

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2001 ASSEMBLY BILL 682**

January 8, 2002 – Offered by Representatives GUNDRUM and TRAVIS.

1     **AN ACT** *to renumber and amend* 19.49 (5) and 19.59 (7); *to amend* 11.25 (2)  
2           (b), 19.53 (6) and 19.59 (8) (c); and *to create* 19.42 (3m), (4g) and (4r), 19.45 (13),  
3           19.49 (1m), 19.49 (5) (b), 19.535, 19.59 (1) (br), 19.59 (7) (b) and 19.59 (8) (cm)  
4           and (cn) of the statutes; **relating to:** official action in return for providing or  
5           withholding political contributions, services, or other things of value and  
6           providing a penalty.

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

7           **SECTION 1.** 11.25 (2) (b) of the statutes is amended to read:  
8           11.25 **(2)** (b) Notwithstanding par. (a), a registrant may accept contributions  
9           and make disbursements from a campaign depository account for the purpose of  
10          making expenditures in connection with a campaign for national office; for payment  
11          of civil penalties incurred by the registrant under this chapter but not under any  
12          other chapter; or for payment of the expenses of nonpartisan campaigns to increase

1 voter registration or participation. Notwithstanding par. (a), a personal campaign  
2 committee or support committee may accept contributions and make disbursements  
3 from a campaign depository account for payment of inaugural expenses of an  
4 individual who is elected to state or local office. If such expenses are paid from  
5 contributions made to the campaign depository account, they are reportable under  
6 s. 11.06 (1) as disbursements. Otherwise, such expenses are not reportable under s.  
7 11.06 (1). If contributions from the campaign depository account are used for such  
8 expenses, they are subject to s. 11.26.

9 **SECTION 2.** 19.42 (3m), (4g) and (4r) of the statutes are created to read:

10 19.42 **(3m)** “Candidate,” except as otherwise provided, has the meaning given  
11 in s. 11.01 (1).

12 **(4g)** “Clearly identified,” when used in reference to a communication  
13 containing a reference to a person, means one of the following:

14 (a) The person’s name appears.

15 (b) A photograph or drawing of the person appears.

16 (c) The identity of the person is apparent by unambiguous reference.

17 **(4r)** “Communication” means a message transmitted by means of a printed  
18 advertisement, billboard, handbill, sample ballot, radio or television advertisement,  
19 telephone call, or any medium that may be utilized for the purpose of disseminating  
20 or broadcasting a message, but not including a poll conducted solely for the purpose  
21 of identifying or collecting data concerning the attitudes or preferences of electors.

22 **SECTION 3.** 19.45 (13) of the statutes is created to read:

23 19.45 **(13)** No state public official holding an elective office may, directly or by  
24 means of an agent, give, or offer or promise to give, or withhold, or offer or promise  
25 to withhold, his or her vote or influence, or promise to take or refrain from taking

1 official action with respect to any proposed or pending matter in consideration of, or  
2 upon condition that, any other person make or refrain from making a political  
3 contribution, or provide or refrain from providing any service or other thing of value,  
4 to or for the benefit of a candidate, a political party, any other person who is subject  
5 to a registration requirement under s. 11.05, or any person making a communication  
6 that contains a reference to a clearly identified state public official holding an  
7 elective office or to a candidate for state public office.

8 **SECTION 4.** 19.49 (1m) of the statutes is created to read:

9 19.49 (1m) No complaint alleging a violation of s. 19.45 (13) may be filed during  
10 the period beginning 120 days before a general or spring election, or during the  
11 period commencing on the date of the order of a special election under s. 8.50, and  
12 ending on the date of that election, against a candidate who files a declaration of  
13 candidacy to have his or her name appear on the ballot at that election.

14 **SECTION 5.** 19.49 (5) of the statutes is renumbered 19.49 (5) (a) and amended  
15 to read:

16 19.49 (5) (a) ~~No~~ Except as provided in par. (b), no action may be taken on any  
17 complaint which that is filed later than 3 years after a violation of this subchapter  
18 or subch. III of ch. 13 is alleged to have occurred.

