

**ASSEMBLY BILL 843**

1 11.50 (5), 11.50 (6), 11.50 (10m), 11.50 (11) (e), 11.60 (1) and (2), 11.61 (1), 12.05,  
 2 19.53 (6), 19.59 (8) (c), 25.42, 71.10 (3) (a) and 71.10 (3) (b); and *to create* 5.066,  
 3 11.001 (2m), 11.01 (4m), (7) (b) 6. and (11m), 11.01 (13), (14), (17g) and (17r),  
 4 11.05 (1) (b), 11.05 (2) (b), 11.05 (3) (q), 11.06 (1) (cm), 11.06 (1) (dm), 11.06 (11)  
 5 (bm), 11.065, 11.10 (6), 11.12 (6) (h), 11.20 (3) (be), 11.20 (8) (am), 11.21 (17),  
 6 11.24 (1s), 11.24 (1w), 11.25 (2) (am), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae), (am),  
 7 (as) and (av), 11.26 (9m), 11.26 (10a), 11.31 (1) (cg) and (cr), 11.31 (2m) (a), 11.31  
 8 (3n), 11.31 (3r), 11.31 (9), 11.385, 11.50 (1) (a) 1. (intro.), 11.50 (1) (a) 2m., 11.50  
 9 (1) (am), 11.50 (1) (bm) and (cm), 11.50 (2s), 11.50 (2w), 11.50 (3) (c), 11.50 (4m),  
 10 11.50 (9) (b) to (d), 11.50 (14), 11.66 (2), 19.42 (3m), (4g), (4r) and (7p), 19.45 (13),  
 11 19.49 (1m), 19.49 (5) (b), 19.535, 19.59 (1) (br), 19.59 (7) (b), 19.59 (8) (cm) and  
 12 (cn), 71.07 (6s), 71.10 (4) (cs), 227.03 (6m) and 227.52 (8) of the statutes;  
 13 **relating to:** campaign financing, the procedure for enforcement of the election  
 14 laws, nonrefundable income tax credits for certain donations to the Wisconsin  
 15 election campaign fund, candidate time on public broadcasting television  
 16 stations and public access channels, official action in return for providing or  
 17 withholding political contributions, services, or other things of value, providing  
 18 exemptions from certain emergency rule procedures, granting rule-making  
 19 authority, and providing penalties.

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***Analysis by the Legislative Reference Bureau***

This bill makes numerous changes in the campaign financing law and also makes certain changes to tax laws relating to campaign financing and provision of free media access to candidates for state office. The bill also requires free time for candidates for state office on public broadcasting television stations and public access channels. In addition, the bill changes the procedure for enforcement of the election laws. Significant provisions include:

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FILING OF CAMPAIGN FINANCE REPORTS

**Mass communications**

Currently, individuals who accept contributions, organizations which make or accept contributions, or individuals who or organizations which incur obligations or make disbursements (expenditures) for the purpose of influencing an election for state or local office are generally required to register with the appropriate filing officer and to file financial reports with that officer, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed.

With certain exceptions, this bill imposes reporting requirements, in addition, upon any individual who or organization that, during the period beginning on the 30th day before a primary election for an office to be filled at a general, special, or spring election and the date of that general, special, or spring election or, if no primary is held, during a similar 60-day period preceding a general, special, or spring election and by means of a printed advertisement, commercial billboard, radio or television advertisement, mass mailing, telephone call, or similar means, makes any expenditure independently of a candidate for the purpose of making one or more communications which include the name or likeness of a candidate for a state office other than court of appeals judge, circuit judge, or district attorney to be filled at that election. This requirement applies to expenditures to finance what is commonly referred to as "issue advocacy."

The requirement does not apply to a communication reportable under current law, to a communication made solely for the purpose of gathering information, or to a communication made by a corporation, cooperative, or nonpolitical voluntary association that is limited to the organization's members, shareholders, or subscribers. The reporting requirement does not apply unless the individual or organization makes expenditures ~~independently of a candidate or such communication~~ exceeding \$2,000. The report required under the bill must include the name of each candidate identified in each communication, a statement as to whether the communication is intended to support or oppose that candidate (and, if so, an identification of the candidate who is supported or opposed), the total amount or value of the expenditure used to fund the communication, and the accumulative aggregate expenditures made by the individual or organization with respect to that election. The bill permits the board to obtain a copy of any reported communication, under certain circumstances, in order to determine whether the communication was intended to support or oppose a candidate. Any such determination applies only for purposes of granting exemptions from certain disbursement and contribution limits (see below).

**Required frequency of certain reports**

Currently, with limited exceptions, a candidate at any primary or other election must file preprimary and preelection reports no later than eight days before each primary or other election at which the candidate participates.

This bill provides, in addition, that if ~~such~~ a candidate, as of the ~~end of any week before a primary or other election at which the candidate seeks office,~~ has received contributions or other income in a total amount exceeding 20% of the disbursement level provided for the office that the candidate seeks, the candidate or his or her personal campaign committee must file weekly preprimary or preelection reports for

AS well as to the disbursement of the bill... ASSEMBLY BILL 843

and to independent disbursements by individuals other than candidates and organizations that are primarily organized for a political purpose... exempt from reporting under current law.

to bona fide news or editorial coverage

covered

to disbursements made independently of a candidate that are

The reporting requirement does not apply to

In addition, the

for state office other than court of appeals judge, circuit judge, or district attorney

No date on which the primary would be held, if no primary is required, or at any time thereafter

15th day before the

75%

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each week preceding the primary or other election at which the candidate seeks office.

***Reporting of disbursements for communications***

Currently, if a person makes a payment to make a communication for the purpose of influencing an election, the payment is potentially reportable as a disbursement (expenditure), even if the communication is made after the time of the disbursement. Under this bill, a payment made for such a purpose is not reportable until the communication is made.

