

**2003 DRAFTING REQUEST**

**Bill**

Received: **02/08/2003**

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Stephen Freese (608) 266-7502**

By/Representing: **Rob Richard**

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

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Elections - campaign finance**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Freese@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Grant repayment for making false statements

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**Instructions:**

Per 01 AB-441.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 02/14/2003	csicilia 02/18/2003		_____			
		csicilia 02/19/2003		_____			
/1			chaskett 02/20/2003	_____	amentkow 02/20/2003		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	jkuesel 02/24/2003	csicilia 02/24/2003	jfrantze 02/24/2003	_____	amentkow 02/24/2003	amentkow 02/25/2003	

FE Sent For:

<END>

↳ Not Needed

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1/1	jkuesel	2/14/03 cjs	1/2/03 cph	cph/rs 2/20			

FE Sent For:

<END>

**2001 ASSEMBLY BILL 441**

★ P.W.F. as indicated ★

June 12, 2001 - Introduced by Representatives WARD, SIDER, KESTELL, HAHN, NASS, LADWIG, J. LEHMAN, AINSWORTH, ~~McGORMICK~~, RYBA, SKINDRUD, LIPPERT, PETTIS and ~~FREESE~~, cosponsored by Senators ROESSLER and DARLING. Referred to Committee on Campaigns and Elections.

SA ✓  
new CBS ✓

Repeal

1 AN ACT *to amend* 11.10 (2) and 11.50 (2) (a); and *to create* 11.16 (1) (cm) and  
2 11.50 (11) (em) of the statutes; **relating to:** use of moneys from the Wisconsin  
3 election campaign fund to make certain false representations.

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

Currently, a candidate for state office who accepts a grant from the Wisconsin election campaign fund may utilize the proceeds to purchase services from a communications medium; printing, graphic arts or advertising services; office supplies; or postage. Grant moneys may only be used to advance the candidacy of the grantee by lawful means. Currently, no person may knowingly make or publish, or cause to be made or published, a false representation pertaining to a candidate which is intended or tends to affect voting at an election.

This bill prohibits any candidate or campaign treasurer from incurring an obligation or making a disbursement (expenditure) in whole or in part derived from grant moneys for the purpose of making or publishing, or causing to be made or published, a false representation that pertains to any candidate and that is intended or tends to affect voting at the election for the office that the candidate seeks. If a candidate or campaign treasurer violates this requirement, the bill requires the elections board to order the campaign to repay the entire amount of the grant received by the candidate within six months of the date of the board's order. The bill permits the board to sue the candidate, the candidate's personal campaign committee, or the candidate's campaign treasurer to recover any amount due. Under the bill, if the board is unable to recover the entire amount due from the candidate's

**ASSEMBLY BILL 441**

campaign treasury, the board may recover any deficiency from the candidate personally, <sup>or</sup> if the board cannot recover the entire amount from the candidate's campaign treasury and the candidate, from the campaign treasurer personally.

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

1 SECTION 1. 11.10 (2) of the statutes is amended to read:

2 11.10 (2) A candidate may remove a campaign treasurer at any time. In case  
3 of the death, resignation or removal of a campaign treasurer, the candidate shall  
4 designate a successor and shall file the successor's name and address with the  
5 appropriate filing officer as provided in s. 11.05 (5). Until the successor's name and  
6 address is filed, the candidate shall be deemed his or her own campaign treasurer.  
7 If a candidate files the name of a successor and the candidate has filed an application  
8 for a grant under s. 11.50, the candidate shall also file with the board a sworn  
9 statement under s. 11.50 (2) (a), signed by the successor.

10 SECTION ~~2~~. 11.16 (1) (cm) of the statutes is created to read:

11 11.16 (1) (cm) In the event that an obligation is incurred or a disbursement is  
12 made from a campaign treasury for any purpose contrary to s. 11.50 (11) (em) and the  
13 obligation is incurred or the disbursement is made from grant moneys received under  
14 s. 11.50, the candidate is liable for any moneys recoverable under s. 11.50 (11) (em)  
15 that cannot be recovered from the campaign treasury. If the board, after reasonable  
16 efforts, is unable to recover the entire amount of the moneys from the campaign  
17 treasury and the candidate, and the candidate has appointed a separate campaign  
18 treasurer, the board may recover any unrecovered moneys from the campaign  
19 treasurer.

20 SECTION ~~3~~. 11.50 (2) (a) of the statutes is amended to read:

P.W.F.

ASSEMBLY BILL 441

1           11.50 (2) (a) Any individual who desires to qualify as an eligible candidate may  
 2 file an application with the board requesting approval to participate in the fund. The  
 3 application shall be filed no later than the applicable deadline for filing nomination  
 4 papers under s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), no later than 4:30 p.m.  
 5 on the 7th day after the primary or date on which the primary would be held if  
 6 required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day  
 7 after appointment in the case of candidates appointed to fill vacancies. The  
 8 application shall contain a sworn statement that the candidate and his or her  
 9 authorized agents have complied with the contribution limitations prescribed in s.  
 10 11.26 and the disbursement limitations prescribed under s. 11.31 at all times to  
 11 which such limitations have applied to his or her candidacy and will continue to  
 12 comply with the limitations at all times to which the limitations apply to his or her  
 13 candidacy for the office in contest, unless the board determines that the candidate  
 14 is not eligible to receive a grant, the candidate withdraws his or her application  
 15 under par. (h), or par. (i) applies. The application shall also contain a sworn  
 16 statement, signed by the candidate and, unless the candidate is serving as his or her  
 17 own campaign treasurer, by the candidate's campaign treasurer, agreeing that no  
 18 part of the grant will be used to make or publish, or cause to be made or published,  
 19 a false representation that pertains to any candidate and that is intended or tends  
 20 to affect voting at the election for the office that the candidate seeks. ✓

21           SECTION 4. 11.50 (11) (em) of the statutes is created to read:

22           11.50 (11) (em) No candidate or campaign treasurer may incur an obligation or  
 23 make a disbursement in whole or in part derived from grant moneys received under  
 24 this section for the purpose of making or publishing, or causing to be made or  
 25 published, a false representation that pertains to any candidate and that is intended

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P. W. F.

**ASSEMBLY BILL 441**

1 to or tends to affect voting at the election for the office that the candidate seeks. If  
2 any candidate or campaign treasurer violates this paragraph, the board shall require  
3 the candidate to repay the entire amount of the grant received under this chapter for  
4 the election campaign in which the violation occurs within 6 months of the date of  
5 the board's order. The board may commence a civil action against a personal  
6 campaign committee, candidate, or campaign treasurer to recover any amount that  
7 is not paid pursuant to an order issued under this paragraph. For purposes of this  
8 paragraph, an obligation is incurred or a disbursement is made from grant moneys  
9 if, immediately prior to the time the obligation is incurred or the disbursement is  
10 made, the unencumbered moneys derived from private sources in the candidate's  
11 campaign treasury are not at least equal to the amount of the obligation or  
12 disbursement. In determining whether moneys are derived from private sources,  
13 obligations are considered to be incurred and disbursements are considered to be  
14 made from moneys deposited in a candidate's campaign treasury in the same order  
15 that those moneys were chronologically received and earnings are considered to be  
16 derived from the same sources as the principal on which they are earned.

17

(END)

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1 of the applicable authorized disbursement limitation, as determined under s. 11.31  
2 (1) and adjusted as provided under s. 11.31 (9); and

3 SECTION 15. 2001 Wisconsin Act 109, section 9115 (2y) (b) is amended to read: ✓

4 [2001 Wisconsin Act 109] Section 9115 (2y) (b) Notwithstanding section ✓  
5 990.001 (11) of the statutes, if a court finds that any part of the repeal of sections  
6 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and 11.50 (10) of the statutes, the  
7 renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50 (1) (a) 1. of the statutes,  
8 the renumbering and amendment of sections 11.05 (1), 11.05 (2), 11.05 (2r), 11.12 (6),  
9 11.26 (9) (a), 11.31 (2m), 11.50 (1) (a) 2., 11.50 (5), 11.50 (9), 19.49 (5), 19.59 (7), and  
10 71.10 (3) (a) of the statutes, the amendment of sections 5.02 (13), 5.05 (2), 7.08 (2) (c),  
11 7.08 (2) (cm), 8.30 (2), 8.35 (4) (a) 1. a. and b., 8.35 (4) (c) and (d), 11.05 (3) (c), 11.05  
12 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e), 11.06 (2),  
13 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b), 11.06 (7m)  
14 (c), 11.07 (1), 11.07 (5), 11.09 (3), ~~11.10 (1)~~, 11.12 (2), 11.12 (4), 11.12 (5), 11.14 (3),  
15 11.16 (2), 11.16 (5), 11.19 (title), 11.19 (1), 11.20 (1), 11.20 (2), 11.20 (3) (a) and (b),  
16 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12), 11.21 (2),  
17 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26 (2) (intro.),  
18 11.26 (2) (a), 11.26 (3), 11.26 (4), 11.26 (5), 11.26 (6), 11.26 (8), 11.26 (9) (b), 11.26 (10),  
19 11.26 (15), 11.26 (17) (a), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1) (e) and (f), 11.31  
20 (2), 11.31 (2m) (title), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8) (b), ~~11.50 (2) (a),~~  
21 11.50 (2) (b) 3. and 4., 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50 (2) (g), 11.50 (2)  
22 (h), 11.50 (2) (i), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (10m), 11.50 (11) (e), 11.60  
23 (4), 11.61 (1) (a) (by SECTION 2d), 19.53 (6), 19.59 (8) (c), 20.510 (1) (q), 25.42, 71.08  
24 (1) (intro.), and 71.10 (3) (b) of the statutes, the repeal and recreation of sections 11.05  
25 (9) (title) and section 11.50 (4) of the statutes, the creation of sections 11.001 (2m),

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1 11.01 (4m), 11.01 (12w), (13) and (14), 11.01 (16) (a) 3., 11.05 (1) (b), 11.05 (2) (b), 11.05  
 2 (3) (m), 11.05 (3) (r), 11.06 (1) (cm) and (dm), 11.06 (2m) (b) to (d), 11.06 (11) (bm), 11.12  
 3 (6) (am), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t), 11.20 (8) (am),  
 4 11.24 (1w), 11.24 (4), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae), (am), (as) and (av), 11.26  
 5 (2m), 11.26 (2t), 11.26 (8n), 11.26 (8r), 11.26 (9) (a) 1. to 4., 11.26 (9) (am), 11.26 (9m),  
 6 11.26 (10a), 11.31 (1) (de), 11.31 (2m) (a), 11.31 (3p), 11.31 (9), 11.385, 11.50 (1) (a) 1.  
 7 (intro.), 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm), 11.50 (2) (b) 6., 11.50  
 8 (2) (j), 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (9) (b), 11.50 (14), 11.60 (3r), 19.42 (3m),  
 9 (4g) and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535, 19.59 (1) (br), 19.59 (7) (b),  
 10 19.59 (8) (cm) and (cn), 71.07 (6s), 71.10 (3) (ac), 71.10 (3) (d), 71.10 (4) (gw), and  
 11 806.04 (11m) of the statutes or SECTIONS 9115 (2v), (2x), and (2y), 9132 (4v), 9215 (3v),  
 12 9244 (6v), 9315 (2v) and (2w), and 9344 (2v) of this act is unconstitutional, the  
 13 treatment of those provisions by this act is void.

~~SECTION 16. 2001 Wisconsin Act 109, section 9415 (1zx) is amended to read:~~

~~[2001 Wisconsin Act 109] Section 9415 (1zx) CAMPAIGN FINANCE AND RELATED  
 16 CHANGES. The repeal of sections 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and 11.50  
 17 (10) of the statutes, the renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50  
 18 (1) (a) 1. of the statutes, the renumbering and amendment of sections 11.05 (1), 11.05  
 19 (2), 11.05 (2r), 11.12 (6), 11.26 (9) (a), 11.31 (2m), 11.50 (1) (a) 2., 11.50 (5), 11.50 (9),  
 20 19.49 (5), and 19.59 (7) of the statutes, the amendment of sections 5.02 (13), 5.05 (2),  
 21 7.08 (2) (c), 7.08 (2) (cm), 8.30 (2), 8.35 (4) (a) 1. a. and b., 8.35 (4) (c) and (d), 11.05  
 22 (3) (c), 11.05 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e),  
 23 11.06 (2), 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b),  
 24 11.06 (7m) (c), 11.07 (1), 11.07 (5), 11.09 (3), 11.10 (1), 11.12 (2), 11.12 (4), 11.12 (5),  
 25 11.14 (3), 11.16 (2), 11.16 (5), 11.19 (title), 11.19 (1), 11.20 (1), 11.20 (2), 11.20 (3) (a)~~

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1 and (b), 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12),  
 2 11.21 (2), 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26  
 3 (2) (intro.), 11.26 (2) (a), 11.26 (3), 11.26 (4), 11.26 (5), 11.26 (6), 11.26 (8), 11.26 (9)  
 4 (b), 11.26 (10), 11.26 (15), 11.26 (17) (a), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1)  
 5 (e) and (f), 11.31 (2), 11.31 (2m) (title), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8)  
 6 (b), ~~11.50 (2) (a)~~, 11.50 (2) (b) 3. and 4., 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50  
 7 (2) (g), 11.50 (2) (h), 11.50 (2) (i), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (10m),  
 8 ~~11.50 (11) (e)~~, 11.60 (4), 11.61 (1) (a) (by SECTION 2d), 19.53 (6), 19.59 (8) (c), 20.510  
 9 (1) (g), and 25.42 of the statutes, the repeal and recreation of sections 11.05 (9) (title)  
 10 and section 11.50 (4) of the statutes, the creation of sections 11.001 (2m), 11.01 (4m),  
 11 11.01 (12w), (13) and (14), 11.01 (16) (a) 3., 11.01 (17g) and (17r), 11.05 (1) (b), 11.05  
 12 (2) (b), 11.05 (3) (m), 11.05 (3) (r), 11.06 (1) (cm) and (dm), 11.06 (2m) (b) to (d), 11.06  
 13 (1) (bm), 11.12 (6) (am), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t),  
 14 11.20 (8) (am), 11.21 (17), 11.24 (1w), 11.24 (4), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae),  
 15 (am), (as) and (av), 11.26 (2m), 11.26 (2t), 11.26 (8n), 11.26 (8r), 11.26 (9) (a) 1. to 4.,  
 16 11.26 (9) (am), 11.26 (9m), 11.26 (10a), 11.31 (1) (de), 11.31 (2m) (a), 11.31 (3p), 11.31  
 17 (9), 11.385, 11.50 (1) (a) 1. (intro.), 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and  
 18 (cm), 11.50 (2) (b) 6., 11.50 (2) (j), 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (9) (b), 11.50  
 19 (14), 11.60 (3r), 19.42 (3m), (4g) and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535,  
 20 19.59 (1) (br), 19.59 (7) (b), 19.59 (8) (cm) and (cn), and 806.04 (11m) of the statutes  
 21 and SECTIONS 9115 (2v) and (2w) and 9315 (2v) and (2w) of this act take effect on July  
 22 1, 2003.

*PLAIN*

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**SECTION 17. Effective dates.** This act takes effect on the day after publication,

except as follows:

**BILL**

**SECTION 17**

*repeal and  
recreation*

*11.50(2)(a)*

1

(1) The ~~repeal~~ of section ~~11.50(6)(a) and (b)~~ and ~~11.50(8)(a) and 11.50(2)~~

2

~~of the~~ of the statutes takes effect on July 1, 2003.

3

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FRS 3-19:11

Section # 11.50 (2) (a) of the statutes is amended <sup>repeated and recreated</sup> to read:

*as amended by 2003 Wisconsin Act 109,*

11.50 (2) (a) Any individual who desires to qualify as an eligible candidate may file an application with the board requesting approval to participate in the fund. The application shall be filed no later than the applicable deadline for filing nomination papers under s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), no later than 4:30 p.m. on the 7th day after the primary or date on which the primary would be held if required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day after appointment in the case of candidates appointed to fill vacancies. The application shall contain a sworn statement that the candidate and his or her authorized agents have complied with the contribution limitations prescribed in s. 11.26 and the disbursement limitations prescribed under s. 11.31 at all times to which such limitations have applied to his or her candidacy and will continue to comply with the limitations at all times to which the limitations apply to his or her candidacy for the office in contest, unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws his or her application under par. (h), or par. (i) applies.

NOTE: Par. (a) is amended eff. 7-1-03 by 2001 Wis. Act 109 to read:

(a) Any individual who desires to qualify as an eligible candidate may file an application with the board requesting approval to participate in the fund. The application shall be filed no later than the applicable deadline for filing nomination papers under s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), no later than 4:30 p.m. on the 7th day after the primary or date on which the primary would be held if required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day after appointment in the case of candidates appointed to fill vacancies. The applicant shall provide, along with his or her application, an affidavit under s. 11.31 (2m) (a). The application shall also contain a sworn statement that, except as authorized in s. 11.26 (9m), if the candidate is able to receive the full amount of the grant, except any grant provided under sub. (4) (bg) or (br), to which the candidate is entitled under sub. (9), the candidate and his or her agents will not accept any contribution made by a committee other than a political party committee during the campaign, and that, except as provided in s. 11.29 (9m) any contributions accepted by the candidate from such a committee will not exceed that amount which, when added to the amount of the grant received by the candidate under sub. (9), equals the percentage specified in s. 11.26 (9) (am) of the disbursement level specified in s. 11.31 (1) (a) to (de), (e), or (f), as adjusted

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under s. 11.31 (9), for the office that the candidate seeks. In the statement, the candidate shall also swear that if any unauthorized contribution has been accepted, that the contribution has been or will be returned or donated as provided in par. (j), and the candidate and his or her agents will not accept any unauthorized contribution during the campaign.

History: 1977 c. 107, 272; 1979 c. 328; 1983 a. 51; 1983 a. 484 s. 174; 1985 a. 303 ss. 73 to 79, 86; 1987 a. 370, 391, 403; 1989 a. 31; 1989 a. 192 s. 75; 2001 a. 109.

SN 3-19.3  
- 3 -

ASSEMBLY BILL 441

1 11.50 (2) (a) Any individual who desires to qualify as an eligible candidate may  
 2 file an application with the board requesting approval to participate in the fund. The  
 3 application shall be filed no later than the applicable deadline for filing nomination  
 4 papers under s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), no later than 4:30 p.m.  
 5 on the 7th day after the primary or date on which the primary would be held if  
 6 required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day  
 7 after appointment in the case of candidates appointed to fill vacancies. The  
 8 application shall contain a sworn statement that the candidate and his or her  
 9 authorized agents have complied with the contribution limitations prescribed in s.  
 10 11.26 and the disbursement limitations prescribed under s. 11.31 at all times to  
 11 which such limitations have applied to his or her candidacy and will continue to  
 12 comply with the limitations at all times to which the limitations apply to his or her  
 13 candidacy for the office in contest, unless the board determines that the candidate  
 14 is not eligible to receive a grant, ~~the candidate withdraws his or her application~~  
 15 under par. (h), or par. (i) applies. The application shall also contain a sworn

16 statement, signed by the candidate and, unless the candidate is serving as his or her  
 17 own campaign treasurer, by the candidate's campaign treasurer, agreeing that no  
 18 part of the grant will be used to make or publish, or cause to be made or published,  
 19 a false representation that pertains to any candidate and that is intended or tends  
 20 to affect voting at the election for the office that the candidate seeks.

plain text

21 SECTION 4. 11.50 (11) (em) of the statutes is created to read:

22 11.50 (11) (em) No candidate or campaign treasurer may incur an obligation or  
 23 make a disbursement in whole or in part derived from grant moneys received under  
 24 this section for the purpose of making or publishing, or causing to be made or  
 25 published, a false representation that pertains to any candidate and that is intended

JWS 9-22

SECTION 113

BILL

The repeal and recreation of section

(c) At its first meeting, the ethics and elections accountability and control board shall appoint a 9th member of the board.

(d) Notwithstanding section 758.21 of the statutes, as created by this act, and section 15.07 (1) (c) of the statutes:

1. Of the members who are initially appointed by the supreme court, the court shall designate 4 appointees to serve for terms of office expiring on May 1, 2007, and 4 appointees to serve for a term of office expiring on May 1, 2005.

2. The member who is initially appointed by the other members shall serve for a term of office expiring on May 1, 2007.

~~SECTION #. Nonstatutory provisions. (1) Notwithstanding section 990.001 (11) of the statutes, if a court finds that section 11.50 (2) (a) of the statutes, as affected by this act, or any part of the laws specified in 2001 Wisconsin Act 109, section 9115 (2) (b) is unconstitutional, the provisions of section 11.50 (2) (a) of the statutes by this act is void.~~

The repeal and recreation of section  
as affected by this act  
(a) of the Statutes  
JTK left these in when he changed the language

SECTION 114: Appropriation changes.

(1) The unencumbered balance of the appropriation to the elections board under section 20.510 (1) (h) of the statutes is transferred to the appropriation account under section 20.680 (5) (h) of the statutes, as affected by this act, and the amount in the schedule for section 20.680 (5) (h) of the statutes in fiscal year 2002-03 is increased by the amount transferred.

(2) The unencumbered balance of the appropriation to the elections board under section 20.510 (1) (i) of the statutes is transferred to the appropriation account under section 20.680 (5) (i) of the statutes, as affected by this act, and the amount in the schedule for section 20.680 (5) (i) of the statutes in fiscal year 2002-03 is increased by the amount transferred.

LPS: this material reads as follows:

Section #. Nonstatutory provisions.  
(1) Notwithstanding section 990.001 (11) of the statutes, if a court finds that the repeal and recreation of section 11.50 (2) (a) of the statutes, or any part of the laws specified in 2001 Wisconsin Act 109, section 9115 (2) (b), as affected by this act, is

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S to



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1992/2 2

JTK:cjs:cph

*amended mon 2/24*

*stays*

**2003 BILL**

*Repeal cat*

1 **AN ACT to amend 11.10 (2) and 11.50 (2) (a); to repeal and recreate 11.50 (2)**  
 2 **(a); to create 11.16 (1) (cm) and 11.50 (11) (em) of the statutes; and to affect**  
 3 **2001 Wisconsin Act 109, section 9115 (2y) (b); relating to: use of moneys from**  
 4 **the Wisconsin election campaign fund to make certain false representations.**

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

Currently, a candidate for state office who accepts a grant from the Wisconsin election campaign fund may utilize the proceeds to purchase services from a communications medium; printing, graphic arts or advertising services; office supplies; or postage. Grant moneys may only be used to advance the candidacy of the grantee by lawful means. Currently, no person may knowingly make or publish, or cause to be made or published, a false representation pertaining to a candidate which is intended or tends to affect voting at an election.

This bill prohibits any candidate or campaign treasurer from incurring an obligation or making a disbursement (expenditure) in whole or in part derived from grant moneys for the purpose of making or publishing, or causing to be made or published, a false representation that pertains to any candidate and that is intended or tends to affect voting at the election for the office that the candidate seeks. If a candidate or campaign treasurer violates this requirement, the bill requires the Elections Board to order the campaign to repay the entire amount of the grant received by the candidate within six months of the date of the board's order. The bill permits the board to sue the candidate, the candidate's personal campaign committee, or the candidate's campaign treasurer to recover any amount due. Under

**BILL**

the bill, if the board is unable to recover the entire amount due from the candidate's campaign treasury, the board may recover any deficiency from the candidate personally or, if the board cannot recover the entire amount from the candidate's campaign treasury and the candidate, from the campaign treasurer personally.

---

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

1           **SECTION 1.** 11.10 (2) of the statutes is amended to read:

2           11.10 (2) A candidate may remove a campaign treasurer at any time. In case  
3 of the death, resignation or removal of a campaign treasurer, the candidate shall  
4 designate a successor and shall file the successor's name and address with the  
5 appropriate filing officer as provided in s. 11.05 (5). Until the successor's name and  
6 address is filed, the candidate shall be deemed his or her own campaign treasurer.  
7 If a candidate files the name of a successor and the candidate has filed an application  
8 for a grant under s. 11.50, the candidate shall also file with the board a sworn  
9 statement under s. 11.50 (2) (a), signed by the successor.

10           **SECTION 2.** 11.16 (1) (cm) of the statutes is created to read:

11           11.16 (1) (cm) In the event that an obligation is incurred or a disbursement is  
12 made from a campaign treasury for any purpose contrary to s. 11.50 (11) (em) and the  
13 obligation is incurred or the disbursement is made from grant moneys received under  
14 s. 11.50, the candidate is liable for any moneys recoverable under s. 11.50 (11) (cm)  
15 that cannot be recovered from the campaign treasury. If the board, after reasonable  
16 efforts, is unable to recover the entire amount of the moneys from the campaign  
17 treasury and the candidate, and the candidate has appointed a separate campaign  
18 treasurer, the board may recover any unrecovered moneys from the campaign  
19 treasurer.

20           **SECTION 3.** 11.50 (2) (a) of the statutes is amended to read:

**BILL**

1           11.50 (2) (a) Any individual who desires to qualify as an eligible candidate may  
2 file an application with the board requesting approval to participate in the fund. The  
3 application shall be filed no later than the applicable deadline for filing nomination  
4 papers under s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), no later than 4:30 p.m.  
5 on the 7th day after the primary or date on which the primary would be held if  
6 required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day  
7 after appointment in the case of candidates appointed to fill vacancies. The  
8 application shall contain a sworn statement that the candidate and his or her  
9 authorized agents have complied with the contribution limitations prescribed in s.  
10 11.26 and the disbursement limitations prescribed under s. 11.31 at all times to  
11 which such limitations have applied to his or her candidacy and will continue to  
12 comply with the limitations at all times to which the limitations apply to his or her  
13 candidacy for the office in contest, unless the board determines that the candidate  
14 is not eligible to receive a grant, the candidate withdraws his or her application  
15 under par. (h), or par. (i) applies. The application shall also contain a sworn  
16 statement, signed by the candidate and, unless the candidate is serving as his or her  
17 own campaign treasurer, by the candidate's campaign treasurer, agreeing that no  
18 part of the grant will be used to make or publish, or cause to be made or published,  
19 a false representation that pertains to any candidate and that is intended or tends  
20 to affect voting at the election for the office that the candidate seeks.

21           **SECTION 4.** 11.50 (2) (a) of the statutes, as affected by 2003 Wisconsin Act 109,  
22 is repealed and recreated to read:

23           11.50 (2) (a) Any individual who desires to qualify as an eligible candidate may  
24 file an application with the board requesting approval to participate in the fund. The  
25 application shall be filed no later than the applicable deadline for filing nomination

**BILL**

1 papers under s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), no later than 4:30 p.m.  
2 on the 7th day after the primary or date on which the primary would be held if  
3 required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day  
4 after appointment in the case of candidates appointed to fill vacancies. The applicant  
5 shall provide, along with his or her application, an affidavit under s. 11.31 (2m) (a).  
6 The application shall also contain a sworn statement that, except as authorized in  
7 s. 11.26 (9m), if the candidate is able to receive the full amount of the grant, except  
8 any grant provided under sub. (4) (bg) or (br), to which the candidate is entitled under  
9 sub. (9), the candidate and his or her agents will not accept any contribution made  
10 by a committee other than a political party committee during the campaign, and that,  
11 except as provided in s. 11.29 (9m) any contributions accepted by the candidate from  
12 such a committee will not exceed that amount which, when added to the amount of  
13 the grant received by the candidate under sub. (9), equals the percentage specified  
14 in s. 11.26 (9) (am) of the disbursement level specified in s. 11.31 (1) (a) to (de), (e),  
15 or (f), as adjusted under s. 11.31 (9), for the office that the candidate seeks. In the  
16 statement, the candidate shall also swear that if any unauthorized contribution has  
17 been accepted, that the contribution has been or will be returned or donated as  
18 provided in par. (j), and the candidate and his or her agents will not accept any  
19 unauthorized contribution during the campaign. The application shall also contain  
20 a sworn statement, signed by the candidate and, unless the candidate is serving as  
21 his or her own campaign treasurer, by the candidate's campaign treasurer, agreeing  
22 that no part of the grant will be used to make or publish, or cause to be made or  
23 published, a false representation that pertains to any candidate and that is intended  
24 or tends to affect voting at the election for the office that the candidate seeks.

25 **SECTION 5.** 11.50 (11) (em) of the statutes is created to read:

**BILL**

1           11.50 (11) (em) No candidate or campaign treasurer may incur an obligation or  
2 make a disbursement in whole or in part derived from grant moneys received under  
3 this section for the purpose of making or publishing, or causing to be made or  
4 published, a false representation that pertains to any candidate and that is intended  
5 to or tends to affect voting at the election for the office that the candidate seeks. If  
6 any candidate or campaign treasurer violates this paragraph, the board shall require  
7 the candidate to repay the entire amount of the grant received under this chapter for  
8 the election campaign in which the violation occurs within 6 months of the date of  
9 the board's order. The board may commence a civil action against a personal  
10 campaign committee, candidate, or campaign treasurer to recover any amount that  
11 is not paid pursuant to an order issued under this paragraph. For purposes of this  
12 paragraph, an obligation is incurred or a disbursement is made from grant moneys  
13 if, immediately prior to the time the obligation is incurred or the disbursement is  
14 made, the unencumbered moneys derived from private sources in the candidate's  
15 campaign treasury are not at least equal to the amount of the obligation or  
16 disbursement. In determining whether moneys are derived from private sources,  
17 obligations are considered to be incurred and disbursements are considered to be  
18 made from moneys deposited in a candidate's campaign treasury in the same order  
19 that those moneys were chronologically received and earnings are considered to be  
20 derived from the same sources as the principal on which they are earned.

21           **SECTION 6.** 2001 Wisconsin Act 109, section 9115 (2y) (b) is amended to read:

22           [2001 Wisconsin Act 109] Section 9115 (2y) (b) Notwithstanding section  
23 990.001 (11) of the statutes, if a court finds that any part of the repeal of sections  
24 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and 11.50 (10) of the statutes, the  
25 renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50 (1) (a) 1. of the statutes,

**BILL**

1 the renumbering and amendment of sections 11.05 (1), 11.05 (2), 11.05 (2r), 11.12 (6),  
2 11.26 (9) (a), 11.31 (2m), 11.50 (1) (a) 2., 11.50 (5), 11.50 (9), 19.49 (5), 19.59 (7), and  
3 71.10 (3) (a) of the statutes, the amendment of sections 5.02 (13), 5.05 (2), 7.08 (2) (c),  
4 7.08 (2) (cm), 8.30 (2), 8.35 (4) (a) 1. a. and b., 8.35 (4) (c) and (d), 11.05 (3) (c), 11.05  
5 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e), 11.06 (2),  
6 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b), 11.06 (7m)  
7 (c), 11.07 (1), 11.07 (5), 11.09 (3), 11.10 (1), 11.12 (2), 11.12 (4), 11.12 (5), 11.14 (3),  
8 11.16 (2), 11.16 (5), 11.19 (title), 11.19 (1), 11.20 (1), 11.20 (2), 11.20 (3) (a) and (b),  
9 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12), 11.21 (2),  
10 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26 (2) (intro.),  
11 11.26 (2) (a), 11.26 (3), 11.26 (4), 11.26 (5), 11.26 (6), 11.26 (8), 11.26 (9) (b), 11.26 (10),  
12 11.26 (15), 11.26 (17) (a), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1) (e) and (f), 11.31  
13 (2), 11.31 (2m) (title), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8) (b), ~~11.50 (2) (a),~~  
14 11.50 (2) (b) 3. and 4., 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50 (2) (g), 11.50 (2)  
15 (h), 11.50 (2) (i), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (10m), 11.50 (11) (e), 11.60  
16 (4), 11.61 (1) (a) (by SECTION 2d), 19.53 (6), 19.59 (8) (c), 20.510 (1) (q), 25.42, 71.08  
17 (1) (intro.), and 71.10 (3) (b) of the statutes, the repeal and recreation of sections 11.05  
18 (9) (title) and 11.50 (4) of the statutes, the creation of sections 11.001 (2m), 11.01 (4m),  
19 11.01 (12w), (13) and (14), 11.01 (16) (a) 3., 11.05 (1) (b), 11.05 (2) (b), 11.05 (3) (m),  
20 11.05 (3) (r), 11.06 (1) (cm) and (dm), 11.06 (2m) (b) to (d), 11.06 (11) (bm), 11.12 (6)  
21 (am), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t), 11.20 (8) (am), 11.24  
22 (1w), 11.24 (4), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae), (am), (as) and (av), 11.26 (2m),  
23 11.26 (2t), 11.26 (8n), 11.26 (8r), 11.26 (9) (a) 1. to 4., 11.26 (9) (am), 11.26 (9m), 11.26  
24 (10a), 11.31 (1) (de), 11.31 (2m) (a), 11.31 (3p), 11.31 (9), 11.385, 11.50 (1) (a) 1. (intro.),  
25 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm), 11.50 (2) (b) 6., 11.50 (2) (j),

**BILL**

1 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (9) (b), 11.50 (14), 11.60 (3r), 19.42 (3m), (4g)  
2 and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535, 19.59 (1) (br), 19.59 (7) (b), 19.59  
3 (8) (cm) and (cn), 71.07 (6s), 71.10 (3) (ac), 71.10 (3) (d), 71.10 (4) (gw), and 806.04  
4 (11m) of the statutes or SECTIONS 9115 (2v), (2x), and (2y), 9132 (4v), 9215 (3v), 9244  
5 (6v), 9315 (2v) and (2w), and 9344 (2v) of this act is unconstitutional, the treatment  
6 of those provisions by this act is void.

**SECTION 7. Nonstatutory provisions.**

7  
8 (1) Notwithstanding section 990.001 (11) of the statutes, if a court finds that  
9 the repeal and recreation of section 11.50 (2) (a) of the statutes by this act or any part  
10 of the laws specified in 2001 Wisconsin Act 109, section 9115 (2y) (b), as affected by  
11 this act, is unconstitutional, the repeal and recreation of section 11.50 (2) (a) of the  
12 statutes by this act is void.

13 **SECTION 8. Effective dates.** This act takes effect on the day after publication,  
14 except as follows:

15 (1) The repeal and recreation of section 11.50 (2) (a) of the statutes takes effect  
16 on July 1, 2003.

17 (END)

**Mentkowski, Annie**

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**From:** Richard, Rob  
**Sent:** Tuesday, February 25, 2003 2:23 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 03-1992/2 Topic: Grant repayment for making false statements

It has been requested by <Richard, Rob> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-1992/2 Topic: Grant repayment for making false statements