

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1295/1dn
RJM&JTK:cjs:kjf

February 20, 2002

Representative Duff:

1. Per the request of Brandon Redtke at WEAC, the amendment removes the exclusion of disbursements from the definition of “independent expenditure” in proposed s. 11.01 (11m) so that conventional disbursements made independently of a candidate may also be reportable as “independent expenditures” in some cases. Also per Mr. Redtke’s request, the amendment limits the reporting exemption under s. 11.06 (2), stats., so that it only applies to current reporting requirements. Under the amendment, the exemption under s. 11.06 (2), stats., does not apply to reporting of “independent expenditures” under proposed s. 11.065. As we mentioned in the drafter’s note to LRB–2872/4, because this amendment requires individuals, other than candidates and committees, and groups that are not organized primarily for political purposes to report when they engage in activity other than making contributions or express advocacy, the amendment extends beyond the bounds permitted under *Buckley v. Valeo*, 96 S.Ct. 612 at 663–664 (1976). However, resolution of this issue may not be necessary unless the “issue advocacy” disclosure requirements in the draft are first found to be fully enforceable.
2. The amendment makes a technical clarification to proposed s. 11.06 (1) (cm), in order to more precisely describe the reporting requirement created under that section. This item was not in the instructions but we believe it conforms to your original intent.
3. The amendment provides in proposed s. 11.065 (1) that reports of independent expenditures shall be made on a special form prescribed by the board for this purpose. This change was requested by Brandon Redtke at WEAC.
4. The amendment deletes language in proposed s. 11.065 (3) that would have specifically permitted a candidate to challenge with the board any statement of support or opposition that was included in a report of an “independent expenditure”. Under the amendment, the board may still review a statement that reasonably appears to be incorrect and redetermine the issue. This item was requested by Brandon Redtke at WEAC.
5. The amendment revises proposed s. 11.20 (3) (be) so that weekly reports by candidates can potentially begin as early as the day after the closing date for the preprimary report, but are not required unless contributions or other income exceed 75% of the applicable disbursement level. You requested this change.

6. The amendment provides in s. 11.26 (1) (intro.), stats., that current contribution limitations, which are greater than other applicable contribution limitations, are available to a candidate for statewide or legislative office only if the candidate files an affidavit of adherence to his or her disbursement limitation or level. Under the previous draft, candidates for other offices also needed to file the affidavit in order to benefit from the current contribution limitations, which was not consistent with the revised instructions.

7. The amendment creates proposed s. 11.26 (2m) and (2t), which establish separate committee contribution limitations for candidates for state offices, other than district attorney, court of appeals judge and circuit judge, who do not file affidavits of adherence to disbursement and self-contribution limitations. You requested this change. The instructions for LRB-2872/4 indicated that the committee contribution limitations under s. 11.26 (2), stats., should not be included in the “bump up” under proposed s. 11.26 (9m). This amendment does not alter that policy.

8. The amendment clarifies that expenditures for internal communications by corporations, etc., under s. 11.29 (1), stats., and for bona fide news stories, etc., under proposed s. 11.30 (4m) are not reportable as independent expenditures under proposed s. 11.065. This item was not in the instructions for this amendment but we believe it conforms to your original intent.

9. The amendment provides that the release of certain contribution and disbursement limitations to respond to independent expenditures under proposed s. 11.31 (3r) may be obtained by any candidate, regardless of whether the candidate filed an affidavit of adherence to these limitations. You requested this change.

10. The amendment creates a nonseverability provisions for all parts of the draft that relate to independent expenditure reporting and adjustments to contribution and disbursement levels or limits in response to independent expenditures or excess disbursements by opposing candidates. You requested this change.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

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