***Reporting of late independent obligations and disbursements***

Under current law, an individual or committee making disbursements independently of a candidate in support of or in opposition to a candidate for state or local office must inform the appropriate filing officer within 24 hours of making such a disbursement, if the cumulative amount of such disbursements made by the individual or committee later than 15 days before a primary or election exceeds \$20.

This bill extends this 24-hour reporting requirement to cover obligations incurred for communications made. Also, the bill requires 24-hour reporting only if the cumulative amount of obligations incurred or disbursements made by the individual or committee later than 15 days before a primary or election exceeds \$250.

***Reports relating to referenda***

Currently, any individual who accepts contributions, makes disbursements, or incurs obligations, and any group that makes or accepts contributions, makes disbursements, or incurs obligations, in connection with one or more referenda exceeding \$25 cumulatively within a calendar year is potentially subject to requirements to register with the appropriate filing officer and to file campaign finance reports.

This bill provides instead that the individual or group is potentially subject to registration and reporting requirements only if contributions, disbursements, or obligations exceed \$100 cumulatively within a calendar year.

***Reporting by nonresident registrants***

Currently, with certain exceptions, registrants under the campaign finance law are required to file regular reports with the appropriate filing officer or agency. The reports must identify contributors of more than \$20 cumulatively within a calendar year; the occupation and principal place of employment, if any, of each contributor whose cumulative contributions within a calendar year exceed \$100; the registrants from whom or to whom funds are transferred; other income exceeding \$20; contributions donated to a charitable organization or the common school fund; loans exceeding \$20, together with the identity of the lenders and guarantors, if any; disbursements (expenditures) and obligations exceeding \$20; and certain information from registrants making disbursements independently of candidates. However, if a registrant does not maintain an office or street address within this state, the registrant need only identify contributions, transfers, loans, and other income received from sources in this state and disbursements and obligations incurred with respect to elections for state or local office in this state.

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This bill deletes the exception for registrants who or which do not maintain an office or street address within this state, so that these registrants are required to report the same information as other registrants. The bill does not affect reporting by authorized committees of candidates for the office of U.S. senator or representative in congress, national political party committees, and federally registered committees of state political parties that make no contributions to individuals or committees that are subject to a state registration requirement.

***Reporting of contributions transferred by conduits***

Currently, if an individual or organization receives a political contribution consisting of money and transfers the contribution to another individual or organization without exercising discretion as to the amount to be transferred and the individual to whom or the organization to which the transfer is to be made, the contribution is considered to be made by the original contributor for purposes of reporting by the ultimate recipient. The contribution is also treated as an individual contribution for purposes of determining contribution limitations and qualifying contributions for public grants. The individual or organization making the transfer is called a "conduit" under the law. A conduit must identify itself to the ultimate recipient as a conduit and provide to that recipient the information about the contribution which is necessary for the recipient to file its campaign finance reports.

This bill directs the elections board to provide a separate schedule that must be filed by each registrant to which contributions are transferred by a conduit. The schedule includes the name and address of the conduit, the date and amount of each transfer, and the total amount transferred to the registrant by the conduit for the calendar year.

***Duplicate filing requirements***

Currently, certain registrants whose filing officer is the elections board and who or which make disbursements in connection with elections affecting only one county or a portion thereof must file duplicate originals of their campaign finance reports with the county clerk or board of election commissioners of every county in which such elections are held. This bill requires, instead, that these registrants file duplicate originals of these reports with the filing officer of each jurisdiction in which such elections are held.

**DISBURSEMENT LEVELS AND LIMITATIONS**

Under current law, disbursement (expenditure) levels are specified for candidates for various state and local offices. These levels become a binding limitation upon any candidate for state office who accepts a state grant from the Wisconsin election campaign fund or who agrees to be bound by the limitation, unless the candidate is opposed by a major opponent who could have qualified for a grant but declines to accept one.

This bill:

1. Revises the current disbursement levels and limitations applicable to candidates for the offices shown below as follows:

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<i>Office</i>	<i>Current Level</i>	<i>Proposed Level or Limitation</i>
Governor	\$1,078,200	\$2,750,000
Lieutenant governor	323,475	400,000
Attorney general	539,000	750,000
Secretary of state	215,625	300,000
State treasurer	215,625	300,000
Supreme court justice	215,625	400,000
Superintendent of public instruction	215,625	400,000
State senator	34,500	112,500
Representative to the assembly	17,250	45,000

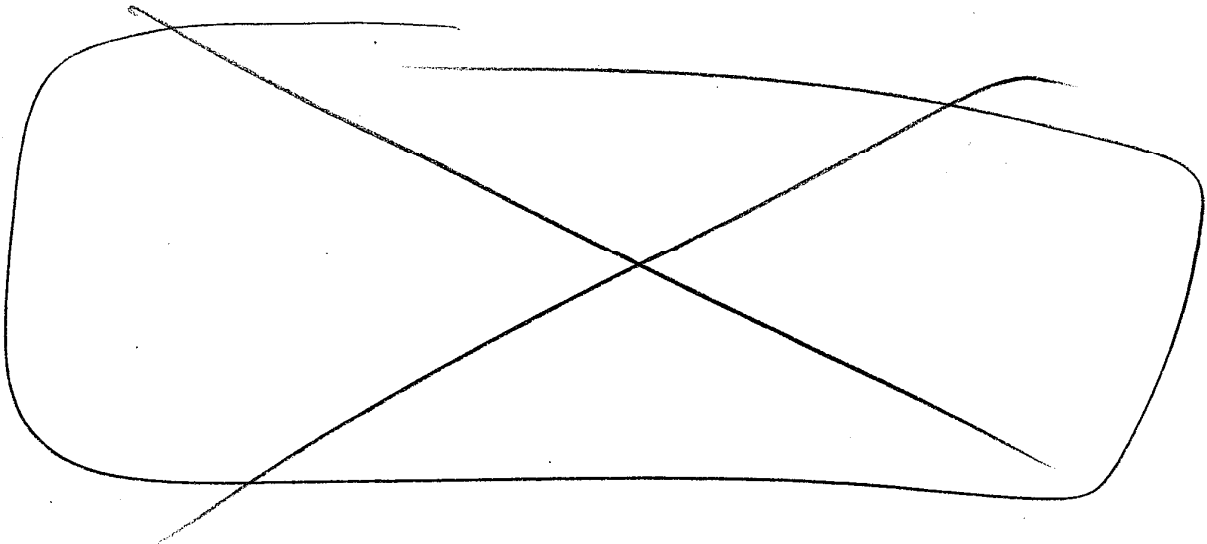
2. Creates a quadrennial cost-of-living adjustment that causes the statutory disbursement levels to be adjusted every 4 years, beginning in 2006, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

