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inserted Wed 2/14

2001 BILL

LPS: After this has been typed, would you mind please searching for "11.51"? All references to "11.51" should be "11.510." Thanks. (The refs. are mostly handwritten)

LPS: Inserts are out of order.

(regenerate)

1 AN ACT to repeal 11.50 (3) (a) 2.; to amend 8.35 (4) (b), 11.12 (2), 11.16 (2), 11.26
2 (1) (a), 11.26 (2) (a), 11.26 (9) (a), 11.26 (9) (b), 11.26 (13), 11.31 (1) (d), 11.50 (1)
3 (a) 1. and 11.50 (3) (b); and to create 11.26 (1) (am), 11.26 (2) (am), 11.26 (9) (ba),
4 11.501 to 11.522, 20.510 (1) (r), 20.585 (1) (q), 20.585 (1) (r), 20.855 (4) (bb), 25.17
5 (1) (cm) and 25.421 of the statutes; relating to: campaign financing with
6 respect to the office of justice of the supreme court, making appropriations, and
7 providing penalties.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes in the campaign finance law affecting campaigns for the office of justice of the supreme court. The bill removes candidates for the office of justice from eligibility for grants under the Wisconsin election campaign fund, under which eligible candidates for state offices (except district attorney, court of appeals judge, and circuit judge) may receive public grants from state general purpose revenues derived from designations made by individuals filing state income tax returns. To finance elections for the office of justice, the bill creates a democracy trust fund, under which eligible candidates for this office may receive public grants derived from general purpose revenues without regard to designations made by individuals filing state income tax returns.

instead

Financing benefits

Currently, a candidate for the office of justice of the supreme court may qualify to receive a grant from the Wisconsin election campaign fund for use in only an

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election campaign. No funding is provided for primary campaigns. To qualify for a grant, a candidate must qualify to have his or her name appear on the spring election ballot and must have an opponent who qualifies to have his or her name appear on that ballot. The maximum amount of a grant that a candidate may receive is \$97,031. This amount is not subject to any cost of living adjustment. In addition, this amount is reduced by the total amount of contributions received by a candidate from special interest committees, and this amount may not be fully funded in a particular year if there are not sufficient moneys in the Wisconsin election campaign fund to provide full financing for all qualifying candidates. A candidate must agree to abide by spending and self-contribution limits to receive a grant, but this agreement does not apply if the candidate has an opponent who could have qualified for a grant but declines to do so and declines to file an affidavit of voluntary compliance with spending and self-contribution limits.

with limited exceptions
a

and personal campaign

benefit

Under this bill, a candidate for the office of justice of the supreme court may qualify for public financing from the democracy trust fund to finance a campaign in a primary or election by receiving a specified number of qualifying contributions of not less than \$5 nor more than \$100 each made by residents of this state. A candidate who accepts public financing may accept "seed money" contributions in amounts of \$100 or less, subject to aggregate limitations, and may contribute personal funds in an aggregate amount not exceeding \$5,000 during specified periods. A candidate who accepts public financing may not accept any contributions other than qualifying and seed money contributions and contributions from personal funds, subject to specified limitations. Initial public financing benefits for eligible candidates are \$100,000 in the primary election and \$300,000 in the general election. The benefits are subject to a biennial cost of living adjustment. A candidate who accepts more than a specified amount of qualifying or seed money contributions has the excess deducted from his or her public financing benefit.

\$10

from at least 500 residents of this state in amounts

an aggregate limitation of \$25,000

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In addition, if a candidate's opponent declines to accept public financing and accepts contributions or makes disbursements (expenditures) in a total amount that exceeds the amount of the initial public financing benefit for a candidate who accepts public financing, the candidate who accepts public financing receives additional funding equivalent to the excess contributions accepted or disbursements made by his or her opponent. The funding is determined on the basis of information provided by candidates who decline to accept public financing benefits and who must file special reports with the elections board disclosing contributions accepted and disbursements made. A candidate also receives additional public financing equivalent to independent expenditures exceeding \$2,000 cumulatively for certain communications made against the candidate or in support of his or her opponents if those expenditures exceed 20% of the amount of the public financing benefit for the office of justice. Under the bill, additional public financing benefits may not exceed three times the amount of the initial public financing benefit.

benefit

benefit

benefit

who receives a public financing benefit

their total

Under the bill these candidates

Currently, individuals and committees making political contributions to candidates for the office of justice of the supreme court are subject to limitations on the amount or value of any contribution or contributions that may be made cumulatively to any candidate in a campaign. The limitations are \$10,000 in the case

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for communications

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of an individual making a contribution to a candidate and \$8,625 in the case of a committee making a contribution to a candidate. This bill replaces these limitations with a contribution limitation of \$1,000 applicable to an individual ~~and \$5,000~~ applicable to a committee making any contribution or contributions cumulatively to any candidate for the office of justice in any campaign. Under the bill, the limitations apply only to contributions made to a candidate who declines to accept a public financing benefit.

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. 8.35 (4) (b) of the statutes is amended to read:

8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys received by a candidate from the Wisconsin election campaign fund shall be immediately transferred to any candidate who is appointed to replace such candidate, upon filing of a proper application therefor under s. 11.50 (2). If there is no candidate appointed or if no proper application is filed within 7 days of the date on which the vacancy occurs, such moneys shall revert to the state as provided in s. 11.50 (8). Notwithstanding par. (a), any unspent and unencumbered moneys received by a candidate from the democracy trust fund shall be immediately transferred to any candidate who is appointed to replace such candidate. If there is no candidate appointed, the moneys shall revert to the state.

SECTION 2. 11.12 (2) of the statutes is amended to read:

11.12 (2) Any Except as otherwise provided in this subsection, no registrant may accept an anonymous contribution exceeding \$10 received by a campaign or committee treasurer or by an individual under s. 11.06 (7) may not be used or expended. The No candidate who receives a public financing benefit from the democracy trust fund may accept an anonymous contribution exceeding \$5. Any

\$5,000

Because under

or generally

a candidate who accepts a public financing benefit is subject to more restrictive provisions in most cases

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1 anonymous contribution that may not be accepted under this subsection shall be
2 donated to the common school fund or to any charitable organization at the option
3 of the registrant's treasurer.

4 SECTION 3. 11.16 (2) of the statutes is amended to read:

5 11.16 (2) LIMITATION ON CASH CONTRIBUTIONS. ~~Every~~ Except as provided in s.
6 11.506 (6), every contribution of money exceeding \$50 shall be made by negotiable
7 instrument or evidenced by an itemized credit card receipt bearing on the face the
8 name of the remitter. No treasurer may accept a contribution made in violation of
9 this subsection. The treasurer shall promptly return the contribution, or donate it
10 to the common school fund or to a charitable organization in the event that the donor
11 cannot be identified.

12 SECTION 4. 11.26 (1) (a) of the statutes is amended to read:

13 11.26 (1) (a) Candidates for governor, lieutenant governor, secretary of state,
14 state treasurer, attorney general, or state superintendent ~~or justice~~, \$10,000.

