

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

LRB-2872/3dn  
JTK&RJM:cs:kjf

February 13, 2002

Representative Duff:

1. Concerning your e-mail of 1/2/02, this draft deletes all of the material that appeared in the analysis of the /2 draft under "Registration and reporting by certain federal and nonresident registrants" and replaces it with AB-184 as passed by the assembly. If you intended to retain any of the material that we deleted, please let us know.
2. Per your instructions, this draft, in proposed s. 11.06 (7) (b) 6., eliminates all reporting of disbursements for the purpose of making communications that have not been made. It does not, however, eliminate reporting of obligations incurred to make those disbursements, except in late reports by individuals and committees making independent communications under s. 11.12 (6), stats. If you intended to treat this differently, please let us know.
3. Concerning the treatment of s. 11.12 (6), stats., relating to special reports of certain independent obligations and disbursements, you may wish to consider allowing a registrant the option to report communications before they are made. If an obligation were incurred for 20 radio spots, for example, under this language 20 reports would be triggered. The registrant may prefer to file one report instead. See, for example, proposed s. 11.513 (1) (b) in SB-115.
4. In your e-mail of 1/2/02, you asked to increase the referendum disbursement limit to \$100. We have included an amendment to s. 11.23 (1), stats., and related provisions which increases to \$100 the amount of disbursements, contributions, or obligations relating to a question at a referendum that a person must make, receive, or incur before registration and reporting are triggered. This provision was also in SSA1 to SB-104. Please let us know if we have misunderstood your intent.
5. Please review the proposed changes to ss. 11.26 (1) and 11.31 (1), stats., and proposed s. 11.26 (1m) to ensure that we have accomplished your intent with regard to individual contribution and disbursement limits for candidates for local office. Except for circuit judge and district attorney, the treatment in the proposed changes to ss. 11.26 (1) and 11.31 (1), stats., is now the same as provided under current law. In keeping with the current pattern in the draft, the amount provided for these local offices under proposed s. 11.26 (1m) is one-half of the amount under the proposed s. 11.26 (1), stats. These changes leave in tact the cost-of-living adjustment to the contribution and disbursement limitations for local offices under proposed ss. 11.26 (10a) and 11.31 (9).

6. Proposed s. 11.31 (3n) and (3p) allow a candidate with one or more opponents who do not agree to accept disbursement and self-contribution limitations who determines that an opponent has exceeded the applicable disbursement limit or level to make certain additional disbursements and accept certain additional contributions. The opponents are also permitted to make additional disbursements and to accept additional contributions. You may wish to require any candidate who makes this self-determination to immediately file a certificate with the appropriate filing officer indicating that he or she has made the determination so that opposing candidates may be aware of it. Also, is there any remedy if an opposing candidate who is accused of exceeding a limit or level claims that the determination is wrong?

7. Proposed s. 11.31 (3r) and (3s) allow a candidate who has filed an affidavit of compliance with disbursement and self-contribution limitations and who determines that an independent expenditure has been made to finance a mass communication opposing his or her candidacy or supporting his or her opponent to file a statement with the appropriate filing officer and obtain a determination permitting the candidate and each of his or her opponents to exceed disbursement limitations or levels and to receive certain additional contributions. We understand that you have not finally decided whether the filing officer should attempt to verify the statement before issuing a determination. Under this draft, the filing officer must do so. Please let us know if you decide otherwise.

8. Concerning proposed s. 11.385, which is based upon Assembly Rule 98, relating to fund-raising social events:

a. Since this will no longer be an assembly rule, we applied it to all members of the legislature.

b. In conformity with other similar proposals in recent years, we have worded this prohibition to focus on contributions made in conjunction with fund-raising social events so as not to prohibit events from being held or to prohibit members from attending events (which might impact freedom of assembly). Because the current assembly rule serves as a code of conduct and is not applied in a criminal context, this is not a concern currently.

c. The language does not prohibit making contributions in conjunction with nonsocial fund-raising events such as auctions.

d. In recent years, some special sessions have extended for more than a year, although meeting days have been infrequent. The effect of this practice may be to prohibit contributions from being made during interim periods when the legislature is not meeting in regular, special, or extraordinary session. If the legislature recesses a special or extraordinary session to a date on or after the date of the next floorperiod, you may wish to consider permitting contributions to be made.

e. In proposed s. 11.385 (3) and (4), you may wish to consider making the exemptions available to a member after any primary is held only if the member wins the primary.

f. There is some overlap between proposed s. 11.385 (3) and (4). Subsection (3) applies only if an event is held within the jurisdiction or district served by the office for which

the member is a candidate, while sub. (4) does not contain this limitation but applies only if the member is a candidate for an office other than member of the house in which the member serves.

9. You requested that we include AB-682. This draft includes ASA 1 to AB-682, as affected by AA1 and AA2. AA1 and AA2 were technical amendments. The draft, however, modifies the treatment of proposed ss. 19.45 (13) and 19.59 (1) (br) to utilize the definition of "independent expenditure" in proposed s. 11.01 (11m). Please let us know if you would like to see a different treatment of this subject.

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