19 **SECTION 6.** 19.49 (5) (b) of the statutes is created to read:

20 19.49 (5) (b) The period of limitation under par. (a) is tolled for a complaint  
21 alleging a violation of s. 19.45 (13) or 19.59 (1) (br) for the period during which such  
22 a complaint may not be filed under s. 19.49 (1m) or 19.59 (8) (cm).

23 **SECTION 7.** 19.53 (6) of the statutes is amended to read:

24 19.53 (6) An order requiring the accused to forfeit not more than \$500 for each  
25 violation of s. 19.43, 19.44, or 19.56 (2) or not more than \$5,000 for each violation of

1 any other provision of this subchapter, or not more than the applicable amount  
2 specified in s. 13.69 for each violation of subch. III of ch. 13; ~~and, if, If the board~~  
3 ~~determines that the accused has realized economic gain as a result of the violation,~~  
4 ~~an the board may, in addition,~~ order ~~requiring~~ the accused to forfeit the amount  
5 ~~gained as a result of the violation. In addition, if the board determines that a state~~  
6 ~~public official has violated s. 19.45 (13), the board may order the official to forfeit an~~  
7 ~~amount equal to the amount or value of any political contribution, service, or other~~  
8 ~~thing of value that was wrongfully obtained. If the board determines that a state~~  
9 ~~public official has violated s. 19.45 (13) and no thing of value was obtained by the~~  
10 ~~official, the board may order the official to forfeit an amount equal to the maximum~~  
11 ~~contribution authorized under s. 11.26 (1) for the office held or sought by the official,~~  
12 ~~whichever amount is greater.~~ The attorney general, when so requested by the board,  
13 shall institute proceedings to recover any forfeiture incurred under this section or s.  
14 19.545 which is not paid by the person against whom it is assessed.

15 **SECTION 8.** 19.535 of the statutes is created to read:

16 **19.535 Direct enforcement.** If the board refuses or otherwise fails to  
17 authorize an investigation under s. 19.49 (3) with respect to a violation of s. 19.45 (13)  
18 within 30 days after receiving a verified complaint alleging a violation of s. 19.45 (13),  
19 the person making the complaint may bring an action to recover the forfeiture under  
20 s. 19.53 (6) on his or her relation in the name, and on behalf, of the state. In such  
21 actions, the court may award actual and necessary costs of prosecution, including  
22 reasonable attorney fees, to the relator if he or she prevails, but any forfeiture  
23 recovered shall be paid to the state. If the court finds in any such action that the  
24 cause of action was frivolous as provided in s. 814.025, the court shall award costs  
25 and fees to the defendant under that section.

1           **SECTION 9.** 19.59 (1) (br) of the statutes is created to read:

2           19.59 (1) (br) No local public official holding an elective office may, directly or  
3 by means of an agent, give, or offer or promise to give, or withhold, or offer or promise  
4 to withhold, his or her vote or influence, or promise to take or refrain from taking  
5 official action with respect to any proposed or pending matter in consideration of, or  
6 upon condition that, any other person make or refrain from making a political  
7 contribution, or provide or refrain from providing any service or other thing of value,  
8 to or for the benefit of a candidate, a political party, any other person who is subject  
9 to a registration requirement under s. 11.05, or any person making a communication  
10 that contains a reference to a clearly identified local public official holding an elective  
11 office or to a candidate for local public office.

12           **SECTION 10.** 19.59 (7) of the statutes is renumbered 19.59 (7) (a) and amended  
13 to read:

14           19.59 (7) (a) Any person who violates sub. (1) may be required to forfeit not  
15 more than \$1,000 for each violation, and, if the court determines that the accused has  
16 violated sub. (1) (br), the court may, in addition, order the accused to forfeit an  
17 amount equal to the amount or value of any political contribution, service, or other  
18 thing of value that was wrongfully obtained.

19           **SECTION 11.** 19.59 (7) (b) of the statutes is created to read:

20           19.59 (7) (b) Any person who violates sub. (1) may be required to forfeit not  
21 more than \$1,000 for each violation, and, if the court determines that a local public  
22 official has violated sub. (1) (br) and no thing of value was obtained by the official,  
23 the court may, in addition, order the accused to forfeit an amount equal to the  
24 maximum contribution authorized under s. 11.26 (1) for the office held or sought by  
25 the official, whichever amount is greater.