**CONTRIBUTION LIMITATIONS*****Individual contributions***

Current law limits the amount of contributions that may be given to and accepted by a candidate for state or local office. Currently, individuals are subject to limitations on the amount of contributions made cumulatively to a particular candidate and on the aggregate total amount of contributions made to all candidates.

This bill:

1. Revises the current limitations on contributions that individuals may make to candidates for certain state offices. Under the bill, with certain exceptions, candidates who voluntarily agree to abide by the disbursement limitations and self-contribution limitations may receive higher amounts of contributions from individuals. The proposed limitations on these contributions are shown in the following chart:



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Office	Current Limit	Proposed Limit: Candidates Subject to Disbursement and Self-Contribution Limitations	Proposed Limit: Candidates Not Subject to Disbursement and Self-Contribution Limitations
Governor, lieutenant governor, attorney general, secretary of state, state treasurer, supreme court justice, or superintendent of public instruction	\$10,000	\$10,000	\$5,000
State senator	1,000	1,500	750
Representative to the assembly	500	750	375

2. Creates a cost-of-living adjustment that causes the statutory limits on individual contributions to be adjusted quadrennially, beginning in 2006, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

**Committee contributions**

Under current law, committees other than political party committees and legislative campaign committees are subject to limitations on the amount of contributions made cumulatively to a particular candidate. In the case of committees making contributions to candidates for statewide offices, this limitation is 4% of the candidate's disbursement level or limitation. ~~This bill replaces this percentage limitation with a dollar amount which represents a change in the amount of the limitation and changes the current limitations upon contributions to legislative candidates as follows.~~

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Office	Current Level	Proposed Limit
Governor	\$43,128	\$43,500
Lieutenant governor	12,939	12,000
Attorney general	21,560	22,000
Secretary of state	8,625	8,650
State treasurer	8,625	8,650
Supreme court justice	8,625	12,000

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Superintendent of public instruction	8,625	12,000
State senator	1,000	1,500
Representative to the assembly	500	750

Current law also limits the cumulative amount of contributions that a committee other than a political party or legislative campaign committee may make annually to a particular political party, limits the cumulative amount of contributions that a political party may accept annually from a particular committee other than a political party or legislative campaign committee, and its subunits or affiliates, and limits the aggregate total of contributions that a political party may accept during any biennium from all committees other than political party and legislative campaign committees. Currently, a committee other than a political party or legislative campaign committee may annually contribute up to \$6,000 to a particular political party, a political party or a legislative campaign committee may annually accept up to \$6,000 from a particular committee other than a political party or legislative campaign committee, and its subunits and affiliates, and a political party or legislative campaign committee may accept up to \$150,000 in contributions from all committees other than a political party or legislative campaign committee during any biennium.

This bill increases these contribution limits. Under the bill, a political party may receive up to \$450,000 in contributions from all committees, other than political party committees. In addition, a political party may annually accept up to \$18,000 from any particular committee, other than a political party committee. The bill also authorizes such a committee to make contributions up to that authorized amount.

*here* In addition, the bill creates a cost-of-living adjustment that causes the statutory limits on committee contributions to be adjusted quadrennially, beginning in 2006, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

**TREATMENT OF LEGISLATIVE CAMPAIGN COMMITTEES**

Currently, the adherents of any political party in either house of the legislature may organize a "legislative campaign committee" to support the candidacy of members of their party for legislative office. Committees other than legislative campaign committees and political party committees are generally subject to a limitation upon the contributions that they may make to candidates for legislative office or to political parties. Legislative campaign committees are subject only to overall limitations on the aggregate contributions that may be accepted by a candidate from entities other than individuals.

This bill eliminates the special treatment of legislative campaign committees under the statutes, thus causing them to be treated in the same manner as other special interest committees for the purpose of contribution limitations. The bill does not preclude a committee from utilizing any name it wishes.

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**EXEMPTION FROM DISBURSEMENT AND CERTAIN CONTRIBUTION LIMITATIONS**

Currently, if a candidate for a state office accepts a grant and has an opponent who also could have qualified to receive a grant but declines to accept one, the candidate is not bound by his or her disbursement or self-contribution limitation. However, if each opponent who declines to accept a grant files with the elections board an affidavit of voluntary compliance with the disbursement and self-contribution limitation applicable to candidates for the office that the candidate seeks, the disbursement and self-contribution limitation for the candidate who accepts a grant continues to apply. Currently, a candidate for state or local office may not accept contributions from all committees, together with grants from the Wisconsin election campaign fund, in an aggregate amount exceeding 65% of the candidate's applicable disbursement level or limit. In addition, such a candidate may not accept contributions from all committees, together with grants from the Wisconsin election campaign fund, but not including contributions from political party committees, in an aggregate amount exceeding 45% of the applicable disbursement level or limit.

