

2001 DRAFTING REQUEST

Assembly Amendment (AA-AB18)

Received: 02/14/2001

Received By: kuesejt

Wanted: 02/15/2001

Identical to LRB:

For: Stephen Freese (608) 266-7502

By/Representing: Bob Conlin - LCS

This file may be shown to any legislator: NO

Drafter: kuesejt

May Contact:

Alt. Drafters: rmarchan

Subject: Elections - campaign finance

Extra Copies: Bob Conlin - LCS

Pre Topic:

No specific pre topic given

Topic:

AA to AB-18

Instructions:

No registrant may accept contributions from any nonresident entity unless that entity is registered with the federal election commission.

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 02/14/2001 rmarchan 02/14/2001	wjackson 02/14/2001		_____			
/1			rschlue 02/14/2001	_____	lrb docadmin 02/14/2001	lrb docadmin 02/14/2001	

FE Sent For:

<END>

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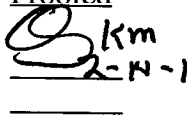
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1?	kuesejt 2/14	1 wly 2/14	 2-14-1	 Km 2-14-1			

FE Sent For:

<END>

2001

Date (time) needed

(DRAFT)
THU 2/15 8:30am LRBa 0236, 1

AMENDMENT

JRE/SM:
WJ

See form AMENDMENTS — COMPONENTS & ITEMS.

~~S~~ A AMENDMENT

~~TO S A AMENDMENT~~ (LRBa 1),

~~TO S A SUBSTITUTE AMENDMENT~~ (LRBs)

TO 2001 SB SJR SR AB ~~AJR-AR~~ 18 (LRB)

At the locations indicated, amend the bill as follows:
(fill ONLY if "engrossed" or "as shown by")

↓ #. Page 1, line 3: before "the" insert "acceptance of contributions and "0"

~~#. Page, line:~~
~~#. Page, line:~~
~~#. Page, line:~~
~~#. Page, line:~~

~~-0311/3~~

LRB-0
JTK/RJM/MES/JK:K
SECTION

page 4, line 5: alter that line insert:

W rlc[®]

10 SECTION ~~11.24~~ 11.24 (1v) of the statutes is created to read:
11 11.24 (1v) No registrant may accept any contribution made by a committee or
12 group that does not maintain an office or street address within this state at the time
13 that the contribution is made unless that committee or group is registered with the
14 federal election commission under 2 USC 433 (a) W

(end)

DN:

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. In this connection, see also *North Carolina Right to Life, Inc., v. Bartlett*, 168 F.3d 705 (4th Cir. 1999), cert. denied, 120 S. Ct. 1156 (2000), in which the court voided North Carolina's attempt to regulate issue advocacy as inconsistent with *Buckley*.

this provision

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 U.S. Supreme Court 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 upon 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 provision of this type
VI+

(a) Proposed s. 11.12 (8), which requires candidates who do not accept public grants to file special reports that are not required of candidates who accept public grants.

(b) Proposed s. 11.24 (1v), which restricts the acceptance of contributions made by nonresident contributors. *is an innovative provision*

(c) Proposed s. 11.50 (9) (b) and (ba), which provides public grants to qualifying candidates to match certain independent disbursements and disbursements exceeding the disbursement limitations by candidates who do not accept public grants. Although relevant case law has developed regarding this issue in the federal courts of appeal, there is no consensus among these courts on this issue. Due to the unsettled nature of the law in this area, it is not possible to predict how a court would rule if proposed s. 11.50 (9) (b) or (ba) were challenged.

(d) Proposed s. 11.19 (1m) and (6), which mandates disposal of certain campaign funds in a specified manner.

(e) Proposed s. 11.26 (8m) and (8n), which prohibits committees from making contributions to certain other committees. Although the U.S. Supreme Court has not ruled on the enforceability of a provision of this type, the court has indicated some willingness to permit limits on contributions beyond those specifically approved in *Buckley v. Valeo*, 424 U.S. 1. See *California Med. Assn. v. FEC*, 453 U.S. 182, 193-99 (1981) (\$5,000 limitation on individual-to-PAC contributions is a reasonable method of preventing individuals from evading limits on direct campaign contributions).

this provision

JTK
RJM

THEN GO HERE →

START HERE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0236/1dn
JTK&RJM:wlj:rs

February 14, 2001

Proposed s. 11.24 (1v), which restricts the acceptance of contributions made by nonresident contributors, is an innovative provision, and we do not yet have, to our knowledge, specific guidance from the U.S. Supreme Court concerning the enforceability of a provision of this type. It is well possible that a court may find a rational basis for this provision that would permit it 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 upon equal protection guarantees, it is possible that enforceability problems with this provision may occur.

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