

2001 Jr2 DRAFTING REQUEST

Conference Amendment (CA-ASA1-AB1)

Received: 07/02/2002

Received By: chanaman

Wanted: As time permits

Identical to LRB:

For: Legislative Reference Bureau

By/Representing:

This file may be shown to any legislator: NO

Drafter: chanaman

May Contact:

Addl. Drafters:

Subject: State Finance - bud generally

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Conference amendment--campaign finance

Instructions:

See Attached

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>
/?	chanaman 07/02/2002	gilfokm 07/02/2002					
/P1			pgreensl 07/03/2002		lrb_docadmin 07/03/2002		
/1						lrb_docadmin 07/03/2002	
/2	kuesejt 07/03/2002	gilfokm 07/03/2002	jfrantze 07/03/2002		lrb_docadmin 07/03/2002 lrb_docadmin	lrb_docadmin 07/03/2002	

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07/03/2002

FORSENATE

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

_____ 07/03/2002

FE Sent For:

<END>

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lrb_docadmin
07/03/2002

for
Senate

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<END>

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1/?	chanaman	1/PT 7/2 KMG	7 pg	7/2 pg/REV			

FE Sent For:

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D-NOTE

LRBb3117

2001 Jr2 DRAFTING REQUEST

*became
LRBb3118*

Senate Amendment (SA-SSA1-AB1)

Received: **07/02/2002**

Received By: **kuesejt**

Wanted: **Today**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-3692**

By/Representing: **Onsager**

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

Drafter: **kuesejt**

May Contact:

Addl. Drafters: **rmarchan
shoveme
kunkemd**

Subject: **Elections - campaign finance
Ethics
Public Util. - telco
Tax - individual income**

Extra Copies: **Bob Conlin - LCS
KMG**

Submit via email: **NO**

Pre Topic:

LFB:.....Onsager -

Topic:

Campaign finance and ethics changes; income tax checkoff and credit; elections board staffing

Instructions:

Per LRB-5137/P1.

Drafting History:

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/?	kuesejt						

FE Sent For:

<END>



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: SENATOR CHARLES CHVALA AND REPRESENTATIVE JOHN GARD
FROM: Robert J. Conlin, Senior Staff Attorney *RJC*
RE: Campaign Finance Proposal *E*
DATE: July 2, 2002

The attached document summarizes the provisions of a campaign finance proposal.

If you have any questions, please feel free to contact me at the Legislative Council staff offices.

RJC:ksm:rv

Attachment

Campaign Finance Proposal
July 2, 2002

A. REGISTRATION AND REPORTING REQUIREMENTS

Reporting of Independent Disbursements.

- Provides, for the 30-day period immediately prior to an election, that a special interest committee, other than a conduit, that will make any disbursement, or incur any obligation for the purpose of independently advocating the election or defeat of a candidate for statewide or legislative office, or for the purpose of making certain communications, must report the name of each candidate who is supported or whose opponent is opposed, and the total amount of the disbursements to be made, and obligations to be incurred for these purposes during the 30-day period following the date on which the report is due to be filed. A communication to which the requirements apply is a communication made by means of a printed advertisement, billboard, handbill, sample ballot, radio or television advertisement, telephone calls, mass mailing, fax or email, or any other medium that may be utilized for the purpose of disseminating or broadcasting a message, during the period beginning on the 60th day preceding an election and ending on the date of that election and that includes a reference to, or a depiction of, a clearly identified candidate to appear on the ballot at the election. The reports must be filed on the 30th day prior to the election.
- In addition, requires reporting within 24 hours of disbursements or obligations exceeding \$250 made for the purpose of independently advocating the election or defeat of such a candidate or for the purpose of making a communication (as defined above) beginning 60 days prior to the election up to the date of the election.
- The Elections Board staff must provide copies of these reports to the candidates within 24 hours of receiving the reports, electronically if possible otherwise by telephone or fax.
- A violation of the reporting requirements may result in a forfeiture of not more than \$500 per day for each day of the continued violation. Also, if a disbursement or obligation is misreported by more than 5%, then a forfeiture equal to the total amount of the inaccurately reported disbursement or obligation must be paid.

"Issue Ad".

- Imposes registration and financial reporting requirements upon individuals or groups that make a communication during the period beginning on the 60th day preceding an election and ending on the date of the election that includes a reference to, or a depiction of, a clearly identified candidate appearing on the ballot at that election.

Referenda Reports.

- Requires an individual who accepts contributions, incurs obligations or makes disbursements with respect to a referendum, or a political group which similarly makes or accepts contributions, incurs obligations or makes disbursements, in excess of \$100 to file a statement with the appropriate filing officer providing registration information such as the name of the individual or group, the name of the treasurer, the nature of the referenda, and other identifying information.

Candidate's Identity.

- Requires the registration statement of a personal campaign committee to identify the candidate on whose behalf the committee was formed and the office that the candidate seeks.

Phone, Fax or Email of a Candidate.

- Requires the registration statement of a candidate or personal campaign committee to include the telephone number and fax number or email address, if any, at which the candidate may be contacted.

Exemption From Independent Disbursement Report--State Office.

- Provides that an individual or committee required to file an oath of independent disbursements and who or which accepts contributions and makes disbursements for supporting or opposing one or more candidates for *state office* but who or which does not anticipate accepting contributions or making disbursements in excess of \$1,000 in a calendar year and does not anticipate accepting a contribution exceeding \$100 from a single source may make a statement to that effect on the registration statement and the individual or committee would not be subject to any filing requirements if the statement is true. The statement may be revoked and, if it is, filing requirements apply. If revocation is not timely made, it is considered a violation of false reporting statutes. In contrast to an independent expenditure, an independent disbursement refers to an expenditure that is made clearly for the purpose of opposing the election of a grant recipient, or for the purpose of supporting a certified opponent of that candidate, when none of the disbursements are made in cooperation with the grant recipient's opponent.

Exemption From Independent Disbursement Report--Local Office.

- Provides that an individual or committee required to file an oath of independent disbursements and who or which accepts contributions and makes disbursements for supporting or opposing one or more candidates for *local office* but who or which does not anticipate accepting contributions or making disbursements in excess of \$100 in a calendar year and does not anticipate accepting any contribution exceeding \$100 from a single source may make a statement to that effect on the registration statement and the individual or committee would not be subject to any filing requirements if the statement is true. The statement may be revoked and, if it is, filing requirements apply. If the revocation is not timely made, it is considered a violation of the false reporting statutes.

24-Hour Reporting of Obligations.

- Modifies the 24-hour reporting requirement under current law for independent disbursements in excess of \$20 made within the last 15 days prior to an election to require the reporting of independent disbursements and obligations in excess of \$250 in that time period.

24-Hour Reporting for Candidates not Accepting Public Financing.

- Provides that any candidate for Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Superintendent, Representative or Senator who does not accept a grant from the Wisconsin Election Campaign Fund (Fund) and who makes a disbursement, after accumulating cash or making disbursements exceeding a combined total of 75% of the disbursement limit for the applicable office, to file weekly reports beginning on the date after the primary (or the day after a primary would have been held) and daily reports beginning 30 days prior to the election. The reports must be filed with the Elections Board and each candidate for that office, by email or fax. Each report must contain information pertaining to each disbursement made by the candidate or committee. If no email or fax number is available, the report must be filed at the address shown for the candidate.

Timely Reports.

- Provides that a report is timely filed only by delivering it to the appropriate filing office or agency by the due date or by depositing the report with the U.S. Postal Service no later than the third day before the due date.

Out-of-State Registrants.

- Requires out-of-state registrants to report the same information concerning contributions, transfers, loans, disbursements, and obligations as in-state registrants. [*Under current law, such out-of-state registrants need only report such transactions involving Wisconsin sources or campaigns.*]

B. CONTRIBUTIONS

Individual Contribution Limits.

- Retain current law individual contribution limits.
- Further provides that for a legislative candidate who does not accept a grant and does not file an affidavit of voluntary compliance with the disbursement limits, the individual contribution limit for that candidate is 50% of the applicable amounts. Once a legislative candidate files such an affidavit, the candidate may collect contributions at the full rate. Prior contributions collected above the applicable limits because a candidate withdraws an affidavit of voluntary compliance must be returned or donated.
- Creates a biennial cost of living adjustment for individual contribution limits.

Committee Contribution Limits.

- Modifies committee contribution limits for certain offices as follows:

	<i>Current</i>	<i>Proposed</i>
Governor	\$43,128	\$43,500
Lieutenant Governor	\$12,939	\$12,000
Attorney General	\$21,560	\$22,000
Secretary of State	\$8,625	\$8,650
Treasurer	\$8,625	\$8,650
Superintendent	\$8,625	\$10,000
Justice	\$8,625	\$10,000
Senate	\$1,000	\$1,000
Assembly	\$500	\$500

- Further provides that for a legislative candidate who does not accept a grant and does not file an affidavit of voluntary compliance with the disbursement limits, the committee contribution limit for that candidate is 50% of the above amounts. Once a legislative candidate files such an affidavit, the candidate may collect contributions at the full rate. Prior contributions collected above the applicable limits because a candidate withdraws an affidavit of voluntary compliance must be returned or donated.

- Amounts subject to indexing biennially.

Overall Individual Contribution Limits.

- Retains the overall individual contribution limit at \$10,000 per year, but amount is subject to indexing biennially.

Committee Contributions in General.

- Provides that the maximum amount a candidate for Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Superintendent, Justice, Senate and Assembly, may receive from all committees, other than political party committees, is 40% of the applicable disbursement limit, and the amount for Governor is 35%.
- Further provides that the maximum amount a candidate may receive from all committees, including political party committees, is 65% of the disbursement limit.
- Retains current law for all other state and local offices.

Committee Contributions to Publicly Financed Candidates.

- Prohibits a candidate or personal campaign committee who applies for a grant from the Fund from accepting a contribution from a committee other than a political party committee, however a candidate would be permitted to withdraw his or her application by the date the pre-primary report is due and then receive such committee contributions. However, if funds are insufficient to fully fund the nonsupplemental grants such that those grants are prorated, a candidate may accept contributions from such committees up to an amount which when added to the actual grant received, equals 40% of the disbursement limit for Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Superintendent, Justice, Senate and Assembly, and 35% for the Governor.

Contributions to Incumbents During Legislative Session.

- Prohibits contributions to any incumbent partisan state elective official for the purpose of promoting that official's nomination for reelection to the office held by the official during the period beginning on the first Monday in January of odd-numbered years and ending on the date of enactment of the biennial budget act.
- With certain exceptions, prohibits a member of the Legislature or his or her campaign committee from making or receiving any contribution in connection with a fundraising social event held in Dane County during a floorperiod or a special or extraordinary session if the event is held to benefit a member or member's personal campaign committee. Provides a forfeiture of up to \$500 for each violation, and a fine of up to \$1,000 and up to six months imprisonment, or both, for intentional violations.

Contributions to Political Parties.

- Increases, for political parties, the amount they may receive in a biennium from all committees, excluding transfers between party committees of the party, from \$150,000 to \$450,000, but amount is to be indexed biennially. (But see *Special Party Accounts*, p. 7.)

Political Party Limits.

- Increases the maximum amount a political party may receive from a committee, exclusive of political party committees, and increases the amount a committee, other than a political party committee, can

contribute to a political party in a calendar year from \$6,000 to \$18,000. Amounts to be indexed biennially.

PAC-to-PAC Transfers.

- Prohibits a committee from making a contribution to any other committee, except a political party committee. However, allows a committee affiliated with an organization to make a contribution to any other committee that is affiliated with the same organization. Provide that the exception does not apply to transfers between organizations, which are affiliated solely by their membership in a confederation of labor organizations or trade interests.

Pay-to-Play.

- Prohibits a state or local elected official from, directly or by means of an agent, giving, or offering or promising to give, or withholding, or offering or promising to withhold, his or her vote or influence, or promising 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 making a communication that contains a reference to a clearly identified state or local elected official or to a candidate for such an office. The bill also provides for forfeitures for violations of the "pay-to-play" prohibition.

C. DISBURSEMENTS

Disbursement Limits.

- Revises the disbursement levels for the following offices:

	<i>Current</i>	<i>Proposed</i>
Governor	\$1,078,200	\$2,000,000
Lieutenant Governor	\$323,475	\$500,000
Attorney General	\$539,000	\$700,000
Secretary of State	\$215,625	\$250,000
Treasurer	\$215,625	\$250,000
Superintendent	\$215,625	\$250,000
Justice	\$215,625	\$300,000
Senator	\$34,500	\$100,000
Representative	\$17,250	\$50,000

Voluntary Limits.

- Retains the voluntary disbursement limitations for candidates who do not accept a grant from the fund. Requires the filing of an affidavit in order to be bound by the limitations.

Limits Increased for Grants.

- Provides that the disbursement limitation for a candidate who receives supplemental grants is increased by the amount of those grants.

Cost-of-Living Adjustment.

- Creates a cost-of-living adjustment for the disbursement limitations, which is to be determined by rule by the Elections Board. The board must determine the percentage difference between the Consumer Price Index for the 12-month period ending on December 31 of each odd-numbered year and the Consumer Price Index for calendar year 2003. Each biennium the Elections Board is required to adjust the disbursement limitations by that percentage to reflect any difference, rounded to the nearest multiple of \$25, which shall be in effect until a subsequent rule is promulgated. Such determinations by the Elections Board may be promulgated as emergency rules.

D. FINANCING CAMPAIGNS

Grant Amounts.

- Provides that the maximum grant amount may not exceed an amount which is equal to 40% of the disbursement limit for the applicable office, with the following exceptions:
 - ◆ The total grant available for the Governor is 35% of the disbursement level.
 - ◆ The Office of Justice will enjoy a "first draw" on available grant funds. The Office of Superintendent will not.
 - ◆ If a grant candidate has a balance in his or her account that equals or exceeds 100% of the applicable disbursement limit at the time of application, the candidate is not eligible for a grant.
 - ◆ If a candidate has no opponent who receives 6% of the primary vote, the candidate is not eligible for a grant.
- Grants will be prorated if insufficient funds.

Supplemental Grant: Opponent Not Accepting Grant.

- Provides that in the case of a candidate who accepts a grant, and is opposed by one or more candidates who do not accept a grant and who make total disbursements exceeding the disbursement level for the office, the candidate is eligible for an additional grant in an amount equal to the total amount or value of the disbursements made by the opposing candidate or candidates exceeding the disbursement levels for that office.
- Such candidates are eligible to receive double the normal individual and committee contributions.
- Generally, grants to be administered by the parties, as described below.

Supplemental Grant: Independent Disbursements.

- Provides for the availability of grants to "match" independent disbursements, including "issue ads," made for a communication in opposition to the candidate, or in support of the candidate's opponent, once such disbursements cumulatively exceed 5% of the applicable disbursement limit in a race.

- Generally, grants to be administered by the political parties, as described below.
- Grants to candidates may not exceed the amount of disbursements reported.
- Candidates subject to such independent expenditures are eligible to receive double the normal individual and committee contributions.

Supplemental Grant: Administration.

- After the public information draw, require the Elections Board to set aside 55% of the annual receipts in each "political party account" within the Wisconsin Election Campaign Fund to be used for supplemental grants to be administered by the political parties, as described below. The parties must reserve 45% of this amount to be used for Assembly races, 45% for Senate races and 10% for statewide races.
- Further provides that independent candidates and minor party candidates without a political party account would be required to apply to the Elections Board directly for such grants to be made from the "general account."
- Amounts sent to the parties from the "political party accounts" would be subject to audit.
- Political parties must verify that funds were expended for a proper purpose.

Special Party Accounts.

- Provide that each political party may receive an additional \$450,000 per biennium from committees, conduits, and individuals to be used exclusively for the following purposes:
 - ◆ To augment the amounts available to party candidates for supplemental grants.
 - ◆ To provide funds to party candidates to "fill" the 65% limit on party contributions to candidates.
- 50% of the amount received in a biennium by a political party in this special account must be allotted for Assembly candidates and 50% for Senate candidates.
- Contributions by individuals would be subject to the \$10,000 aggregate limit.

Prioritization of Accounts

- General account will be prioritized as follows:
 1. Nonsupplemental grants for Justice.
 2. Grants for independent and minor party candidates. If the Board determines that an independent or minor party candidate qualifies for a nonsupplemental grant, the Board must set aside an additional amount equal to the disbursement limit for that office for potential supplemental grants to that candidate.
 3. Equalizing payments to the "party accounts" for nonsupplemental grants.
 4. Office of Superintendent.

- Party accounts will be prioritized as follows:
 1. Legislative races.
 2. Gubernatorial races.
 3. Other statewide offices.

Increased Checkoff.

- Creates a “checkoff” and credit set at fixed \$20.
- Taxpayer must have a tax liability and part-year residents and nonresidents are not eligible for the credit.
- Provides that, for a taxpayer with a liability of less than \$20 who makes a designation, DOR may only transfer an amount to the Election Fund equal to the amount of the liability.
- Requires a paid tax preparer to obtain from taxpayers for whom the preparer prepares a state tax return who do not choose to make a “checkoff” a signed statement, on a form prescribed by DOR containing information about the purposes of the “checkoff,” acknowledging that they choose not to “checkoff.” No penalty would be provided.
- Additionally, DOR must locate the mechanism for making the designation on the front of the form and must make the designation and credit claimable by checking one box.
- Allows individuals making the “checkoff” to indicate whether the amount is to be placed in the Fund’s “general account” or a “political party account.” If no specific account is indicated, the “general account” will be credited.

Donations to the Fund.

- Authorizes contributions that are required to be returned or donated to charitable organizations or to the common school fund to be transferred to the Fund.

Party Accounts.

- Establishes a “general account” and “political party accounts” under the Fund.

Limits on Committee Contributions.

- Requires candidates who apply for a grant to file a sworn statement that he or she has not accepted and retained any contributions from committees, other than political party committees, and that he or she will not accept any unless he or she withdraws the application by the date that the pre-primary report is due or the candidate is determined to be ineligible for a grant. (But see *Committee Contributions to Publicly Financed Candidates*, p. 4.)

Qualifying Fundraising.

- Require most candidates to raise 5% of the disbursement level and Senate and Assembly candidates would have to raise 6% of the disbursement level in contributions of \$100 or less. For a legislative candidate, at least 45% of the qualifying amount must be raised from individuals who reside in a county

having territory within the legislative district for which the candidate seeks office. The remaining 55% of the qualifying amount must be raised from residents of the state.

Applications.

- Retains the current authority for an eligible candidate to withdraw his or her public financing application, but the application to withdraw must be filed by the date that the pre-primary report is due.

Exceeding Disbursement Limit.

- Retains the current law provisions which allow a candidate who receives a grant to exceed the disbursement limit if his or her opponent does not accept a grant.

Return of Committee Contribution.

- Requires a candidate applying for a grant to return any contributions from committees, other than the political party committees, before filing an application for the grant.

Administration.

- Requires the Elections Board to certify to the Department of Revenue (DOR) on July 1 of each year information relevant to eligible political parties and candidates for purposes of administering the Fund.

E. OTHER

Conduits.

- Requires each registrant which receives contributions from a conduit to file a separate schedule developed by the Elections Board which identifies the name and address of the conduit, the date and amount of each transfer, and the total amount transferred by the conduit for each year.

Legislative Campaign Committees.

- Eliminates the special status of legislative campaign committees.

Public Information.

- Creates a public information account, which is funded by up to 1% of the tax "checkoff" designation from the current year, to be used by the Elections Board to provide public information on the income tax "checkoff" and the purpose and effect of public campaign financing. The Elections Board is required to prepare an easily understood description of the purposes and effect of the checkoff and public financing.

Local Prosecutions.

- Authorizes the District Attorney of any county which has territory within the jurisdiction or district within which a candidate seeks office to bring an action for violation of campaign finance laws alleged to have been committed by the candidate.

Tax Information.

- Requires DOR to place public information materials concerning the tax checkoff prepared by the Elections Board in tax return instructions.

Declaratory Actions.

- Authorizes any person who proposes to publish, disseminate or broadcast any communication, or any person who causes such publication, dissemination or broadcast, to commence a declaratory action to determine the application of the registration requirements under the campaign finance law to that person.

Nonseverability.

- Provides that if a court finds unconstitutional any part of the proposal, all provisions of the proposal are void with the following exception:
 - ◆ If the provisions with respect to public broadcasting are found unconstitutional, only those provisions are void.

Board Staff.

- Increases the full-time equivalent staff positions at the Elections Board to add one campaign finance investigator and one auditor and provide \$85,100 for fiscal year 2002-03 for salary, fringe benefits and support.
- Also provides \$96,500 GPR in 2002-03 for DOR tax form changes.

Public Broadcasting.

- Provides that public broadcasting television stations and public access channels must provide free airtime for candidates for state office. The Elections Board must promulgate rules that require public broadcasting television stations and public access channel operators to provide a minimum amount of free time to candidates for state office. The rules must require public access channel operators and public television stations to offer the same amount of time to each candidate for a particular state office, but may require different amounts of time to be offered to candidates for different offices.

Declaratory Action.

- Directs the Attorney General to promptly commence an action in court seeking a determination that the provisions of the proposal, including the provisions relating to independent expenditures, supplemental grants, adjustments made to contribution limits in response to independent expenditures, different individual and committee contribution limits and the PAC-to-PAC transfers, are constitutional. Further provide that if the Attorney General fails to commence such an action within 60 days of the date of publication of the proposal as an act, then the Joint Committee on Legislative Organization, within 30 days after the expiration of the 60-day period, shall retain outside counsel to commence such an action.

Initial Applicability.

- Tax "checkoff" provisions would apply for tax returns filed for calendar year 2002.
- The first cost-of-living adjustments would take effect in 2006.
- All other campaign finance provisions would be effective July 1, 2003.

Statewide Voter Registration List

- Require the Elections Board to study the costs, benefits and feasibility of, and prepare recommendations with regard to requiring voter registration in every municipality in this state. The

Elections Board is required to prepare recommendations with regard to creating and maintaining a statewide voter registration list. The study must address each of the following issues:

1. How the list should be created and maintained.
 2. The fiscal impact upon the state and local governments in developing and maintaining a list.
 3. How accuracy of the list should be ensured.
 4. Whether, to use the list, an electronic connection would need to be established between each polling place in the state and the board and how such a connection would be established and maintained.
 5. How registrations on election day would be integrated into the list.
 6. How procedures for corroboration of the identities of electors would be affected by maintenance of the list.
 7. How absentee balloting would be affected by the creation of the list.
 8. The impact of maintenance of the list upon transient populations, such as college students.
 9. How the list could be accurately purged of the names of convicted felons who are ineligible to vote while ensuring that no eligible electors are disenfranchised.
 10. How the list should be purged of the names of ineligible or inactive electors while ensuring that no eligible electors are disenfranchised.
 11. Whether the list should be publicly maintained or private entities should be retained to maintain the list.
 12. If a private entity were retained to maintain the list, the standards to which the entity should be held to account.
 13. Whether and how provisional voting of challenged electors could be facilitated if the list were maintained.
- The results of the study and all recommendations must be submitted to the Legislature by the Elections Board no later than the first day of the 10th month beginning after the publication of Special Session Assembly Bill 1 as an Act.
 - The Elections Board in its budget submission to the Governor must include the funds for the proposed registration program. The Elections Board, in developing a voter registration list, must also address each of the issues examined in its study of the registration program. In addition, in its budget submission, the Elections Board must include statutory changes to implement statewide voter registration for the 2004 September primary.

Prepared by Robert J. Conlin, Senior Staff Attorney
Legislative Council Staff
July 2, 2002