Under this bill, if a candidate for state office accepts a grant from the Wisconsin election campaign fund or if a candidate for state office other than court of appeals judge, circuit judge, or district attorney files an affidavit of voluntary compliance with disbursement and self-contribution limitations, and if an expenditure independently of a candidate for a reportable mass communication is made in opposition to his or her candidacy or in support of his or her opponent, an expenditure to finance what is commonly referred to as "issue advocacy," then the candidate may make additional disbursements in that campaign exceeding the applicable disbursement limitation, in an amount equivalent to the amount of the expenditure. In addition the limitations upon contributions made by individuals to the candidate (as affected by the bill) are doubled. Furthermore, subject to certain limits, any contributions received by the candidate for purposes of responding to the expenditure, up to the amount of the expenditure, are not subject to the the percentage limitations on the aggregate total of contributions received from committees and grants from the Wisconsin election campaign fund. The bill requires each candidate who desires to respond to such an expenditure to include, in each required campaign finance report, an itemization of any such contributions. However, the bill prohibits a candidate from accepting contributions totaling more than 200% of the percentage limitations on the aggregate total of contributions received from committees and grants from the Wisconsin election campaign fund. Under the bill, applicable limitations on contributions from particular committees, other than political party committees, continue to apply to the candidate.

The bill also provides that if a candidate for state office who accepts a grant from the Wisconsin election campaign fund or a candidate for state office other than court of appeals judge, circuit judge, or district attorney who has filed an affidavit of voluntary compliance with disbursement and self-contribution limitations determines that an opposing candidate who has not applied for a grant and who has not filed an affidavit has made disbursements exceeding the amount of the disbursement limitation applicable to candidates for that office, then all candidates

(see section discussing "Mass Communications" above)

any candidate for state office other than court of appeals judge, circuit judge, or district attorney

any

(as affected by the bill)



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for that office may make additional contributions to their own campaigns exceeding the self-contribution limitation applicable to candidates for that office and may make additional disbursements exceeding the disbursement limitation applicable to candidates for that office in an amount equivalent to the lesser of the total contributions made by the opposing candidate to his or her own campaign or the amount by which total disbursements made by the opposing candidate exceed the applicable disbursement limitation, as reported to the board by the opposing candidate. In addition, limitations upon contributions made by individuals to those candidates (as affected by the bill) are doubled. Furthermore, subject to certain limits, any contributions received by the candidates for purposes of responding to the excess disbursements, up to the amount of the excess disbursements, are not subject to the the percentage limitations on the aggregate total of contributions received from committees and grants from the Wisconsin election campaign fund. The bill requires candidates who desire to respond to such disbursements to include, in each required campaign finance report, an itemization of any such contributions. However, the bill prohibits the candidates from accepting contributions totaling more than 200% of the percentage limitations on the aggregate total of contributions received from committees and grants from the Wisconsin election campaign fund. Under the bill, applicable limitations on contributions from particular committees, other than political party committees, continue to apply to all candidates.

(as affected  
by the bill)

**CONTRIBUTION RESTRICTIONS*****Personal campaign committee contributions to certain federal registrants***

Currently, a committee that is subject to a registration requirement under state law may make a contribution to be used in connection with a campaign for national office if that contribution is lawful under federal law. This bill prohibits a personal campaign committee of a candidate for state or local office in this state from making a contribution to a committee that is registered with the federal election commission, other than an authorized committee of a candidate for national office or a national or state political party committee.

***Contributions made in connection with certain fund-raising events***

This bill provides that no member of the legislature or personal campaign committee of a member may make or receive any contribution in connection with a fund-raising social event held in Dane County during a legislative floorperiod or a special or extraordinary session if the event is held to benefit a member or member's personal campaign committee. The prohibition does not apply if an event is held between the first day authorized for filing nomination papers for an office for which a member is a candidate and the date of the election for that office, if the event is held within the jurisdiction or district served by the office for which the member is a candidate or if the member is a candidate for an office other than member of the house in which the member serves. The prohibition is also inapplicable to an event that is held during a special or extraordinary session by a member or his or her personal campaign committee if the member serves a district that is at least partly contained within Dane County, the event is held within the boundaries of that district, and invitations to the event are sent before the special or extraordinary session is called.

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Violators of the prohibition are subject to a forfeiture (civil penalty) of not more than \$500 for each violation. Intentional violators are guilty of a misdemeanor and are subject to a fine of not more than \$1,000 or imprisonment for not more than six months, or both.

Currently, there is no such prohibition.

**TRANSFER OF CAMPAIGN SURPLUSES FOR USE IN CAMPAIGNS FOR DIFFERENT OFFICES**

This bill prohibits any authorized campaign committee of a candidate for national office from making a contribution or disbursement with respect to an election for state or local office. Currently, such contributions or disbursements may be permitted if the committee registers and makes certain disclosures under state law.

**WISCONSIN ELECTION CAMPAIGN FUND*****Sources and uses of funds***

Under current law, the Wisconsin election campaign fund is financed through an individual income tax "checkoff." Every individual filing a state income tax return who has a tax liability or is entitled to a tax refund may direct that \$1 of general purpose revenue be transferred to the fund. Individuals filing a joint return may separately choose whether to direct that the \$1 transfer be made. All moneys transferred to the fund are placed in accounts for specified state offices, and candidates for those offices may qualify for grants from the fund to be used for specified campaign expenses.

This bill deletes the current checkoff for the Wisconsin election campaign fund but permits an individual to pay an additional amount not exceeding \$5 to be transferred to the fund, effective for tax returns filed for taxable years beginning on or after January 1 following the day on which the bill becomes law. Under the bill, individuals filing a joint return may separately choose whether to make an additional payment. The bill permits an individual to claim a credit against his or her individual income tax liability for the amount of the additional payment. Individuals filing a joint return may claim a credit for their combined payments. The bill also permits individuals to determine whether to designate their payments for a "general account," which is potentially available for distribution to all candidates who qualify for a grant, or for the account of an eligible political party, which is distributed to all candidates representing that party who qualify for a grant. Under the bill, for a candidate to qualify for a grant from the general account, the candidate must receive at least 6% of the total vote cast for all candidates for the office that the candidate seeks at the September primary or any partisan primary, as currently provided. For a candidate to qualify for a grant from a political party account, a candidate need not meet this requirement. If a candidate of an eligible political party qualifies for a grant, that candidate receives any available moneys in the account of his or her political party. Thereafter, all candidates receive any amounts available from the general account, with those amounts first allocated to equalize grants received by candidates for each office for which any candidate has received payments from a political party account, and thereafter prorated within each office if insufficient moneys are available to finance payment of the full amount of the grants for which candidates qualify.

