 2001 LRB-1764/1. You should receive it today. I have asked the LRB program asistants to jacket it for you. If you don't get the jacketed copy for some reason, please call 6-3561.

*Jeffery Kuesel
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