

**2001 DRAFTING REQUEST**

**Assembly Amendment (AA-AB(LRBx2872/5))**

Received: **02/19/2002**

Received By: **kuesejt**

Wanted: **Today**

Identical to LRB:

For: **Marc Duff (608) 266-1190**

By/Representing: **him**

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

Drafter: **kuesejt**

May Contact:

Addl. Drafters: **rmarchan**

Subject: **Elections - campaign finance**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

AA to AB (LRB-2872/5) (Trailer amendment)

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**Instructions:**

See Attached.

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**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>
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/1			kfollet 02/20/2002	_____	lrb_docadmin 02/20/2002	lrb_docadmin 02/20/2002	

FE Sent For:

<END>

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17/	kuesejt 2/20	1 cjs 2/20	18/ 2/20	17/PS 2/20			

FE Sent For:

<END>

**Kuesel, Jeffery**

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**From:** Rettke, Brandon [RettkeB@WEAC.org]  
**Sent:** Wednesday, February 20, 2002 8:54 AM  
**To:** robert.marchant@legis.state.wi.us; jeffery.kuesel@legis.state.wi.us  
**Cc:** Marc Duff (E-mail)  
**Subject:** FW: Duff #4 Comments

Good Morning Rob and Jeff,

Thanks for all your quick work on /4. Below are the required amendments that we need for Thursday. I don't think they are too difficult. Thanks again for all the work. Call or e-mail me if you have any questions.

Brandon Rettke  
Government Relations Program Specialist  
Wisconsin Education Association Council  
608-276-7711 ext. 271

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

**From:** Matthew W. O'Neill [mailto:MWO@ffsj.com]  
**Sent:** Tuesday, February 19, 2002 3:07 PM  
**To:** Rettke, Brandon  
**Cc:** Gonzales, Gail; Stocks, John  
**Subject:** Duff #4 Comments

1. Page 22, lines 15-16 - Remove the phrase "other than a disbursement".  
This bill is intended to provide the spending/funding boost in response to both disbursements and issue ads. If the concern is duplicative reporting requirements, then simply add a line to the new 11.065(1)(a) to the effect "unless previously reported under s. 11.20"
2. Page 27, lines 6-14. Section 11.06(2) needs to be amended to ensure that all "independent expenditures," including issue ads, are reported under 11.065. I suggest adding the phrase "an independent expenditure under s. 11.01(11m) or" in line 9, between the words "constitute ..." and "...a contribution"
3. Page 30, Line 15-17. Remove the language regarding the candidate challenging a report. Candidates do already have that opportunity to file complaints to the board and this additional language would just give another thing for legislators to look at and use as an excuse to lobby against.
4. The bill should have a severability clause indicating that if any provision relating to the reporting of "independent expenditures" and the funding impact based upon independent expenditures is found unconstitutional, all related provisions will be stricken. I suggest the following language (though the drafting attorneys should check to make sure it catches all relevant provisions):

"Notwithstanding section 990.001(11) of the statutes, if a court finds that all or any portion of sections 11.01(4m), 11.01(11m), 11.01(13), 11.065, or 11.31(3r) of the statutes, as created by this act, is unconstitutional, then sections 11.01(4m), 11.01(11m), 11.01(13), 11.065, or 11.31(3r) of the statutes, as created by this act, are void in their entirety."

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2001

Date (time) needed

(DNOTE)

Wed 2/20  
TODAY

LRBa 1295,1

RSM HJ: The g's :

AMENDMENT

See form AMENDMENTS — COMPONENTS & ITEMS.

S (A) AMENDMENT

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

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

TO 2001 SB SJR SR (AB) AJR AR (LRB-287215)

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

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

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

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

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

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

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa1295/linsRM  
RJM&JTK:.....

1. Page 22, line 15: delete the material beginning with “, other” and ending with “disbursement,” on line 16. ✓
2. Page 26, line 19: after “disbursements” insert “using contributions”. ✓
3. Page 27, line 11: after “reported” insert “under this section”. ✓
4. Page 28, line 10: delete “and (2)” and substitute “(2), and (2m)”. ✓
5. Page 28, line 13: delete “or (2)” and substitute “(2), or (2m)”. ✓
6. Page 29, line 7: after “board” insert “on a form prescribed by the board for this purpose”. ✓
7. Page 30, line 14: delete “opponent,” and substitute “opponent or”. ✓
8. Page 30, line 15: delete the material beginning with that line and ending with “incorrect,” on line 17. “or if any”
9. Page 36, line 4: delete lines 4 and 5 and substitute: ✓  
✓ “11.20 (2) ~~Preprimary and~~ Unless a candidate is required to file additional reports”. ✓
10. Page 36, line 15: delete “otherwise” and substitute “additional reports are”. ✓
11. Page 36, line 22: delete “otherwise” and substitute “additional reports are”. ✓
12. Page 36, line 23: after “election” insert “other than a primary”. ✓
13. Page 37, line 1: delete lines 1 to 7 and substitute:

FIX  
COMPONENT →

“11.20 (3) (be) In addition to any reports required under sub. (2), if a candidate for a state office specified in s. 11.31 (1) (a) to (d), (e), or (f) who seeks to have his or her name appear on the ballot at a general, spring, or special election, as of the 15th day before the primary election at which the candidate seeks nomination or, if no primary is held, as of the 15th day before the date on which the primary would be held, if a primary were required, has received contributions or other income in a total amount exceeding 75% of the disbursement level specified in s. 11.31 (1), as adjusted under s. 11.31 (9), for the office that the candidate seeks, the candidate or his or her personal campaign committee shall file preprimary or preelection reports beginning with the week which includes that day for each week prior to any primary election, and for each week prior to the succeeding general, spring, or special election, if the name of the candidate appears on the ballot at that election.”

14. Page 40, line 14: delete lines 14 and 15 and substitute: “for election or nomination to any of the following offices office specified in pars. (a) to (c) who has filed an affidavit under s. 11.31 (2m) or for election or nomination to any office specified in pars. (cc) to (d)”.

and to any individual or committee under s. 11.06 (7) acting solely

PLAIN

15. Page 41, line 20: delete “of the following offices” and substitute “of the following offices office specified in pars. (a) to (c) who has filed an affidavit under s. 11.31 (2m) or for election or nomination to any office specified in pars. (cc) to (d)”.

16. Page 42, line 11: after that line insert:

“SECTION 61g. 11.26 (2m) of the statutes is created to read:

11.26 (2m) Subject to sub. (10a) and except as provided under sub. (2t), no committee other than a political party committee may make any contribution or contributions to a candidate for election or nomination to any of the following offices

who has not filed an affidavit under s. 11.31 (2m) and to any individual or committee under s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the candidate's opponent to the extent of more than a total of the amounts specified per candidate:

- (a) Candidates for governor, \$21,750.
- (ae) Candidates for lieutenant governor, \$6,000.
- (am) Candidates for attorney general, \$11,000.
- (as) Candidates for state superintendent or justice, \$6,000.
- (av) Candidates for secretary of state or state treasurer, \$4,325.
- (b) Candidates for state senator, \$750.
- (c) Candidates for representative to the assembly, \$375.

**SECTION 61r.** 11.26 (2t) of the statutes is created to read:

11.26 (2t) The limitations under sub. (2m) apply to any candidate who files an affidavit under s. 11.31 (2m) (a) but who the board determines is ineligible to receive a grant from the Wisconsin election campaign fund, who withdraws his or her application for a grant under s. 11.50 (2) (h), or to whom s. 11.50 (2) (i) applies, unless the candidate subsequently files an affidavit under s. 11.31 (2m) (b). If a candidate files an affidavit under s. 11.31 (2m) (b), the limitations under sub. (2) apply to that candidate beginning on the date that the affidavit is filed. Contributions made before the date on which a limitation changes under this subsection are lawful if the contributions were lawful at the time they were made."

**17.** Page 42, line 13: delete "and (2)" and substitute "and (2), and (2m)".

**18.** Page 43, line 12: after "(2)," insert "(2m),".

**19.** Page 43, line 13: after "(2)," insert "(2m),".



20. Page 46, line 10: after "(2)," insert "(2m),". ✓

21. Page 46, line 17: after "(2)," insert "(2m),". ✓

22. Page 47, line 6: delete "or (2)" and substitute "(2), or (2m)". ✓

23. Page 47, line 9: after "(2)," insert "(2m)". ✓

24. Page 47, line 15: after that line insert:

"SECTION 75m. 11.29 (1) of the statutes is amended to read:

11.29 (1) Nothing in this chapter restricts any corporation, cooperative or voluntary association other than a political party or personal campaign committee from making disbursements or independent expenditures for the purpose of communicating only with its members, shareholders or subscribers to the exclusion of all other persons, with respect to endorsements of candidates, positions on a referendum or explanation of its views or interests, without reporting such activity. No such corporation, cooperative or voluntary association may solicit contributions or other donations from persons who are not members, shareholders or subscribers to be used for such purposes." ✓

History: 1973 c. 334; 1975 c. 93 s. 119 (1); 1979 c. 328.

25. Page 47, line 23: delete that line and substitute: "contribution or disbursement, or independent expenditure". ✓  
*plain*

"(a) If a candidate"

26. Page 51, line 20: delete the material beginning with that line and ending with "11.30 (4m)" on page 52, line 1, and substitute: "no" (a) If the board receives a report under s. 11.065 that an independent expenditure has been made for the purpose of making a communication in opposition to a candidate for a state office specified in sub. (1) (a) to (d), (e), or (f), or in support of a candidate whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot in opposition to such a candidate". ✓

*fund cas f*

(a) (with respect to the reference to 11.26 (9m) and (b))

001

#1. Page 75, line 18: after that line insert:

**SECTION 146m. Nonstatutory provisions.**

nonstat

hard number

3m

NONSEVERABILITY. Notwithstanding section 990.01 (11) of the statutes, if a court finds that all or any portion of the statutes listed in ~~par~~ (a) or all or any portion of the treatments listed in ~~par~~ (b) is unconstitutional, then all of the statutes described in ~~par~~ (a) and all of the treatments described in ~~par~~ (b) are void in their entirety:

(a) *Statutes created by this act.* Section 11.01 (4m), (11m) and (13); 11.06 (1) (cm); 11.065; 11.26 (1m), (1t), (2m), (2t), and (9m); 11.26 (10a) (with respect to the reference to 11.26 (1m) and (2m)); 11.30 (4m) (with respect to the reference to independent expenditures); 11.31 (2m) (a) (with respect to the reference to 11.31 (3n) and (3r)) and 11.31 (3n) and (3r) of the statutes as created by this act.

(b) *Treatments of current statutes by this act.* Section 5.05 (1) (e); 11.06 (2), 11.06 (7m) (b); 11.26 (1) (intro.) (with respect to the reference to 11.26 (1t) and (9m)) and the filing of an affidavit under 11.31 (2m), 11.26 (2) (intro.) (with respect to the reference to 11.26 (2t)) and the filing of an affidavit under 11.31 (2m), 11.26 (3) and (5), 11.26 (6) (with respect to the reference to 11.26 (1m) and (2m)), 11.26 (9) (with respect to the reference to 11.26 (9m)), 11.26 (10), 11.26 (15) (with respect to the reference to 11.26 (1m) and (2m)), 11.26 (17) (a); 11.27 (1); 11.29 (1); 11.31 (2) (with respect to the reference to 11.31 (3n) and (3r)) and (2m) (with respect to the reference to 11.31 (3n) and (3r)); 11.50 (2) (g), 11.50 (2) (i) (with respect to the treatments 11.31 (3n) and (3r)); and 12.05 of the statutes as affected by this act.

The treatment of sections

and close paren

(with respect to the reference of 11.31(3n) and(3r))

(End)

reference to and the renumbering of 11.31 (2m) (with respect to the reference to 11.31 (3n) and (3r))

of the statutes

INSERT A

#. Page 41, line 18: after "(10a)" insert "and except as provided under sub. (2+)".

↑  
score

↳ (2+ ms)

it says 2+

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

LRBa1295/1dn  
RJM&JTK: /:....

gs

Representative Duff:

Per the request of  
Brandon Redtke  
at WEAC,

Also per  
Mr. Redtke's  
request

because this  
amendment  
requires

#. 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. The amendment ~~also~~ limits the reporting exemption under s. 11.06 (2), stats, so that it only applies to ~~individuals, committees, and groups that would otherwise be subject to current reporting requirements.~~ Under the amendment, s. 11.06 (2), stats, does not apply to ~~persons who make~~ "independent expenditures". As we mentioned in the drafter's note to LRB-2872/4, ~~the fact that, under this amendment, reports are required of individuals, other than candidates and committees, and groups that are not organized primarily for political purposes when they engage in activity other than making contributions or express advocacy, creates a requirement which 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. This item was requested by Brandon Redtke at WEAC.~~

The exemption  
was

Under  
proposed  
s. 11.065

The  
amendment

FNS  
from  
P. 2

reporting  
of

to report

#. 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.

expenditure"

#. 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 communication. 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.

#. 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.

#. The amendment provides in s. 11.26 (1) (intro.), stats, that current 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.

which are greater  
than other applicable  
contribution limitations,

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.

# 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. *INS NOTE*

# 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.

# The amendment provides that the release <sup>of</sup> 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.

# 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.

# 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 suggested by Bob Conlin.

*MUVER TOP 1*

*not in the instructions  
but we believe it conforms  
to your original intent*

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

INSERT NOTE

~~11/16/14~~ 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.

Although the amendment does include separate committee contribution limitations for candidates depending upon whether the candidates are subject to disbursement limitations. See proposed s. 11.26(2), (2m), and (2f).

and  
self  
contribution

**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  
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E-mail: robert.marchant@legis.state.wi.us

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





State of Wisconsin  
2001-2002 LEGISLATURE

**CORRECTIONS IN:**

**ASSEMBLY AMENDMENT 1,  
TO 2001 ASSEMBLY BILL 843**

Prepared by the Legislative Reference Bureau  
(February 28, 2002)

In engrossing, the following corrections were made:

1. Page 4, line 10: before "and (2)" insert ", (1m),".
2. Page 4, line 10: before "(2), and" insert ", (1m),".

LRBa1295/1ccc-1

KMG:kjf

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Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31; Assembly Rule 36; and Joint Rule 56.

Dated 2/28

a 1295/1

A. Amdt. 1  
To AB-843

In engrossing, the following  
corrections were made:

#. Page 4, line 10: before  
"and (2)" insert  
"(1m),"

#. Page 4, line 10: before  
"(2), and" insert  
"(1m),"

KMG