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Grant eligibility requirements and amounts

a candidate must have an opponent who qualifies to have his or her name appear on the ballot at the election. In addition, a

Under current law, public financing from the Wisconsin election campaign fund is available to eligible candidates for the offices of state senator, representative to the assembly, governor, lieutenant governor, attorney general, state treasurer, secretary of state, justice of the supreme court, and superintendent of public instruction. To receive a grant, a candidate must file an application with the state elections board no later than the deadline for filing nomination papers. Following the primary election or the date on which a primary would be held, if required, the board determines whether a candidate who applies is eligible for a grant. Among other things, in order to be eligible for a grant, the candidate must receive, during a specified time period, a specified amount of contributions from individuals of \$100 or less. For a candidate for the office of governor, lieutenant governor, secretary of state, state treasurer, attorney general, justice of the supreme court, or superintendent of public instruction, the amount is 5% of the authorized disbursement level for the office which the candidate seeks. For a candidate for the office of state senator or representative to the assembly, the amount is 10% of the authorized disbursement level for the office which the candidate seeks.

Under current law, a candidate for any office who accepts a grant must comply with statutorily prescribed contribution and disbursement limitations, unless at least one of the candidate's opponents who received at least 6% of the votes cast for all candidates for that office at a partisan primary, if a primary was held, does not accept a grant and does not voluntarily agree to comply with the contribution and disbursement limitations for that office.

Currently, the maximum grant that a candidate may receive from the Wisconsin election campaign fund is that amount which, when added to all other contributions accepted from sources other than individuals, political party committees, and legislative campaign committees, is equal to 45% of the authorized disbursement level for the office that the candidate seeks, if there are sufficient moneys in the fund to finance the full amount of grants for which candidates qualify. In each year prior to a year in which an election for the office of justice of the supreme court is scheduled, 8% of the moneys designated by taxpayers to be transferred to the fund for that year is set aside to finance payment of grants to candidates for the office of justice. In each year prior to a year in which an election for the office of state superintendent of public instruction is scheduled, 8% of the moneys designated by taxpayers to be transferred to the fund for that year is set aside to finance payment of grants to candidates for the office of superintendent. Whether these amounts are sufficient to finance payment of the full amounts for which candidates qualify depends upon the total amount of taxpayer designations for that year.

This bill:

1. Increases the maximum potential grant payable to a candidate for the office of justice of the supreme court to 65% of the authorized disbursement level for that office.

is equal to or greater than 100%

2. Provides that a candidate has a balance in his or her campaign depository account that exceeds 50% of the authorized disbursement level for the office that the

on which

Requires any candidate applying for a grant to file a special financial report with the board during the period between the date of the applicable primary or the date the primary would be held, if no primary is required, and the 7th day following that date. If this report indicates that the

which updates the candidate's previous reports as of the date of the primary or

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candidate seeks ~~at the time that grant payments are made, the amount of the grant payable to that candidate is 50% of the amount that would otherwise be payable;~~

3. Provides that if a candidate does not have an opponent whose application for a grant is approved by the board, the amount of the grant payable to that candidate is 50% of the amount that would otherwise be payable, ~~unless the grant has already been reduced as a result of the balance in the candidate's campaign depository account.~~

4. Provides that in each year prior to a year in which an election for the office of justice of the supreme court is scheduled, an amount must be set aside from taxpayer donations to the general account sufficient to finance payment of the full amount of grants for which candidates for the office of justice qualify, and in each year prior to a year in which an election for the office of state superintendent of public instruction is scheduled, an amount must be set aside from taxpayer donations to the general account, after any set aside for the office of justice is made, sufficient to finance the full amount of grants for which candidates for the office of superintendent qualify. These amounts must be set aside before amounts are made available from the general account to finance the payment of grants to candidates for any other offices. Under the bill, if the balance in the fund is insufficient to set aside the required amounts, the entire balance in the fund is set aside.

5. Provides that a candidate for the office of state senator or representative to the assembly must receive contributions equal to only 7% of the authorized disbursement level for the office which the candidate seeks in order to qualify for a grant. The bill also provides that the contributions of \$100 or less from individuals used by a candidate for any state office to determine eligibility for a grant must be made by individuals who reside in this state and, in the case of a candidate for legislative office, by individuals at least 50% of whom reside in a county having territory within the district in which the candidate seeks office.

***Disposition of residual or excess funds***

Under current law, residual funds remaining when a person who is required to register under the campaign financing law disbands or ceases incurring obligations, making disbursements, or accepting contributions or excess funds received by a registrant that may not be legally expended may generally be used for any lawful political purpose, returned to the original contributors, or donated to a charitable organization or the common school fund.

This bill allows residual or excess funds to be transferred to the Wisconsin election campaign fund for deposit in the general account.

**ENFORCEMENT*****Enforcement and complaint procedure***

Currently, any interested person may petition the elections board under the state administrative procedure act for a "declaratory ruling" concerning the applicability to any person, property, or facts of any election law or rule of the board. The board may issue the ruling and is thereafter bound by its decision if the facts are as stated in the petition. The declaratory ruling may be reviewed in court. In addition, currently, any elector of a jurisdiction may contest before the elections board the decision of any election official of that jurisdiction with respect to certain

the  
board must deny the candidate's application

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specified matters or the board may, on its own motion, investigate and determine whether an election official is acting in conformity with the law concerning one of those specified matters. The decision of the board may be reviewed in court. Also, the elections board currently may bring civil actions in circuit court to enforce the campaign finance law. In addition, district attorneys may bring civil actions to enforce that law.