15 SECTION 5. 11.26 (1) (am) of the statutes is created to read:

16 11.26 (1) (am) Candidates for justice, ~~\$1,000~~ ^{\$5,000}

17 SECTION 6. 11.26 (2) (a) of the statutes is amended to read:

18 11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state,
19 state treasurer, attorney general, or state superintendent ~~or justice~~, 4% of the value
20 of the disbursement level specified in the schedule under s. 11.31 (1).

21 SECTION 7. 11.26 (2) (am) of the statutes is created to read:

22 11.26 (2) (am) Candidates for justice, \$5,000.

23 SECTION 8. 11.26 (9) (a) of the statutes is amended to read:

24 11.26 (9) (a) ~~No~~ Except as provided in par. (ba), no individual who is a candidate
25 for state or local office may receive and accept more than 65% of the value of the total

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1 disbursement level determined under s. 11.31 for the office for which he or she is a
2 candidate during any primary and election campaign combined from all committees
3 subject to a filing requirement, including political party and legislative campaign
4 committees.

5 **SECTION 9.** 11.26 (9) (b) of the statutes is amended to read:

6 11.26 (9) (b) ~~No~~ Except as provided in par. (ba), no individual who is a candidate
7 for state or local office may receive and accept more than 45% of the value of the total
8 disbursement level determined under s. 11.31 for the office for which he or she is a
9 candidate during any primary and election campaign combined from all committees
10 other than political party and legislative campaign committees subject to a filing
11 requirement.

12 **SECTION 10.** 11.26 (9) (ba) of the statutes is created to read:

13 11.26 (9) (ba) Paragraphs (a) and (b) do not apply to a candidate who receives
14 a public financing benefit from the democracy trust fund.

15 **SECTION 11.** 11.26 (13) of the statutes is amended to read:

16 11.26 (13) ~~Except Public financing benefits received from the democracy trust~~
17 fund and, except as provided in sub. (9), contributions received from the Wisconsin
18 election campaign fund are not subject to limitation by this section.

19 **SECTION 12.** 11.31 (1) (d) of the statutes is amended to read:

20 11.31 (1) (d) Candidates for secretary of state, state treasurer, justice or state
21 superintendent, \$215,625.

22 **SECTION 13.** 11.50 (1) (a) 1. of the statutes is amended to read:

23 11.50 (1) (a) 1. With respect to a spring or general election, any individual who
24 is certified under s. 7.08 (2) (a) as a candidate in the spring election for ~~justice or state~~
25 superintendent, or an individual who receives at least 6% of the vote cast for all

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1 candidates on all ballots for any state office, except district attorney, for which the
2 individual is a candidate at the September primary and who is certified under s. 7.08
3 (2) (a) as a candidate for that office in the general election, or an individual who has
4 been lawfully appointed and certified to replace either such individual on the ballot
5 at the spring or general election; and who has qualified for a grant under sub. (2).

6 **SECTION 14.** 11.50 (3) (a) 2. of the statutes is repealed.

7 **SECTION 15.** 11.50 (3) (b) of the statutes is amended to read:

8 11.50 (3) (b) If a vacancy occurs in the office of state superintendent or justice
9 after August 15 in any year, and an election is scheduled to fill the vacancy at the
10 spring election in the following year, the state treasurer shall transfer an amount not
11 exceeding 8% of the moneys transferred to the fund on the preceding August 15 to
12 the superintendency account for the office in which the vacancy occurs, such moneys
13 to be drawn from any account within the accounts created under sub. (4) in the
14 amount or amounts specified by the board.

15 **SECTION 16.** 11.501 to ^{11.518}~~11.522~~ of the statutes are created to read:

16 **11.501 Definitions.** In ss. 11.501 to ^{11.518}~~11.522~~:

17 (1) ~~"Allowable contribution" means a qualifying contribution, seed money~~
18 ~~contribution, or personal contribution authorized under ss. 11.502 to ^{11.518}~~11.522~~~~

19 ^(b)(1) ~~(1m)~~ "Business day" means every day except Saturday, Sunday, and a holiday
20 designated in s. 230.35 (4) (a).

21 (2) "Campaign" has the meaning given in s. 11.26 (17).

22 (3) "Election campaign period" means the period beginning on the day after the
23 spring primary election or the day on which a primary election would be held, if
24 required, and ending on the day of the succeeding spring election.

25 (4) "Eligible candidate" means a candidate for the office of justice who:

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1 (a) Has an opponent who has qualified to have his or her name certified for
2 placement on the ballot at the spring primary or election.

3 (b) Qualifies for a public financing benefit by collecting the required number
4 of qualifying contributions, making all required reports and disclosures, and being
5 certified by the board as being in compliance with ss. 11.502 to ~~11.522~~ ^{11.518} ✓

6 ~~(5) "Excess disbursement amount" means the amount of disbursements made~~
7 ~~by a nonparticipating candidate in excess of the public financing benefit available to~~
8 ~~an eligible candidate for the same office that the nonparticipating candidate seeks.~~

9 ~~(6) "Excess qualifying contribution amount" means the amount of qualifying~~
10 ~~contributions accepted by a candidate beyond the number or dollar amount of~~
11 ~~contributions required to qualify a candidate for a public financing benefit.~~

12 (7) "Exploratory period" means the period that begins after the date of a spring
13 election and ends on the first day of the public financing qualifying period for the next
14 election for justice.

15 (8) "Fair election debit card" means a debit card issued by the board in
16 accordance with s. 11.515 (2) entitling a candidate and agents of the candidate
17 designated by the candidate to draw money from an account maintained by the board
18 to make disbursements authorized by law.

19 (9) "Immediate family," when used with reference to a candidate, includes the
20 candidate's spouse and children.

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Ⓟ (b) An

21 (10) "Independent expenditure" means ~~an~~ expenditure made for the purpose
22 of making a communication that is made during the 30-day period preceding any
23 spring primary for the office of justice and the date of the spring election, or if no
24 primary is held, during the 60-day period preceding the spring election, that

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1 contains a reference to a clearly identified candidate for the office of justice at that
2 election.

3 (12) "Nonparticipating candidate" means a candidate for the office of justice
4 who does not apply for a public financing benefit or who otherwise is ineligible or fails
5 to qualify for a public financing benefit under ss. 11.502 to ^{11.518}~~11.502~~.

6 (13) "Personal funds" means funds contributed by a candidate or a member of
7 a candidate's immediate family.

8 (14) "Primary election campaign period" means the period beginning on the
9 day after the last day prescribed by law for filing nomination papers for the office of
10 justice and ending on the day of the spring primary election for that office or the day
11 on which the primary election would be held, if required.

12 (15) "Public financing qualifying period" means the period beginning on the
13 first day of July of any year and ending on the day before the beginning of the primary
14 election campaign period for that office.

15 (16) "Qualifying contribution" means a contribution made to a candidate by a
16 resident of this state during the public financing qualifying period, which is
17 acknowledged by written receipt identifying the contributor.