This bill creates an additional procedure for enforcement of the election laws. Under the bill, any person may file a sworn complaint with the executive director of the board alleging a violation of the elections laws. The executive director must investigate the complaint unless the executive director finds the complaint to be without merit. The bill also permits the executive director to investigate any violation of the election laws on his or her own initiative or upon direction of the board. The executive director may order an election official or private person to act in conformity with the election laws or rules of the board. The decision of the executive director may be appealed to the board. In deciding the appeal, the board is not bound by any findings of fact or conclusions of law made by the executive director with respect to the matter. If the decision of the executive director is not appealed or if the board does not modify or reverse a decision of the executive director after hearing an appeal, the decision of the executive director becomes the decision of the board. Any decision of the board is subject to judicial review in circuit court. The procedure does not apply to any alleged violation of the election laws by the board or executive director, nor to any matter arising in connection with a recount. The bill also directs the elections board to periodically examine and review decisions issued under the procedure with a view to clarifying and improving the administration of the election laws.

***Injunctive relief***

Currently, the elections board or any elector may sue for injunctive relief (a court order) requiring compliance with the elections laws. Before bringing a suit concerning a state office or statewide referendum, an elector must file a sworn complaint with the board alleging such facts as are within his or her knowledge to show probable cause that a violation has occurred or is proposed to occur. If the board does not sue for injunctive relief within ten days after filing the complaint, the elector may then file suit. This bill requires, instead, that an elector who proposes to bring suit for injunctive relief with respect to an alleged violation concerning an election for state office or a statewide referendum first must file a sworn complaint with the executive director of the board (unless the alleged violation relates to the board or executive director). If the executive director does not order the relief sought by the elector within ten days after the complaint is filed and the elector does not appeal the matter to the board or the board, after hearing the elector's appeal, does not order the relief sought by the elector, the elector may then sue for injunctive relief.

***Penalties for violations***

Currently, any person who violates any provision of the campaign finance law, except a contribution prohibition, is subject to a forfeiture (civil penalty) of not more than \$500 for each violation. This bill increases this amount to \$1,500. In addition, currently, any person who is delinquent in filing a report is subject to a forfeiture of

**ASSEMBLY BILL 843**

not more than \$50 or 1% of the annual salary of the office for which a candidate is being supported or opposed, whichever is greater, for each day of delinquency. This bill increases these amounts to a maximum of \$150 or 3% of the annual salary, whichever is greater.

Currently, whoever intentionally violates certain provisions of the campaign finance law, such as registration requirements, contribution limitations, the prohibition against making contributions in the name of another person, the prohibition against using contributions for most nonpolitical purposes, and the prohibition against filing false reports and statements may be fined not more than \$1,000 or imprisoned for not more than six months, or both, if the violation does not exceed \$100 in amount or value, and may be fined not more than \$10,000 or imprisoned for not more than four years and six months, or both, if the violation exceeds \$100 in amount or value. This bill increases these amounts to a maximum fine of \$3,000 or imprisonment for not more than one year, or both, if the violation does not exceed \$100 in amount or value, and a maximum fine of \$30,000 or imprisonment for not more than nine years, or both, if the violation exceeds \$100 in amount or value.

**PUBLIC BROADCASTING TELEVISION STATIONS AND PUBLIC ACCESS CHANNELS**

This bill requires free time on public broadcasting television stations and public access channels for candidates for state office. Under current law, the Federal Communications Commission grants licenses for the operation of public broadcasting television stations. Also under current law, a city, village, or town is authorized to grant a franchise to a person that allows that person to operate a cable television system in the city, village, or town. Under the franchise, the person may be required to provide cable television channels that the city, village, or town may use for public, educational, or governmental purposes. A channel that is used exclusively for public, rather than educational or governmental purposes, is commonly referred to as a public access channel. A city, village, or town may operate a public access channel, or a city, village, or town may allow another person to operate the channel.

This bill requires the elections board to promulgate rules that require licensees of public broadcasting stations and operators of public access channels to provide a minimum amount of free time to candidates for state office at general, spring, and special elections. The rules must require the same amount of time for each candidate for a particular state office, but may require different amounts of time for different offices.

**OFFICIAL ACTION IN RETURN FOR PROVIDING OR WITHHOLDING THINGS OF VALUE**

Currently, no person may offer or give to a state public official, including a member of the legislature, directly or indirectly, and no state public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the state public official's vote, official actions, or judgment, or could reasonably be considered a reward for any official action or inaction on the part of the state public official.

This bill provides, in addition, that no state or local public official holding an elective office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise

**ASSEMBLY BILL 843**

to take or refrain from taking official action with respect to any proposed or pending matter in consideration of or upon condition that any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any other person who is subject to a registration requirement under the campaign finance law or any person who makes an expenditure independently of a candidate for the purpose of making certain communications containing a reference to a candidate for state or local public office.

Violators are subject to a forfeiture (civil penalty) of not more than \$5,000 for each violation, and are also subject to a forfeiture in an amount equal to the amount or value of any political contribution, service, or other thing of value that was wrongfully obtained, or if no political contribution, service, or other thing of value was obtained, an amount equal to the maximum contribution that an individual is permitted to make a candidate for the office sought or held by the official, whichever amount is greater. Intentional violators are guilty of a misdemeanor and are subject to a fine of not less than \$100 nor more than \$5,000 or imprisonment in the county jail for not more than one year or both.

The bill also provides that, if the ethics board refuses or otherwise fails to authorize an investigation or a district attorney fails to initiate a prosecution with respect to any violation of the prohibition created by the bill within 30 days after receiving a verified complaint alleging such a violation, the person making the complaint may bring a lawsuit to recover a forfeiture on behalf of the state. If the person making the complaint prevails, the bill provides that the court may require the defendant to pay the complainant's attorney fees and costs, but any forfeiture recovered must be paid to the state. If the court finds that a lawsuit was frivolous, the court must award fees and costs to the defendant. The bill provides that no complaint alleging a violation of the prohibition created by the bill may be filed during the period beginning 120 days before a general or spring election or the date that a special election is ordered and ending on the date of that election against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 5.02 (13) of the statutes is amended to read:

5.02 (13) "Political party" or "party" means a state committee registered under s. 11.05 and organized exclusively for political purposes under whose name candidates appear on a ballot at any election, and all county, congressional,

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ENGROSSED SENATE BILL 104

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11.50 (5), 11.50 (6), 11.50 (9) (title), 11.50 (11) (a), 11.50 (11) (e), 11.60 (4), 11.61 (1) (a), 19.53 (6), 19.59 (8) (c), 20.510 (1) (q), 25.42, 71.10 (3) (a) and 71.10 (3) (b); **to repeal and recreate** 11.05 (9) (title) and 11.50 (4); and **to create** 7.08 (2) (cs), 11.001 (2m), 11.01 (16) (a) 3., 11.05 (1) (b), 11.05 (2) (b), 11.05 (3) (m), 11.05 (3) (r), 11.06 (2m) (b) to (d), 11.12 (2m), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t), 11.24 (1w), 11.24 (4), 11.26 (2) (ad) to (au), 11.26 (8m), 11.26 (9) (a) 1. to 7., 11.26 (9) (b) 1. to 7., 11.31 (1) (de), 11.31 (1m), 11.31 (3p), 11.31 (9), 11.50 (1) (a) 1. (intro.), 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm), 11.50 (2) (j), 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (4m), 11.50 (9) (b), (ba) and (bb), 11.50 (14), 11.60 (3s) and (3t), 13.625 (3m), 19.42 (3m), (4g) and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535, 19.59 (1) (br), 19.59 (7) (b), 19.59 (8) (cm) and (cn), 20.855 (4) (ba) and 806.04 (11m) of the statutes; **relating to:** campaign financing, official action in return for providing or withholding political contributions, services, or other things of value, lobbying regulation, designations for the Wisconsin election campaign fund by individuals filing state income tax returns, staffing of the elections board, providing exemptions from emergency rule procedures, granting rule-making authority, making appropriations, and providing penalties.

chief clerk's corrections and

**Analysis by the Legislative Reference Bureau**

**Engrossment information:**

Assembly Bill 843

passed by the assembly

February 26

The text of Engrossed 2001 Senate Bill 104, as ordered to a third reading on January 29, 2002, consists of Senate Substitute Amendment 1, as adopted in the Senate on that date, as affected by the following Senate Amendments adopted in the Senate on that date: Senate Amendments 1, 2, 3, 5, and 6 (as affected by chief clerk's correction).

the bill

Assembly

assembly

Senate Amendments 3 and 6 both affect proposed s. 11.50 (9) (b). This bill reflects the effect of both amendments, which causes certain cross-references to be omitted.

Assembly Amendments 1 (as affected by Assembly Amendments 1 and 2 heretofore) and 10, and chief clerk's correction ✓



**ENGROSSED SENATE BILL 104**

Senate Amendment 2 affects the version of proposed s. 11.50 (9) (b) that was deleted by Senate Amendment 6. As a result, the treatment from Senate Amendment 2 is not included in this bill.

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Content of Engrossed 2001 ~~Senate Bill 104~~

This bill makes numerous changes in the campaign financing law. The bill also makes changes to the income tax laws and to the staffing of the elections board. Significant changes include:

**FILING OF CAMPAIGN FINANCE REPORTS*****Exemptions from registration and reporting***

Currently, any individual who accepts contributions, makes disbursements, or incurs obligations, and any committee or group that makes or accepts contributions, makes disbursements, or incurs obligations, in connection with one or more elections for state or local office or one or more state or local referenda exceeding \$25 cumulatively within a calendar year is potentially subject to requirements to register with the appropriate filing officer and to file campaign finance reports.

This bill provides that an individual who accepts contributions, makes disbursements, or incurs obligations or a group that makes or accepts contributions, makes disbursements, or incurs obligations in connection with one or more referenda is not subject to registration and reporting requirements until the individual or group engages in activity exceeding \$100 cumulatively within a calendar year.

The bill also permits an individual or committee to claim an exemption from reporting requirements if the individual or committee does not accept contributions, make disbursements, or incur obligations exceeding \$1,000 cumulatively within a calendar year with respect to an election for state office, and does not accept contributions exceeding \$100 from a single source cumulatively within a calendar year. If an individual or committee does not accept contributions, make disbursements, or incur obligations with respect to an election for any state office but accepts contributions, makes disbursements, or incurs obligations with respect to an election for local office, the bill permits the individual or committee to claim an exemption from reporting requirements only if the individual or committee does not accept contributions, make disbursements, or incur obligations exceeding \$100 cumulatively within a calendar year.

***Electronic filing***

Currently, reports under the campaign finance law must be filed by certain dates specified by law and must cover time periods specified by law. Candidates for state office or their personal campaign or authorized support committees and other individuals, committees, and groups supporting or opposing candidates for state office or statewide ballot questions file their reports with the state elections board. Each registrant for whom the elections board serves as a filing agency and who or that accepts contributions in a total amount or value of \$20,000 or more during a campaign period, or a biennial period for a registrant other than a candidate or personal campaign or support committee, must file reports with the board electronically. Any registrant who or that files a report electronically must also file a copy of the report recorded on a medium prescribed by the board.