18 (17) "Seed money contribution" means a contribution in an amount of not more
19 than \$100 made to a candidate during the exploratory period or the public financing
20 qualifying period, or a contribution made to a candidate consisting of personal funds
21 of that candidate in an amount not more than the amount authorized under s. 11.507
22 during the exploratory period or the public financing qualifying period.

23 **11.502 Qualification and certification at primary election.** (1) Before
24 a candidate for the office of justice in the primary election may be certified as an
25 eligible candidate to receive a public financing benefit for the primary election

No ff *Seed money*
contribution does not include a contribution for a purpose authorized under s. 11.506
(1m)

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1 campaign period, or for the election campaign period if no spring primary election for
 2 the office of justice is held, the candidate shall apply to the board for a public
 3 financing benefit and file a sworn statement that the candidate has complied and will
 4 comply with all requirements of ss. 11.502 to ^{11-518 ✓} ~~11-522~~ throughout the applicable
 5 campaign. A candidate shall file the application and statement, together with the
 6 list of qualifying contributions required under s. 11.51 (1), no later than 5 p.m. on the
 7 ^{15th} ~~3rd business~~ day after the last day prescribed by law for filing nomination papers for
 8 the office of justice.

9 (2) A candidate for the office of justice shall be certified by the board as an
 10 eligible candidate for receipt of a public financing benefit if the candidate complies
 11 with sub. (1) and receives ^{from at least 500 individuals} ~~at least 1,000~~ qualifying contributions in amounts equal
 12 to not less than ^{\$10} ~~\$5~~ nor more than \$100 before the close of the public financing
 13 qualifying period.

14 (3) The board shall verify a candidate's compliance with the requirements of
 15 sub. (2) by such verification and sampling techniques as the board considers
 16 appropriate.

17 ^{hrs} ~~(4) Each candidate shall:~~
 18 ^{9-16 ✓}

19 (a) Acknowledge each qualifying contribution by a receipt to the contributor
 20 that contains the contributor's name and home address.

21 (b) No later than the 15th or the last day of the month that immediately follows
 22 the date of receipt of a qualifying contribution, whichever comes first, file a copy of
 23 the receipt under par. (a) with the board, except that during July, August, and
 24 September a copy need only be filed on the last day of the month.

25 (5) A qualifying contribution may be utilized only for the purpose of making
 a disbursement authorized by law.

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1 **11.503 Qualification and certification at spring election.** (1) If a spring
 2 primary for the office of justice is held, and a candidate is nominated at the primary
 3 to have his or her name appear as a candidate for the office of justice in the spring
 4 election, that candidate may apply to the board to receive a public financing benefit
 5 for the spring election. Before a candidate may be certified as an eligible candidate
 6 to receive a public financing benefit for the spring election, the candidate shall file
 7 with the board a sworn statement that the candidate has fulfilled all the
 8 requirements of ss. 11.502 to ~~11.522~~^{11.518} during the primary election campaign period
 9 and will comply with such requirements during the election campaign period. A
 10 candidate shall file the application and statement no later than the day after the date
 11 of the spring primary election or the day on which the primary election would be held
 12 if a primary were required.

13 (2) The board shall certify a candidate as an eligible candidate for receipt of
 14 public financing for a spring election if the candidate qualifies under sub. (1) to
 15 receive the benefit and the candidate complies with sub. (1).

16 **11.506 Requirements imposed upon candidates.** (1) ~~An~~^{Except as provided} eligible
 17 candidate may not accept private contributions other than seed money contributions
 18 and qualifying contributions that the candidate accepts during the exploratory
 19 period and the public financing qualifying period. in sub. (1m) an

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20 (2) In addition to reports required to be filed under ss. 11.12 (5) and 11.20, a
 21 candidate who receives a public financing benefit shall furnish complete financial
 22 records, including records of seed money contributions, qualifying contributions, and
 23 disbursements, to the board on the 15th or the last day of the month that
 24 immediately follows the receipt of the contribution or the making of the
 25 disbursement, whichever comes first, except that during July, August, and

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1 September records need only be furnished on the last day of the month. Each such
2 candidate shall cooperate with any audit or examination by the board.

3 (3) In addition to complying with ss. 11.06 (5) and 11.12 (3), a candidate who
4 receives a public financing benefit shall maintain records of all seed money and
5 qualifying contributions received. These records shall contain the full name of the
6 contributor and the contributor's full home address. In addition, if a contributor's
7 aggregate contributions to any candidate exceed \$50 for any campaign, the
8 candidate shall also maintain a record of the contributor's principal occupation and
9 the name and business address of the contributor's place of employment.

10 (4) Failure to record ^{any} or to provide the board with ^{that information} ^{pertaining to a contribution} ^{under} ~~information in accordance with sub. (3)~~
11 ~~disqualifies the contribution to which the information relates from being counted as~~
12 a qualifying contribution under s. 11.502 (2).

13 (5) No eligible candidate and no person acting on ^{an eligible} a candidate's behalf may
14 deposit ^{in the candidate's campaign depository account} any contribution ~~that is not recorded in accordance with sub. (3) in a~~
15 ~~candidate's campaign depository account~~ ^{unless the information pertaining to that contribution} ^{required under}

16 (6) No eligible candidate may accept more than \$25 in cash from any ^{has first been recorded by the candidate}
17 contributor and no such candidate may accept cash from all sources in a total amount
18 greater than one-tenth of 1% of the public financing benefit for the office of justice
19 or \$500, whichever is greater.

20 (7) An eligible candidate shall provide each contributor with a written
21 acknowledgement of each contribution received, on a form prescribed by the board,
22 which shall contain the name, home address, telephone number, and signature of the
23 contributor and the person who receives the contribution.

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1 **11.507 Personal funds of candidates.** (1) The personal funds of a candidate
2 contributed as seed money contributions may not exceed an aggregate amount of
3 \$5,000.

4 (2) No eligible candidate may make any disbursement derived from personal
5 funds after the close of the public financing qualifying period *except for a purpose*

6 **11.508 Seed money contributions.** An eligible candidate may accept seed
7 money contributions from any individual or committee prior to the end of the public
8 financing qualifying period *provided the total contributions from one contributor,*

9 ~~except personal funds and qualifying contributions otherwise permitted under s.~~
10 ~~11.502 to 11.529~~ *may* not exceed \$100, and the aggregate contributions, including
11 personal funds ~~but not including qualifying contributions,~~ *do* not exceed \$5,000.

12 **11.509 Disbursements from seed money and qualifying contributions;**
13 **excess contributions.** An eligible candidate may make disbursements not
14 excceding a total of \$25,000 from seed money and qualifying contributions received
15 by the candidate at any time after the beginning of the exploratory period. An
16 eligible candidate shall deposit with the board all seed money and qualifying
17 contributions received by the candidate excceding a total of \$25,000 within 48 hours
18 after the end of the exploratory period. The board shall deposit all contributions
19 ~~received under this section in the democracy trust fund.~~ *No fr*

20 **11.510 Certification by candidate; line of credit.** (1) To apply for a public
21 financing benefit, a candidate shall, no later than the time specified in s. 11.502 (1),
22 submit a list identifying the requisite number of qualifying contributions under s.
23 11.502 (2) that have been received by the candidate, and shall certify to the board
24 *that all disclosures required as of the time of application have been made.* The

*authorized under s. 11.506 (1m)
accepted by a candidate
accepted by a candidate*

(1)

a

b

This section does not apply to disbursements for purposes specified in s. 11.506 (1m)

* (b)

The candidate has made

have been made

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1 candidate's request for certification shall be signed by the candidate and the
2 candidate's campaign treasurer.

3 (2) The board shall process applications for public financing benefits in the
4 order received.

5 (3) The board shall determine a candidate's eligibility to receive a public
6 financing benefit for a spring primary no later than 3 business days after the time
7 that the candidate files the list of qualifying contributions and the certification

8 required under sub. (1) *or if a challenge is filed under § 11.502(4) no later*
than 6 business days after the deadline specified in § 11.0502(1)

9 (4) The board shall determine a candidate's eligibility to receive a public
10 financing benefit for a spring election no later than 2 business days after the date of
11 the spring primary, or if no spring primary is held, no later than the Friday after the
12 ~~2nd Tuesday in January, or within the~~ time prescribed under sub. ⁽³⁾~~(2)~~, ⁽³⁾ ~~which~~ ⁽³⁾ ~~ever~~ ⁽³⁾ ~~is~~

13 *late*
14 (5) If the board determines that a candidate is eligible to receive a public
15 financing benefit under sub. (3) or (4), the board shall immediately distribute to the
16 candidate a line of credit equal to the initial public financing benefit for which the
17 candidate qualifies *and shall notify all other candidates for the*
office of justice of its determination

18 (6) If a candidate who receives a public financing benefit intentionally violates
19 the requirements of ss. 11.502 to ~~11.502~~ ^{11.518}, the board shall require the candidate to
20 repay all public funds received by the candidate to the board. If a candidate who
21 receives a public financing benefit otherwise violates the requirements of ss. 11.502
22 to ~~11.502~~ ^{11.518}, the board shall require the candidate to repay a portion of the public funds
23 received by the candidate to the board. The amount of any such repayment shall be
24 commensurate with the severity of the violation. The board shall deposit all
25 repayments received under this subsection in the democracy trust fund.

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1 **11.511 Public financing benefits.** (1) The board shall provide to each
2 eligible candidate who qualifies to receive a public financing benefit for the primary
3 or election campaign period separate lines of credit equal to the public financing
4 benefits payable to the candidate for the primary or election campaign periods in the
5 amounts specified in this section, subject to any required adjustment under s. 11.512
6 (2) or 11.513 (3). An eligible candidate may use this credit to finance any lawful
7 disbursements during the primary and election campaign periods to further the
8 election of the candidate in that primary or election. An eligible candidate may not
9 use this credit to repay any loan, or in violation of ss. 11.502 to ^{11.518 ✓}~~11.522~~ or any other
10 applicable law.

11 (2) Except as provided in ss. 11.512 (2) and 11.513 (3), the initial public
12 financing benefit for a primary election campaign period is \$100,000, less the total
13 amount of seed money and qualifying contributions accepted by the candidate.

14 (3) Except as provided in ss. 11.512 (2) and 11.513 (3), the initial public
15 financing benefit for an election campaign period is \$300,000, less the total amount
16 of seed money and qualifying contributions accepted by the candidate that were not
17 deducted from a benefit received under sub. (2).

18 (4) If there is no spring primary election for the office of justice, no eligible
19 candidate may receive a public financing benefit for the primary election campaign
20 period.

21 (5) (5g) An eligible candidate who receives a public financing benefit in the
22 primary election campaign period and whose name is certified to appear on the ballot
23 at the election following that primary may utilize any unencumbered balance of the
24 line of credit received by the candidate in the primary election campaign period for
25 the election campaign period.

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1 (6) Notwithstanding subs. (2) and (3), beginning on July 1, 2004, and every 2
2 years thereafter, the board shall modify the public financing benefits provided for in
3 subs. (2) and (3) to adjust for the change in the consumer price index, all items, U.S.
4 city average, published by the U.S. department of labor for the preceding 2-year
5 period ending on December 31.

6 **11.512 Financial activity by nonparticipating candidates.** (1) In
7 addition to other reports required by law, a nonparticipating candidate for the office
8 of justice at a primary or election shall file a report with the board no later than 7
9 days *after receiving notice from the board under s. 11.510(5)* prior to the spring primary or, if no spring primary is held for the office of justice,
10 no later than 60 days prior to the date that the primary would be held, if required.

11.510

11 The report shall contain an *itemized* statement of the total contributions received
12 and disbursements made by the candidate *as of the date of the report.* In addition, *report*
13 a nonparticipating candidate who makes disbursements that equal or exceed 90% of *and*
14 the public financing benefit for the office of justice for the primary election campaign *cumulatively*
15 period or for the election campaign period shall, within 7 days of making *for the campaign*

16 disbursements that equal or exceed that amount for that period, file a report with the
17 board containing an *itemized* statement of the total contributions received and
18 disbursements made by the candidate. A nonparticipating candidate shall file
19 additional reports after the candidate receives each additional \$1,000 of
20 contributions, or the candidate makes each additional \$1,000 of disbursements. If
21 such contributions are received or such disbursements are made more than 60 days
22 prior to the date of the primary election at which the name of the candidate appears
23 on the ballot, or prior to the date that the primary election would be held, if a primary
24 were required, such reports shall be made at the next regular reporting interval
25 under s. 11.506. ~~If such contributions are received or such disbursements are made~~

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1 within 60 days prior to the date of the primary election at which the name of the
 2 candidate appears on the ballot, or within 60 days prior to the date that the primary
 3 election would be held, if a primary were required, such reports shall be made within
 4 48 hours after each instance in which such contributions are received or such
 5 disbursements are made. ^{except that if a nonparticipating candidate receives} The board shall transmit copies of all reports received
 6 under this subsection to all candidates for the same office ^{of justice} at the same election. ^{under s. 11.510}

7 (2) Upon receipt of any report indicating that a nonparticipating candidate has
 8 received ^{total} contributions or made ^{total} disbursements in excess of the public financing
 9 benefit for the office of justice applicable to the primary, if prior to the date that the
 10 spring primary for the office of justice is held or the date that the primary would be
 11 held if a primary were required, or applicable to the election, if on or after that date,
 12 the board shall immediately credit the account of each eligible opposing candidate
 13 who qualifies to receive a public financing benefit with an additional line of credit.
 14 The amount of the additional line of credit shall equal the amount by which the total
 15 contributions received or the total disbursements made by the nonparticipating
 16 candidate, whichever is greater, exceed the amount of the initial public financing
 17 benefit for the office of justice applicable under this paragraph to the period during
 18 which the excess contributions are received or excess disbursements are made, but
 19 not to exceed, when combined with any amount received under s. 11.513 (3), 3 times
 20 the ^{amount of the} initial public financing benefit for that period. ^{obligation to file reports under this subsection terminates on the day of the primary election}

21 **11.513 Independent expenditures.** (1) If any person makes one or more
 22 independent expenditures exceeding \$2,000 in the aggregate, that person shall file
 23 a report with the board. The report shall be filed whenever the total independent
 24 expenditures made by the person exceed \$2,000 in the aggregate and whenever the
 25 person makes one or more additional independent expenditures exceeding \$2,000 in

If the nonparticipating candidate receives notification under s. 11.510 (1) that an opposing candidate has qualified to receive a public financing benefit for the spring election, the nonparticipating candidate shall resume filing reports under this subsection no later than 7 days after receiving notice.

BILL

1 the aggregate that are not identified in a previous report under this subsection. The
 2 report shall be filed within 7 days after the date that the expenditure is made, or if
 3 the expenditure is made within ~~14~~¹⁵ days of the date of a spring primary or election,
 4 within ~~48~~²⁴ hours after the date that the expenditure is made.

5 (2) Each report filed under sub. (1) shall contain the following information:

6 (a) The name of each candidate who is identified in each communication
 7 financed by an independent expenditure.

8 (b) A statement as to whether the communication is intended to support or
 9 oppose ~~each~~^{any} candidate who is identified under par. (a) ~~and if so, the name~~
 10 of that candidate.

11 (c) The total amount or value of the ~~expenditure~~^{independent} ~~and the cumulative aggregate~~
 12 independent expenditures ~~made~~^{made} by the person with respect to that election.

13 (3) When the sum of the aggregate independent expenditures reported made
 14 against an eligible candidate and the independent expenditures made for that
 15 candidate's opponent, as reported under sub. (1), exceed 20% of the public financing
 16 benefit for the office of justice in the primary or election for which the expenditures
 17 are made, the board shall promptly credit that candidate's account with an
 18 additional line of credit equivalent to the total such independent expenditures made,
 19 but not to exceed, when combined with any amount received under s. 11.512 (2), 3
 20 times the amount of the initial public financing benefit for that primary or election.

21 The board shall distribute any additional line of credit under this subsection ~~to be~~
 22 ~~made within 42 days of the date of a spring election~~ no later than 24 hours after the
 23 credit becomes due.

24 (4) If a person who makes an independent expenditure does not indicate
 25 whether an independent expenditure is made against an eligible candidate or for an
 eligible candidate's opponent, or if the report reasonably appears to be incorrect, the
 board may obtain a copy of the communication and, after examination, determine

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WMM

1 whether the expenditure was made against an eligible candidate's ~~opponent~~ or for
2 an eligible candidate's opponent for purposes of sub. (3).

3 **11.515 Democracy trust fund.** (1) The democracy trust fund shall be
4 administered by the state treasurer. The state treasurer shall contract with a debit
5 card issuer to permit eligible candidates and their agents to draw upon the fund
6 through an account with the issuer.

7 (2) Upon a determination of a candidate's eligibility for a public financing
8 benefit as provided for in s. 11.51 (1), the state treasurer shall issue to the eligible
9 candidate a fair election debit card.

10 (3) An eligible candidate may utilize a line of credit to transfer any amount of
11 money to his or her campaign depository account. No eligible candidate or agent of
12 an eligible candidate may make any disbursement other than through the use of the
13 fair election debit card or the campaign depository account. No eligible candidate or
14 agent of an eligible candidate may make a disbursement in the form of cash, but an
15 eligible candidate or agent may make a disbursement in the form of cash in an
16 amount not exceeding \$100 for the purpose of making disbursements in amounts not
17 exceeding \$25. An eligible candidate shall maintain records of all cash
18 disbursements and shall report such disbursements to the board in accordance with
19 ss. 11.06 (1) and 11.506.

20 **11.516 Administration.** Except as otherwise specifically provided in ss.
21 11.501 to ~~11.522~~ ^{11.518}, the board shall administer and enforce ss. 11.501 to ~~11.502~~ ^{11.518}.

22 **11.517 Penalties; enforcement.** (1) ^{Except as authorized in s. 11.506} ~~an~~ eligible candidate makes
23 disbursements that exceed the total amount of the public financing benefit allocated
24 to the candidate for any campaign and the total qualifying and seed money
25 contributions lawfully accepted by the candidate, the candidate may be required to

*11.506
(1M)
if*

BILL

1 forfeit not more than 10 times the amount by which the disbursements exceed the
2 allocation.

3 (2) Any eligible candidate who accepts contributions in excess of any limitation
4 imposed under ss. 11.502 to ^{11.518 ✓}~~11.522~~ may be required to forfeit not more than 10 times
5 the amount by which the contributions exceed the applicable limitation.

6 (3) If the board finds that there is probable cause to believe that a candidate
7 has made excess disbursements or has accepted excess contributions contrary to sub.
8 (1) or (2), the board shall attempt, for a period of not more than 14 days after its
9 finding, to correct the matter by informal methods of conference and conciliation and
10 to enter into a settlement and conciliation agreement under s. 5.05 (1) (c) with the
11 person involved. A settlement and conciliation agreement made pursuant to this
12 subsection shall be a matter of public record. Unless violated, a settlement and
13 conciliation agreement is a bar to any civil action under sub. (4).

14 (4) If the board has probable cause to believe that a candidate has made excess
15 disbursements or has accepted excess contributions, and the board is unable to
16 correct the matter by informal methods within the time prescribed in sub. (3), the
17 board shall make a public finding of probable cause in the matter. After making a
18 public finding, the board shall bring an action in the circuit court for Dane County
19 to impose a forfeiture under sub. (1) or (2).

20 (5) If any elector of this state believes that a candidate has violated ss. 11.502
21 to ^{11.518 ✓}~~11.522~~, the elector may file a complaint with the board requesting it to take
22 remedial action. If the board refuses to take remedial action or, within 30 days after
23 the filing of such a complaint, fails to take remedial action, the elector may commence
24 a civil action in the appropriate circuit court under sub. (4) requesting the court to
25 impose a forfeiture under sub. (1) or (2).

BILL

1 (6) The board and courts shall expedite all proceedings under ss. 11.502 to
2 ^{110518 ✓} ~~11.502~~ so that all complaints brought prior to an election are resolved, to the extent
3 possible, before the election is held.

4 (7) If a complaint brought under ss. 11.502 to ^{110518 ✓} ~~11.502~~ is resolved against the
5 complainant and ^{the court finds that the complaint has} ~~is found to have~~ been brought in bad faith and without a reasonable
6 basis, the board or court may assess costs, including reasonable attorney fees,
7 against the complainant.

8 **11.518 Prohibited acts.** (1) If a candidate or agent of a candidate knowingly
9 accepts more contributions than the candidate is entitled to receive, or makes
10 disbursements exceeding the total amount of the public financing benefit received
11 by the candidate and the total amount of the qualifying and seed money
12 ^{except as authorized under s. 11.506(1m)} contributions lawfully received by the candidate, ~~the~~ candidate or agent may be fined
13 not more than \$25,000 or imprisoned for not more than 5 years or both.

14 (2) If a candidate who receives a public financing benefit, or an agent of such
15 a candidate, knowingly makes a disbursement by means other than through use of
16 the fair election debit card, ^{or campaign depository account} ~~except as permitted under s. 11.515(3),~~ the candidate or
17 agent may be fined not more than \$25,000 or imprisoned for not more than 5 years
18 or both.

19 (3) If, in connection with the receipt or disbursement of a public financing
20 benefit for an election campaign, any person knowingly provides false information
21 to the board or knowingly conceals or withholds information from the board, that
22 person may be fined not more than \$25,000 or imprisoned for not more than 5 years
23 or both.

24 **11.522 Contributions to nonparticipating candidates; attributions. (1)**

25 A nonparticipating candidate may accept contributions from private sources without

BILL

1 limitation, except that no person may make any contribution or contributions to a
2 nonparticipating candidate exceeding a total of \$1,000 during any campaign.

3 ~~(2) Any electronic or print communication paid for or authorized by a~~
4 ~~nonparticipating candidate shall contain the following sentence: "This~~
5 ~~communication is paid for with money raised from private sources."~~

ANS ✓
21-5 ✓

6 **SECTION 17.** 20.005 (3) (schedule) of the statutes: at the appropriate place,
7 insert the following amounts for the purposes indicated:

| | | | 2001-02 | 2002-03 |
|----|--|-------|---------|---------|
| 9 | 20.510 Elections board | | | |
| 10 | (1) ADMINISTRATION OF ELECTION AND CAMPAIGN LAWS | | | |
| 11 | (r) Democracy trust fund adminis- | | | |
| 12 | tration | SEG A | -0- | -0- |

13 **20.585 Treasurer, state**

| | | | | |
|----|-----------------------------------|-------|-----|-----|
| 14 | (1) CUSTODIAN OF STATE FUNDS | | | |
| 15 | (r) Democracy trust fund adminis- | | | |
| 16 | tration | SEG A | -0- | -0- |

17 **SECTION 18.** 20.510 (1) (r) of the statutes is created to read:

18 20.510 (1) (r) *Democracy trust fund administration.* From the democracy trust
19 fund, the amounts in the schedule for the administration of ss. 11.501 to ~~11.524~~ ^{11.518 ✓}

20 **SECTION 19.** 20.585 (1) (q) of the statutes is created to read:

21 20.585 (1) (q) *Democracy trust fund.* As a continuing appropriation, from the
22 democracy trust fund, the moneys determined under ss. 11.501 to ~~11.524~~ ^{11.518 ✓} to provide
23 for payments to eligible candidates.

24 **SECTION 20.** 20.585 (1) (r) of the statutes is created to read:

BILL

1 20.585 (1) (r) *Democracy trust fund administration.* From the democracy trust
2 fund, the amounts in the schedule for the administration of ss. 11.501 to ~~11.522~~^{11.518}.

3 **SECTION 21.** 20.855 (4) (bb) of the statutes is created to read:

4 20.855 (4) (bb) *Democracy trust fund transfer.* A sum sufficient equal to the
5 amounts appropriated under ss. 20.510 (1) (r) and 20.585 (1) (r) and the amounts
6 required to provide public financing benefits that candidates qualify to receive from
7 the democracy trust fund, to be transferred from the general fund to the democracy
8 trust fund no later than the time required to make payments of grants under ss. ~~11.51~~^{11.510}
9 (5), 11.512 (2), and 11.513 (3).

10 **SECTION 22.** 25.17 (1) (cm) of the statutes is created to read:

11 25.17 (1) (cm) Democracy trust fund (s. 25.421);

12 **SECTION 23.** 25.421 of the statutes is created to read:

13 **25.421 Democracy trust fund.** All moneys appropriated under s. 20.855 (4)
14 (bb) and all moneys deposited in the state treasury under ss. 11.509 and ~~11.51~~^{11.510} (6)
15 constitute the democracy trust fund, to be expended for the purposes of ss. 11.501 to
16 ~~11.522~~^{11.518}.

(END)

17
JWS
22-16 ✓

FWS 2 c

2001 - 2002 Legislature

- 12 -

LRB-1157/
JTK&RJM:wlj:rs

No 91

~~The bill also creates a biennial adjustment that causes the statutory maximum initial grant amounts to be adjusted biennially, beginning in 2004, in accordance with the rate of increase or decrease in the "consumer price index," as determined by the U.S. department of labor, with the result in turn adjusted by the rate of increase or decrease in the voting age population of this state, as determined by the federal election commission.~~

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1551/2ins
JTK & RJM.....

INSERT 2A: ✓

No 11

The bill defines "independent expenditure" to include both expenditures for communications that directly advocate the election or defeat of a candidate for the office of justice, as well as expenditures for communications that contain a reference to a candidate for the office of justice made during the period beginning 30 days before the spring primary and ending on the date of the spring election (or during the last 60 days before the spring election if no primary is held).

INSERT 2B:

In addition, the bill provides that if a candidate for the office of justice has an unencumbered balance in his or her campaign depository account on the day the bill becomes law, that candidate may make disbursements from that balance for his or her campaign, but an amount equal to the balance is deducted from the candidate's public financing benefit.

INSERT 5-18:

SECTION ~~11~~[#] 11.27 (1)[✓] of the statutes is amended to read:

11.27 (1) No person may prepare or submit a false report or statement to a filing officer under this chapter. This subsection does not apply to any information reported by a person making an independent expenditure described in s. 11.501 (10) (b)[✓] under s. 11.513 (2) (b)[✓].

History: 1973 c. 334; 1979 c. 328.

INSERT 6-21:

(2m) "Communication" means a message transmitted by means of a printed advertisement, billboard, handbill, sample ballot, radio or television advertisement, telephone call⁵ or any medium that may be utilized for the purpose of disseminating

or broadcasting a message, but not including a poll conducted solely for the purpose of identifying or collecting data concerning the attitudes or preferences of electors.

INSERT 9-16:

(4) Within 3 business days after the deadline provided under sub. (1),^J any person may challenge the validity of any contribution listed by a candidate by filing a written challenge with the board setting forth any reason why the contribution should not be accepted as a qualifying contribution. Within 5 business days after the deadline provided under sub. (1),[✓] the candidate who listed any contribution that is the subject of a challenge may file with the board an additional contribution within the total limitation prescribed under s. 11.509[✓] for consideration as a qualifying contribution. If a contribution is challenged under this subsection,[✓] the board shall decide the validity of the challenge no later than the end of the next business day after the day that the challenge is filed, unless the board determines that the candidate whose contribution is challenged has sufficient qualifying contributions to be certified as an eligible candidate under this section without considering the challenge.

INSERT 10-19:

(1m)_Δ An eligible candidate may accept private contributions at any time for the purpose of payment of legal expenses in connection with a civil investigation or prosecution for an alleged violation of this chapter by the candidate or his or her personal campaign committee, payment of civil penalties incurred under this chapter by the candidate or his or her personal campaign committee, payment of

recount expenses incurred by the candidate or his or her personal campaign committee or payment of inaugural expenses of the candidate, subject to applicable contribution limitations under s. 11.26. This subsection does not preclude payment of such expenses in any other lawful manner.

INS 21-5

SECTION 12.05 of the statutes is amended to read:

12.05 False representations affecting elections. No person may knowingly make or publish, or cause to be made or published, a false representation pertaining to a candidate or referendum ~~which~~ ^{that} is intended or tends to affect voting at an election. This section does not apply to any information reported by a person making an independent expenditure described in s. 11.501 (10 (b)) under s. 11.513 (2) (b).

History: 1973 c. 334; 1993 a. 175.

INSERT 22-16:

SECTION 3. Nonstatutory provisions.

(1) NONSEVERABILITY. (a) Notwithstanding section 990.001 (11) of the statutes, if a court finds that any part of section 11.513 of the statutes, as created by this act, is unconstitutional, that entire section is void.

(b) Notwithstanding section 990.001 (11) of the statutes, if a court finds that any part of section 11.512 of the statutes, as created by this act, is unconstitutional, this entire act is void.

(2) USE OF PRIOR BALANCES BY CANDIDATES. Notwithstanding sections 11.506 (1), 11.509, 11.511, 11.512 (2), 11.513 (3) and 11.517 of the statutes, as created by this

act, an eligible candidate for the office of justice who has an unencumbered balance in his or her campaign depository account on the effective date of this subsection that was lawfully received in accordance with the law in effect prior to the effective date of this subsection may make disbursements from that balance, but the total amount of the public financing benefit payable to that candidate under sections 11.511, 11.512 (2) and 11.513 (3) of the statutes, as created by this act, is decreased by the amount of that balance.

SECTION 4. Effective date.

(1) This act takes effect on July 1, 2001, or the day after publication, whichever is later.

7/15 7-21

1999 - 2000 Legislature

- 8 -

SENATE BILL 181

LRB-3024/1
JTK:wlj:km
SECTION 17

Q (a) A

10 ~~(10)~~ "Independent disbursement" means a disbursement by a person expressly
 11 advocating the election or defeat of a clearly identified candidate, which is made
 12 without cooperation or consultation with ^{such} a candidate, or any authorized committee
 13 or agent of ^{such} a candidate, and which is not made in concert with, or at the request or
 14 suggestion of, ^{such a} any candidate, or any authorized committee or agent of ^{such a} a candidate.

made for
the purpose
of
making a
communication

From: -1157/3

ANS 15-1

⑧ (b) (a) For this subsection

1 1. "Consumer price index" means the average of the consumer price index over
2 each 12-month period, all items, U.S. city average, as determined by the bureau of
3 labor statistics of the U.S. department of labor.

4 2. "Voting age population of this state" means the voting age population of this
5 state, as determined by the federal election commission in its most recent
6 determination prior to the date of any calculation under this subsection.

7 (b) The dollar amounts of ^{the public financing benefits provided for} ~~all maximum initial grant amounts specified in sub-~~
8 ~~(9) (a) 1 to 7~~ ^{in sub (2) and (3)} shall be subject to a biennial adjustment to be determined by rule of

9 the board in accordance with this subsection. To determine the adjustment, the
10 board shall calculate the percentage difference between the voting age population of
11 this state on December 31 of each odd-numbered year and the voting age population
12 of this state on December 31, 2003. The board shall then calculate the percentage
13 difference between the consumer price index for the 12-month period ending on
14 December 31 of each odd-numbered year and the consumer price index for calendar
15 year 2003. ^{then} For each biennium, the board shall ~~first~~ multiply the ^{public financing benefits} ~~maximum initial~~
16 ~~grant amounts~~ by the percentage difference in the voting age populations. The board

17 shall then multiply that product by the percentage difference in the consumer price
18 ^{For each biennium beginning on July 1 of an even-numbered year} ~~indices.~~ ^{the public financing benefits} The board shall adjust the ~~maximum initial grant amounts specified in sub-~~

19 ^{provided for in subs. (2) and (3)} ~~(9) to substitute that result for the existing amounts to the extent required to reflect~~ ^{substituting}
20 ^{if different from the adjusted amounts} ~~any difference, rounded to the nearest multiple of \$25, which amounts shall be in-~~ ^{that result}

21 effect until a subsequent rule is promulgated under this subsection.
22 Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), determinations under this
23 subsection may be promulgated as an emergency rule under s. 227.24 without
24 providing evidence that the emergency rule is necessary for the public peace, health,
25 safety, or welfare and without a finding of emergency.

indexes

END 15-1

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1551/2dn
JTK & RJM.../:...
WJ

Senator George:

1. Please note that in this draft, the definition of "independent expenditure" in proposed s. 11.501 (10) has not only been narrowed to apply only to expenditures for the purpose of making communications but also has been broadened to apply to conventional direct advocacy communications as well as "issue advocacy" communications.


2. The change made by this draft in proposed s. 11.512 (1) under which no reports are required from nonparticipating candidates until at least one candidate qualifies for a public financing benefit means that the reports will not be initially received until 2 ^{seven} days after the board notifies the nonparticipating candidate(s) that a candidate has qualified and, potentially, will not resume after a primary until 2 ^{seven} days after the board notifies the nonparticipating candidate that the other candidate has again qualified. Under the previous draft, the reports began 60 days before the date of the primary, or if there was no primary, 60 days before the date that the primary would be held, if a primary were required. This was before the nomination paper filing deadline. The later reports provided under the terms of this draft will also mean that participating candidates will receive their matching benefits later. You could attempt to shorten this ^{seven} ~~60~~-day period a little, especially after the primary election, but I think the nonparticipating candidate is entitled to some notice that he or she has become subject to a reporting requirement before the reports suddenly become due.

3. Per our discussion, we have amended ss. 11.27 (1) and 12.05, stats. to provide that the prohibitions against making false statements do not apply to information as to whether "issue advocacy" expenditures are intended to support or oppose a candidate ~~*****~~ Since under proposed s. 11.513 (2) (b), a person making "issue advocacy" expenditures may in effect refuse to say whether a communication is intended to support or oppose a candidate, it's possible that you don't need to make an exception to these prohibitions, which may be viewed by some as almost inviting inaccurate information to be provided.

4. Because this redraft makes extensive changes to the ^{bill}~~draft~~, we reviewed the entire draft and incorporated some additional clarifying changes to better reflect your intent.

Jeffery T. Kuesel
Managing Attorney
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Robert J. Marchant
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The remainder of this drafter's note is taken from the previous version of this draft.

INSERT DNOTE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1551/2dn
JTK&RJM:wlj:pg

February 14, 2001

Senator George:

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2. The change made by this draft in proposed s. 11.512 (1) under which no reports are required from nonparticipating candidates until at least one candidate qualifies for a public financing benefit means that the reports will not be initially received until seven days after the board notifies the nonparticipating candidate(s) that a candidate has qualified and, potentially, will not resume after a primary until seven days after the board notifies the nonparticipating candidate that the other candidate has again qualified. Under the previous draft, the reports began 60 days before the date of the primary, or if there was no primary, 60 days before the date that the primary would be held if a primary were required. This was before the nomination paper filing deadline. The later reports provided under the terms of this draft will also mean that participating candidates will receive their matching benefits later. You could attempt to shorten this seven-day period a little, especially after the primary election, but we think the nonparticipating candidate is entitled to some notice that he or she has become subject to a reporting requirement before the reports suddenly become due.
3. Per our discussion, we have amended ss. 11.27 (1) and 12.05, stats., to provide that the prohibitions against making false statements do not apply to information as to whether "issue advocacy" expenditures are intended to support or oppose a candidate. Since under proposed s. 11.513 (2) (b), a person making "issue advocacy" expenditures may in effect refuse to say whether a communication is intended to support or oppose a candidate, it's possible that you don't need to make an exception to these prohibitions, which may be viewed by some as almost inviting inaccurate information to be provided.
4. Because this redraft makes extensive changes to the bill, we reviewed the entire draft and incorporated some additional clarifying changes to better reflect your intent.

Jeffery T. Kuesel
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Kuesel, Jeffery

From: Rossmiller, Dan
Sent: Thursday, February 15, 2001 1:56 PM
To: Kuesel, Jeffery
Subject: Impartial Justice bill

Jeff:

Thank you for your good work.

I sense there will be some changes to be suggested in the draft you just completed. I will forward those to you as soon as I know what they are.

In the mean time, I have some suggested (draft) language for the next version (LRB1551/3) of Impartial Justice.

"To be added
to section 11.001, Stats., as a new subsection (4):

(4) The declarations of policy and intent in this section have particular application in primary and general elections for the office of Justice of the Supreme Court. An independent, elected judiciary is an indispensable part of state government, and it is essential that the public have confidence in the absolute integrity of the nonpartisan judiciary and the Supreme Court, which has supervisory authority for the judiciary. To the extent consistent with the state and federal constitutions, judicial elections should be free from both partisan or financial influence and the appearance of partisan or financial influence, including even the suggestion that a judicial candidate is associated with a committee, group or cause other than a candidate's personal campaign committee. The Code of Judicial Ethics limits the ability of judicial candidates to engage in fundraising and, for candidates who also are incumbent judges, there may be limitations on their ability to freely discuss cases in which they have been involved. The public financing of Supreme Court campaigns, accordingly, has a compelling justification to help remove even the appearance of impropriety from the electoral process."

Please feel free to contact me if you have any questions.

Dan Rossmiller
Chief of Staff
Office of Senator Gary R. George
608-266-2500
877-474-2000 (toll free)

Kuesel, Jeffery

From: Kuesel, Jeffery
Sent: Tuesday, February 20, 2001 4:14 PM
To: Rossmiller, Dan
Subject: LRB-1551 - Legislative findings

Dan,

For the most part, the submitted language looks appropriate. However, I was a little surprised that it seems to be aimed at bolstering the constitutional underpinnings of public financing in general, which I think was a question that was settled in the *Buckley v. Valeo* case. I expected the language to focus more on the justification for reporting of issue ads and perhaps the justification for matching in general and matching issue ads in particular. However, the language would still be useful and relevant if a dispute erupts regarding those specific issues.

Regarding the specific language, I would like to avoid a reference to the Code of Judicial Conduct, since this is not in the statutes and is subject to change, and any change would create a defective statutory reference. I think the reference does not need to be that specific. I would have the finding read as follows:

"11.001 (2m) The declarations of policy and intent in this section have particular application in elections for the office of justice. The legislature finds that an independent, elected judiciary is an indispensable part of state government, and it is essential that the public have confidence in the absolute integrity of the nonpartisan judiciary and the supreme court, which has supervisory authority over the judiciary. To the extent consistent with the state and federal constitutions, judicial elections should be free from both partisan and financial influence, including even the suggestion that a judicial candidate is associated with a committee, group or cause other than the candidate's personal campaign committee. Ethical constraints may limit the ability of judicial candidates to engage in fundraising and candidates who are incumbent judges may have limited ability to discuss cases in which they have been involved. The legislature finds, therefore, that there is a compelling justification for public financing of campaigns for the office of justice, in order to help in removing even the appearance of impropriety from the electoral process."

The term "justice" is defined in s. 5.02 (8), stats.

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Kuesel, Jeffery

From: Rossmiller, Dan
Sent: Thursday, February 22, 2001 10:56 AM
To: Kuesel, Jeffery
Subject: Impartial Justice--LRB 1551

Jeff:

Here is possible additoinal language for the preamble/legislative findings of fact:

The declarations of policy and intent in this section have particular application in elections for the office of justice. The legislature finds that an independent, elected judiciary is an indispensable part of state government, and it is essential that the public have confidence in the absolute integrity of the nonpartisan judiciary and the supreme court, which has supervisory authority over the judiciary. To the extent consistent with the state and federal constitutions, judicial elections should be free from both partisan and financial influence, including even the suggestion that a judicial candidate is associated with a committee, group or cause other than the candidate's personal campaign committee. Ethical constraints may limit the ability of judicial candidates to engage in fundraising and candidates who are incumbent judges may have limited ability to discuss cases in which they have been involved. The legislature finds, therefore, that there is a compelling justification for public financing of campaigns for the office of justice, in order to help in removing even the appearance of impropriety from the electoral process. **The legislature also finds a compelling justification to require minimal reporting of all communications close to an election which use the name or likeness of a candidate, including "issue ads," in order to allow increased funding for judicial candidates based upon independent spending. The minimal reporting burden is outweighed by the need to establish an effective funding mechanism for judicial candidates which accounts for and allows a candidate to effectively respond to all independent spending which may impact the election.**

I am still waiting for a meeting of the minds on the questions we discussed yesterday.

Dan Rossmiller
Chief of Staff
Office of Senator Gary R. George
608-266-2500
877-474-2000 (toll free)

The declarations of policy and intent in this section have particular application in elections for the office of justice. The legislature finds that an independent, elected judiciary is an indispensable part of state government, and it is essential that the public have confidence in the absolute integrity of the nonpartisan judiciary and the supreme court, which has supervisory authority over the judiciary. To the extent consistent with the state and federal constitutions, judicial elections should be free from both partisan and financial influence, including even the suggestion that a judicial candidate is associated with a committee, group or cause other than the candidate's ~~(personal campaign committee.~~ Ethical constraints may limit the ability of judicial candidates to engage in fundraising ~~(and candidates who are incumbent judges may have limited ability to discuss cases in which they have been involved. The legislature finds, therefore, that there is a compelling justification for public financing of campaigns for the office of justice, in order to help in removing even the appearance of impropriety from the electoral process. The legislature also finds a compelling justification to require minimal reporting of all communications close to an election which use the name or likeness of a candidate, including "issue ads," in order to allow increased funding for judicial candidates based upon independent spending. The minimal reporting burden is outweighed by the need to establish an effective funding mechanism for judicial candidates) which accounts for and allows a candidate to effectively respond to all independent spending which may impact the election.~~

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