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Office	Current Level	Proposed Level or Limitation
Governor	\$1,078,200	\$2,750,000
Lieutenant governor	323,475	400,000
Attorney general	539,000	750,000
Secretary of state	215,625	300,000
State treasurer	215,625	300,000
Supreme court justice	215,625	400,000
Superintendent of public instruction	215,625	400,000
State senator	34,500	112,500
Representative to the assembly	17,250	45,000

2. Creates a quadrennial cost-of-living adjustment that causes the statutory disbursement levels to be adjusted every 4 years, beginning in 2006, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

CONTRIBUTION LIMITATIONS

Individual contributions

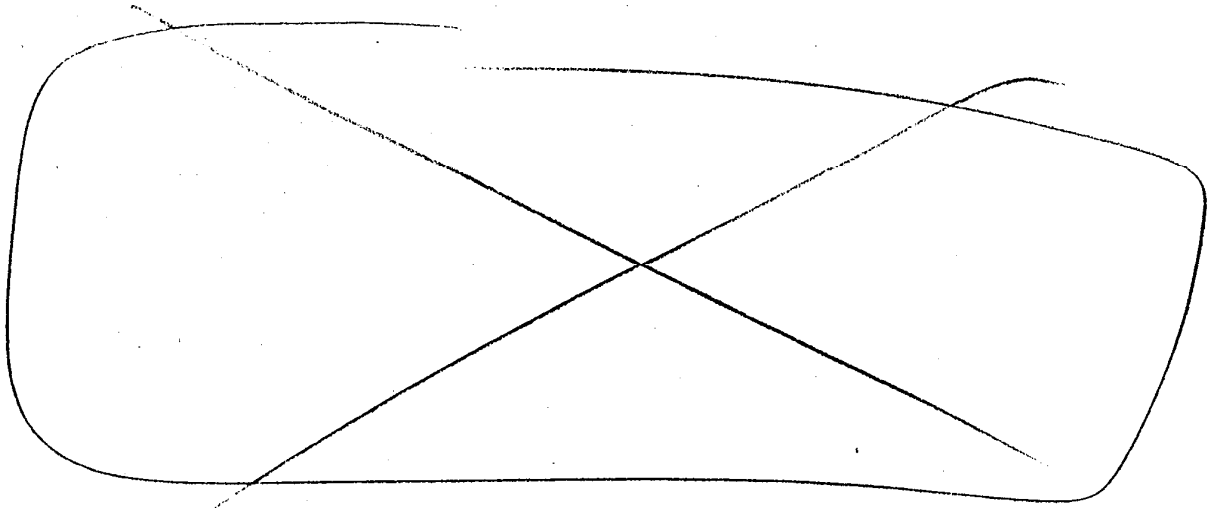
Current law limits the amount of contributions that may be given to and accepted by a candidate for state or local office. Currently, individuals are subject to limitations on the amount of contributions made cumulatively to a particular candidate and on the aggregate total amount of contributions made to all candidates.

This bill:

1. Revises the current limitations on contributions that individuals may make to candidates for certain state offices. Under the bill, with certain exceptions, candidates who voluntarily agree to abide by the disbursement limitations and self-contribution limitations may receive higher amounts of contributions from individuals. The proposed limitations on these contributions are shown in the following chart:

these committees

these committees



*ANS 7A:2*

Office	Current Limit	Proposed Limit: Candidates Subject to Disbursement and Self-Contribution Limitations	Proposed Limit: Candidates Not Subject to Disbursement and Self-Contribution Limitations
<i>43,128</i> Governor, lieutenant governor	\$10,000	\$10,000	\$5,000
<i>Attorney</i> Attorney general	12,939	12,000	6,000
<i>Secretary of</i> Secretary of state	21,560	22,000	11,000
<i>State treasurer</i> State treasurer	8,625	8,650	4,325
<i>Supreme court justice</i> Supreme court justice	8,625	8,650	4,325
<i>Superintendent</i> Superintendent of public instruction	8,625	12,000	6,000
State senator	1,000	1,500	750
Representative to the assembly	500	750	375

*43,500*  
*\$21,750*

*House Committee*

2. Creates a cost-of-living adjustment that causes the statutory limits on individual contributions to be adjusted quadrennially, beginning in 2006, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

**Committee contributions**

Under current law, committees other than political party committees and legislative campaign committees are subject to limitations on the amount of contributions made cumulatively to a particular candidate. In the case of committees making contributions to candidates for statewide offices, this limitation is 4% of the candidate's disbursement level or limitation. This bill replaces this percentage limitation with a dollar amount which represents a change in the amount of the limitation, and changes the current limitations upon contributions to legislative candidates as follows.

Office	Current Level	Proposed Limit
Governor	\$43,128	\$43,500
Lieutenant governor	12,939	12,000
Attorney general	21,560	22,000
Secretary of state	8,625	8,650
State treasurer	8,625	8,650
Supreme court justice	8,625	12,000

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**ASSEMBLY BILL 801**

*doubling*  
part of the bill relating to doubling of individual and committee contributions that participate in the Wisconsin election campaign fund or

candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

**NONSEVERABILITY**

*all of those parts are*

*file an affidavit to adhere to disbursement and self-contribution limits*

*expenditures for mass communications made independently of candidates and the adjustment of contribution limits in response to these expenditures or excess disbursements by opposing candidates who decline to accept grants*

Currently, if any part of an act is found by a court to be invalid, those parts that are valid are severed from the invalid part and the severed parts continue in force. This bill provides that, if any part of the bill relating to the reporting of disbursements by candidates who decline to accept public grants and the provision of supplemental grants to candidates who are opposed or whose opponents are supported by those disbursements is unconstitutional, then the entire bill is void. In addition, the bill provides that if any of the following parts of the bill is unconstitutional, then all of the following parts are void: a) parts relating to the reporting of independent expenditures for mass communications; b) parts relating to the provision of supplemental grants to candidates who are opposed or whose opponents are supported by such independent expenditures or by independent disbursements that are reportable under current law; c) parts relating to the reporting of contributions received or intended to be received for the purpose of making such independent expenditures or independent disbursements; and d) parts relating to the provision of supplemental grants to candidates who are intended to be opposed or whose opponents are intended to be supported through the use of such contributions.

*those parts*

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

**SECTION 1.** 5.02 (13) of the statutes is amended to read:

5.02 (13) "Political party" or "party" means a state committee registered under s. 11.05 and organized exclusively for political purposes under whose name candidates appear on a ballot at any election, and all county, congressional, legislative, local and other affiliated committees authorized to operate under the same name. For purposes of ch. 11, the term does not include a legislative campaign committee or a committee filing an oath under s. 11.06 (7).

**SECTION 2.** 7.08 (2) (c) and (cm) of the statutes are amended to read: