

**2003 DRAFTING REQUEST**

**Bill**

Received: 12/17/2002

Received By: jkuesel

Wanted: As time permits

Identical to LRB:

For: Mark Gundrum (608) 267-5158

By/Representing: Joel Kleefisch

This file may be shown to any legislator: NO

Drafter: jkuesel

May Contact:

Addl. Drafters:

Subject: Ethics

Extra Copies:

Submit via email: YES

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

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Official action in return for contributions or services

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**Instructions:**

Pcr 01 AB-682, as passed by the assembly.

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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 12/17/2002	csicilia 12/19/2002		_____			
/1			jfrantze 12/19/2002	_____	sbasford 12/19/2002		Crime
/2	jkuesel	csicilia	chaskett	_____	lemery	mbarman	

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	01/14/2003	01/14/2003	01/14/2003	_____	01/14/2003	01/16/2003	

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<END>

not  
needed

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Topic:

Official action in return for contributions or services

Instructions:

Per 01 AB 682, as passed by the assembly.

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/?	jkuesel 12/17/2002	csicilia 12/19/2002		_____			
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/?	jkuesel 12/17/2002	csicilia 12/19/2002		Self 1/14 CPH			
/1	jkuesel 1/14		jfrantze 12/19/2002		sbasford 12/19/2002		

Handwritten notes: 1/2 jgs 1/14 02 1/14 CPH 1/14

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12/11	jkuesel 12/17	1 cjs 12/18/02	12/19	<del>12/19</del> 12/19			

FE Sent For:

<END>

SAV  
new creates ✓  
x-ref ✓

2003  
2001 - 2002 LEGISLATURE

WANTED by Mon 12/23

-1159/1

LRB-4824/1

RAM:JTK:kjs:kjf

ejs

# ENGROSSED 2001 SENATE BILL 104

★ PWF ★  
all sections containing amended text

LPS: In producing this draft, do not keep any material from pages not included in paper copy - drafter wants only the material that appears on paper copy.

January 30, 2002 - Printed by direction of SENATE CHIEF CLERK.

★ FIX ACTION PHRASE COMPONENTS ★

(regenerate)

★ THAW ★  
all bill section numbers

1 AN ACT ~~to repeal~~ 11.01 (12s), 11.05 (3) (o), 11.26 (9) (c), 11.265, 11.31 (2m), 11.50

2 (2) (h), 11.50 (2) (i) and 11.50 (3); **to renumber** 11.05 (2r) (title), 11.24 (2), 11.50

3 (1) (a) 1. and 11.50 (1) (a) 2.; **to renumber and amend** 11.05 (1), 11.05 (2), 11.05

4 (2r), 11.12 (6), 11.26 (9) (a), 11.26 (9) (b), 11.50 (9), 19.49 (5) and 19.59 (7); **to**

5 **amend** 5.02 (13), 7.08 (2) (c) and (cm), 8.10 (3) (intro.), 8.15 (6) (intro.), 8.20 (4),

6 8.30 (2), 8.35 (4) (a) 1. a. and b., 8.35 (4) (c) and (d), 11.05 (3) (c), 11.05 (5), 11.05

7 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e), 11.06 (2), 11.06 (4) (b), 11.06

8 (5), 11.06 (7m) (a), 11.06 (7m) (c), 11.06 (11) (c), 11.07 (1), 11.07 (5), 11.09 (3),

9 11.10 (1), 11.12 (2), 11.12 (4), 11.12 (5), 11.14 (3), 11.16 (2), 11.16 (5), 11.19 (title),

10 11.19 (1), 11.20 (1), 11.20 (7), 11.20 (9), 11.20 (10) (a), 11.20 (12), 11.21 (2), 11.21

11 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.25 (2) (b), 11.26 (1) (intro.), 11.26

12 (2) (intro.), 11.26 (2) (a), 11.26 (4), 11.26 (8), 11.26 (10), 11.26 (12m), 11.31 (1)

13 (intro.), 11.31 (1) (a) to (d), 11.31 (1) (c) and (f), 11.31 (2), 11.31 (3), 11.38 (1) (a)

14 2., 11.38 (6), 11.38 (8) (b), 11.50 (2) (a), 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (g),

**ENGROSSED SENATE BILL 104**

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

**Analysis by the Legislative Reference Bureau**

**Engrossment information:**

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

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

ANAL  
INS →

ANAL INS

Case No. 02-C-424-GJ

LRB-0617/Ins2  
JTK.....

2002

(11)

Most of these changes

2001 Wisconsin Act 109 made <sup>various</sup> ~~comprehensive~~ changes to campaign finance, ethics, lobbying regulation, income tax, public broadcasting, and cable television laws. Most changes made by Act 109 take effect on July 1, 2003. ~~With the exception of provisions requiring candidate time on public broadcasting stations and public access channels at public expense, these provisions were made nonseverable so that if a court found that any of the provisions were unconstitutional, all of the provisions would then be invalid.~~ On December 10, 2002, in *Wisconsin Realtors Association et al. v. Ponto et al.*, the U.S. District Court for the Western District of Wisconsin found that one provision of Act 109, ~~relating to advance reporting of certain independent disbursements before obligations are incurred to make those disbursements violates the First and Fourteenth Amendments.~~ While this decision is subject to appeal, it apparently precludes enforcement and administration of ~~the~~ Act 109 changes as of December 10, 2002. The Act 109 changes, however, currently remain in the statutes and the law in effect before Act 109 is removed from the statutes on July 1, 2003.

is unconstitutional

(11)

This bill reenacts changes made by Act 109 to the ethics laws, effective on the day the bill becomes law. In the description which follows, "current law" means the law in effect before July 1, 2003.

all affected

**ENGROSSED SENATE BILL 104**

1. ~~By more than 5% but not more than 10%, the candidate or committee must forfeit four times the amount of the difference.~~
2. ~~By more than 10% but not more than 15%, the candidate or committee must forfeit six times the amount of the difference.~~
3. ~~By more than 15%, the candidate or committee must forfeit eight times the amount of the difference.~~

**INITIAL APPLICABILITY**

All campaign finance changes under the bill apply to elections held on or after the day on which the bill becomes law.

**ELECTIONS BOARD**

This bill increases the authorized ~~FTE~~ positions for the board by 1.0 GPR campaign finance investigator position and 1.0 GPR auditor position.

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

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

This bill provides, in addition, that no state or local public official holding an elective office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of or upon condition that any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any other person who is subject to a registration requirement under the campaign finance law, or any person making a mass communication that contains a reference to a clearly identified state or local public official or a candidate for state or local public office. ✓

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

The bill also provides that, if the ethics board refuses or otherwise fails to authorize an investigation or a district attorney fails to initiate a prosecution with respect to any violation of the prohibition created by the bill within 30 days after receiving a verified complaint alleging such a violation, the person making the complaint may bring a lawsuit to recover a forfeiture on behalf of the state. If the person making the complaint prevails, the bill provides that the court may require

**ENGROSSED SENATE BILL 104**

the defendant to pay the complainant's attorney fees and costs, but any forfeiture recovered must be paid to the state. If the court finds that a lawsuit was frivolous, the court must award fees and costs to the defendant. The bill provides that no complaint alleging a violation of the prohibition contained in the bill may be filed during the period beginning 120 days before a general or spring election or the date that a special election is ordered and ending on the date of that election against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

**NONSEVERABILITY**

Currently, if any part of an act is found by a court to be invalid, those parts that are valid are severed from the invalid part and the severed parts continue in force. This bill provides that if any part of the act resulting from enactment of the bill relating to reporting of independent expenditures for mass communications and provision of supplemental grants to candidates who are opposed or whose opponents are supported by those expenditures or by independent disbursements that are reportable under current law is found by a court to be invalid, then all of those parts of the act are void. The bill also provides that if any part of the act resulting from enactment of the bill relating to reporting by candidates who decline to accept public grants and provision of supplemental grants to candidates who are opposed or whose opponents are supported by those expenditures is found by a court to be invalid, then the entire act is void.

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

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

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

~~SECTION 3. 7.08 (2) (c) and (cm) of the statutes are amended to read:~~

7.08 (2) (c) As soon as possible after the canvass of the spring and September primary votes, but no later than the first Tuesday in March and the 4th Tuesday in September, transmit to the state treasurer a certified list of all eligible candidates

## ENGROSSED SENATE BILL 104

1 board for deposit in the Wisconsin election campaign fund, at the option of the  
2 treasurer.

3 SECTION 65. 11.24 (1w) of the statutes is created to read:

4 11.24 (1w) No candidate or personal campaign committee of a candidate who  
5 applies for a grant under s. 11.50 may accept any contribution from a committee  
6 other than a political party committee.

7 SECTION 66. 11.24 (2) of the statutes is renumbered 11.24 (5).

8 SECTION 67. 11.24 (4) of the statutes is created to read:

9 11.24 (4) (a) No person may make a contribution to an incumbent partisan state  
10 elective official or to the personal campaign committee or support committee  
11 authorized under s. 11.05 (3) (p) of that official for the purpose of promoting that  
12 official's nomination or reelection to the office held by the official during the period  
13 beginning on the first Monday of January in each odd-numbered year and ending  
14 on the date of enactment of the biennial budget act.

15 (b) Notwithstanding par. (a), a person may make a contribution to an  
16 incumbent partisan state elective official against whom a recall petition has been  
17 filed during the period beginning on the date that the petition offered for filing is filed  
18 under s. 9.10 (3) (b) and ending on the date of the recall election unless the official  
19 resigns at an earlier date under s. 9.10 (3) (c).

20 SECTION 67m. 11.25 (2) (b) of the statutes is amended to read:

21 11.25 (2) (b) Notwithstanding par. (a), a registrant may accept contributions  
22 and make disbursements from a campaign depository account for the purpose of  
23 making expenditures in connection with a campaign for national office; for payment  
24 of civil penalties incurred by the registrant under this chapter but not under any  
25 other chapter; or for payment of the expenses of nonpartisan campaigns to increase

**ENGROSSED SENATE BILL 104**

1 voter registration or participation. Notwithstanding par. (a), a personal campaign  
2 committee or support committee may accept contributions and make disbursements  
3 from a campaign depository account for payment of inaugural expenses of an  
4 individual who is elected to state or local office. If such expenses are paid from  
5 contributions made to the campaign depository account, they are reportable under  
6 s. 11.06 (1) as disbursements. Otherwise, such expenses are not reportable under s.  
7 11.06 (1). If contributions from the campaign depository account are used for such  
8 expenses, they are subject to s. 11.26.

9 ~~SECTION 68. 11.26 (1) (intro.) of the statutes is amended to read:~~

10 ~~11.26 (1) (intro.) No individual, except an individual serving as a conduit, may~~  
11 ~~make any contribution or contributions to a candidate for election or nomination to~~  
12 ~~any of the following offices and to any individual or committee under s. 11.06 (7)~~  
13 ~~acting solely in support of such a candidate or solely in opposition to the candidate's~~  
14 ~~opponent to the extent of more than a total of the amounts specified per candidate:~~

15 ~~SECTION 69. 11.26 (2) (intro.) of the statutes is amended to read:~~

16 ~~11.26 (2) (intro.) No committee, other than a political party committee or~~  
17 ~~legislative campaign committee, and no individual or committee serving as a~~  
18 ~~conduit, may make any contribution or contributions to a candidate for election or~~  
19 ~~nomination to any of the following offices and to any individual or committee under~~  
20 ~~s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the~~  
21 ~~candidate's opponent to the extent of more than a total of the amounts specified per~~  
22 ~~candidate:~~

23 ~~SECTION 70. 11.26 (2) (a) of the statutes is amended to read:~~

**ENGROSSED SENATE BILL 104**

1 in behalf of the state. The counsel shall be independent of the attorney general and  
2 need not be a state employe at the time of appointment.

3 **SECTION 122.** 11.61 (1) (a) of the statutes is amended to read:

4 11.61 (1) (a) Whoever intentionally violates s. 11.05 (1), (2), or (2g) ~~or (2r)~~, 11.07  
5 (1) or (5), 11.10 (1), 11.12 (5), 11.23 (6), or 11.24 (1) may be fined not more than \$10,000  
6 or imprisoned for not more than 4 years and 6 months or both.

7 **SECTION 124.** 13.625 (3m) of the statutes is created to read:

8 13.625 (3m) No elective state official and no personal campaign committee of  
9 an elective state official may solicit a lobbyist or principal to arrange for another  
10 person to make a campaign contribution to that official or personal campaign  
11 committee or to another elective state official or the personal campaign committee  
12 of that official

13 **SECTION 124b.** 19.42 (3m), (4g) and (4r) of the statutes ~~are created~~ *as created by 2001 Wisconsin Act 109* *repealed and recreated* to read:

14 19.42 (3m) "Candidate," except as otherwise provided, has the meaning given  
15 in s. 11.01 (1).

16 (4g) "Clearly identified," when used in reference to a communication  
17 containing a reference to a person, means one of the following:

- 18 (a) The person's name appears.
- 19 (b) A photograph or drawing of the person appears.
- 20 (c) The identity of the person is apparent by unambiguous reference.

21 (4r) "Communication" means a message transmitted by means of a printed  
22 advertisement, billboard, handbill, sample ballot, radio or television advertisement,  
23 telephone call, or any medium that may be utilized for the purpose of disseminating  
24 or broadcasting a message, but not including a poll conducted solely for the purpose  
25 of identifying or collecting data concerning the attitudes or preferences of electors.

ENGROSSED SENATE BILL 104

SECTION 124d

*was created by Act 109*  
*repealed and recreated*

1 SECTION 124d. 19.45 (13) of the statutes is ~~inserted~~ to read:

2 19.45 (13) No state public official holding an elective office may, directly or by  
3 means of an agent, give, or offer or promise to give, or withhold, or offer or promise  
4 to withhold, his or her vote or influence, or promise to take or refrain from taking  
5 official action with respect to any proposed or pending matter in consideration of, or  
6 upon condition that, any other person make or refrain from making a political  
7 contribution, or provide or refrain from providing any service or other thing of value,  
8 to or for the benefit of a candidate, a political party, any other person who is subject  
9 to a registration requirement under s. 11.05, or any person making a communication  
10 that contains a reference to a clearly identified state public official holding an  
11 elective office or to a candidate for state public office.

*was created by Act 109*

12 SECTION 124f. 19.49 (1m) of the statutes is ~~created~~ to read:

*repealed and recreated*

13 19.49 (1m) No complaint alleging a violation of s. 19.45 (13) may be filed during  
14 the period beginning 120 days before a general or spring election, or during the  
15 period commencing on the date of the order of a special election under s. 8.50, and  
16 ending on the date of that election, against a candidate who files a declaration of  
17 candidacy to have his or her name appear on the ballot at that election.

18 SECTION 124h. 19.49 (5) of the statutes is ~~renumbered 19.49 (5) (a) and~~  
19 ~~amended~~ to read:

*as affected by Act 109* *repealed and recreated*

*as affected by 2001 Wisconsin Act 109*

20 19.49 (5) (a) ~~Except as provided in par. (b), no action may be taken on any~~  
21 complaint ~~which~~ that is filed later than 3 years after a violation of this subchapter  
22 or subch. III of ch. 13 is alleged to have occurred.

(a)

PLAIN

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*was created by Act 109* *repealed and recreated*

23 SECTION 124k. 19.49 (5) (b) of the statutes is ~~created~~ to read:

*as created by 2001 Wisconsin Act 109*

as affected by 2001 Wisconsin Act 109

LRB-4824/1  
RJM&JTK:kmg:kjf

ENGROSSED SENATE BILL 104

SECTION 124k

repealed and recreated

1 19.49 (5) (b) The period of limitation under par. (a) is tolled for a complaint  
2 alleging a violation of s. 19.45 (13) or 19.59 (1) (br) for the period during which such  
3 a complaint may not be filed under s. 19.49 (1m) or 19.59 (8) (cm).

4 SECTION 124m. 19.53 (6) of the statutes is amended to read:

repealed and recreated

5 19.53 (6) An order requiring the accused to forfeit not more than \$500 for each  
6 violation of s. 19.43, 19.44, or 19.56 (2) or not more than \$5,000 for each violation of  
7 any other provision of this subchapter, or not more than the applicable amount  
8 specified in s. 13.69 for each violation of subch. III of ch. 13. If the board

9 determines that the accused has realized economic gain as a result of the violation,  
10 ~~the board may, in addition, order requiring~~ the accused to forfeit the amount  
11 gained as a result of the violation. In addition, if the board determines that a state

12 public official has violated s. 19.45 (13), the board may order the official to forfeit an  
13 amount equal to the amount or value of any political contribution, service, or other  
14 thing of value that was wrongfully obtained. If the board determines that a state  
15 public official has violated s. 19.45 (13) and no political contribution, service or other  
16 thing of value was obtained, the board may order the official to forfeit an amount  
17 equal to the maximum contribution authorized under s. 11.26 (1) for the office held  
18 or sought by the official, whichever amount is greater. The attorney general, when

PLAIN

19 so requested by the board, shall institute proceedings to recover any forfeiture  
20 incurred under this section or s. 19.545 which is not paid by the person against whom  
21 it is assessed.

as created by 2001 Wisconsin Act 109

22 SECTION 124p. 19.535 of the statutes is created to read:

repealed and recreated

23 19.535 Direct enforcement. If the board refuses or otherwise fails to  
24 authorize an investigation under s. 19.49 (3) with respect to a violation of s. 19.45 (13)  
25 within 30 days after receiving a verified complaint alleging a violation of s. 19.45 (13),

as affected by 2001 Wisconsin Act 109

ENGROSSED SENATE BILL 104

1 the person making the complaint may bring an action to recover the forfeiture under  
2 s. 19.53 (6) on his or her relation in the name, and on behalf, of the state. In such  
3 actions, the court may award actual and necessary costs of prosecution, including  
4 reasonable attorney fees, to the relator if he or she prevails, but any forfeiture  
5 recovered shall be paid to the state. If the court finds in any such action that the  
6 cause of action was frivolous as provided in s. 814.025, the court shall award costs  
7 and fees to the defendant under that section.

repealed and recreated

8 SECTION 124r. 19.59 (1) (br) of the statutes is ~~created~~ to read:

9 19.59 (1) (br) No local public official holding an elective office may, directly or  
10 by means of an agent, give, or offer or promise to give, or withhold, or offer or promise  
11 to withhold, his or her vote or influence, or promise to take or refrain from taking  
12 official action with respect to any proposed or pending matter in consideration of, or  
13 upon condition that, any other person make or refrain from making a political  
14 contribution, or provide or refrain from providing any service or other thing of value,  
15 to or for the benefit of a candidate, a political party, any other person who is subject  
16 to a registration requirement under s. 11.05, or any person making a communication  
17 that contains a reference to a clearly identified local public official holding an elective  
18 office or to a candidate for local public office.

repealed and recreated

19 SECTION 124t. 19.59 (7) of the statutes is ~~renumbered 19.59 (7) (a) and~~  
20 ~~amended~~ to read:

(a)

as affected by 2001 Wisconsin Act 109

21 19.59 (7) (a) Any person who violates sub. (1) may be required to forfeit not  
22 more than \$1,000 for each violation, ~~and if the court determines that the accused has~~  
23 ~~violated sub. (1) (br), the court may, in addition, order the accused to forfeit an~~  
24 ~~amount equal to the amount or value of any political contribution, service, or other~~  
25 ~~thing of value that was wrongfully obtained.~~

PLAIN

ENGROSSED SENATE BILL 104

as created by 2001 Wisconsin Act 109

~~SECTION 124v~~  
repealed and recreated

as affected by 2001 Wisconsin Act 109

SECTION 124v. 19.59 (7) (b) of the statutes is <sup>created</sup> to read:

19.59 (7) (b) Any person who violates sub. (1) may be required to forfeit not more than \$1,000 for each violation, and, if the court determines that a local public official has violated sub. (1) (br) and no political contribution, service or other thing of value was obtained, the court may, in addition, order the accused to forfeit an amount equal to the maximum contribution authorized under s. 11.26 (1) for the office held or sought by the official, whichever amount is greater.

~~SECTION 124x~~ 19.59 (8) (c) of the statutes is <sup>amended</sup> to read:

19.59 (8) (c) If the district attorney fails to commence an action to enforce sub. (1) (a), (b), or (c) to (g), within 20 days after receiving a verified complaint or if the district attorney refuses to commence such an action, the person making the complaint may petition the attorney general to act upon the complaint. The attorney general may then bring an action under par. (a) or (b), or both.

~~SECTION 124z~~ 19.59 (8) (cm) and (cn) of the statutes are <sup>repealed and recreated</sup> to read:

19.59 (8) (cm) No complaint alleging a violation of sub. (1) (br) may be filed during the period beginning 120 days before a general or spring election, or during the period commencing on the date of the order of a special election under s. 8.50, and ending on the date of that election, against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

(cn) If the district attorney refuses or otherwise fails to commence an action to enforce sub. (1) (br) within 30 days after receiving a verified complaint alleging a violation of sub. (1) (br), the person making the complaint may bring an action to recover the forfeiture under sub. (7) on his or her relation in the name, and on behalf, of the state. In such actions, the court may award actual and necessary costs of prosecution, including reasonable attorney fees, to the relator if her or she prevails;

## ENGROSSED SENATE BILL 104

1 but any forfeiture recovered shall be paid to the state. If the court finds in any such  
2 action that the cause of action was frivolous as provided in s. 814.025, the court shall  
3 award costs and fees to the defendant under that section.

4 **SECTION 125.** 20.510 (1) (q) of the statutes is amended to read:

5 ~~20.510 (1) (q) *Wisconsin election campaign fund.* As a continuing~~  
6 ~~appropriation, from the Wisconsin election campaign fund, the moneys determined~~  
7 ~~under s. 11.50 to provide for payments to eligible candidates whose names are~~  
8 ~~certified under s. 7.08 (2) (c) and (cm) and to provide for public information as~~  
9 ~~authorized under s. 11.50 (2m).~~

10 **SECTION 126.** 20.855 (4) (ba) of the statutes is created to read:

11 ~~20.855 (4) (ba) *Wisconsin election campaign fund supplement.* A sum sufficient~~  
12 ~~equal to the amounts required to make full payment of grants which candidates~~  
13 ~~qualify to receive from the Wisconsin election campaign fund, to be transferred from~~  
14 ~~the general fund to the Wisconsin election campaign fund no later than the time~~  
15 ~~required to make payments of grants under s. 11.50 (5).~~

16 **SECTION 127.** 25.42 of the statutes is amended to read:

17 ~~**25.42 Wisconsin election campaign fund.** All moneys appropriated under~~  
18 ~~s. 20.855 (4) (b) and (ba) together with all moneys deposited under ss. 8.35 (4) (a)~~  
19 ~~11.07 (5), 11.12 (2), 11.16 (2), 11.19 (1), 11.23 (2), and 11.38 (6), all moneys reverting~~  
20 ~~to the state under s. 11.50 (8) and all gifts, bequests and devises received under s.~~  
21 ~~11.50 (13) constitute the Wisconsin election campaign fund, to be expended for the~~  
22 ~~purposes of s. 11.50. All moneys in the fund not disbursed by the state treasurer shall~~  
23 ~~continue to accumulate indefinitely.~~

24 **SECTION 128.** 71.10 (3) (a) of the statutes is amended to read:

**BILL**

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),

strike comma

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**BILL**

*Plaine*  
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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) (em) and (en),~~ 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:

14 [2001 Wisconsin Act 109] Section 9415 (1zx) CAMPAIGN FINANCE AND RELATED  
 15 CHANGES. The repeal of sections 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and 11.50  
 16 (10) of the statutes, the renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50  
 17 (1) (a) 1. of the statutes, the renumbering and amendment of sections 11.05 (1), 11.05  
 18 (2), 11.05 (2r), 11.12 (6), 11.26 (9) (a), 11.31 (2m), 11.50 (1) (a) 2., 11.50 (5), <sup>and</sup> 11.50 (9),  
 19 ~~19.49 (5), and 19.59 (7)~~ of the statutes, the amendment of sections 5.02 (13), 5.05 (2),  
 20 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  
 21 (3) (c), 11.05 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e),  
 22 11.06 (2), 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b),  
 23 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),  
 24 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)

strike comma

**BILL**

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) (q), 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 (1u), 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 (en),~~ 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.

23 **SECTION 17. Effective dates.** This act takes effect on the day after publication,  
 24 except as follows.

(End)

## Emery, Lynn

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**From:** Emery, Lynn  
**Sent:** Friday, January 10, 2003 2:02 PM  
**To:** Reiman, Greg  
**Subject:** LRB-1159/1 (attached)



03-1159/1

Lynn Emery  
Program Assistant  
Legislative Reference Bureau  
608-266-3561  
[lynn.emery@legis.state.wi.us](mailto:lynn.emery@legis.state.wi.us)



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1159/2 ✓

JTK:cjs:jf

T  
stays

wanted Tue 1/14 - AM

2003 BILL

See pp 1, 3

1 AN ACT to amend 11.25 (2) (b); to repeal and recreate 19.42 (3m), (4g) and (4r),  
 2 19.45 (13), 19.49 (1m), 19.49 (5) (a), 19.49 (5) (b), 19.53 (6), 19.535, 19.59 (1) (br),  
 3 19.59 (7) (a), 19.59 (7) (b), 19.59 (8) (c) and 19.59 (8) (cm) and (cn) of the statutes;  
 4 and to affect 2001 Wisconsin Act 109, section 9115 (2y) (b) and 2001 Wisconsin  
 5 Act 109, section 9415 (1zx); relating to: official action in return for providing  
 6 or withholding political contributions, services, or other things of value and  
 7 providing a penalty.

**Analysis by the Legislative Reference Bureau**

2001 Wisconsin Act 109 made various changes to campaign finance, ethics, lobbying regulation, income tax, public broadcasting, and cable television laws. Most changes made by Act 109 take effect on July 1, 2003. Most of these changes were made nonseverable so that if a court found that any of the provisions were unconstitutional, all of the provisions would then be invalid. On December 11, 2002, in *Wisconsin Realtors Association et al. v. Ponto et al.*, Case No. 02-C-424-C, the U.S. District Court for the Western District of Wisconsin found that one provision of Act 109 is unconstitutional. While this decision is subject to appeal, it apparently precludes enforcement and administration of all affected Act 109 changes as of December 11, 2002. The Act 109 changes, however, currently remain in the statutes and the law in effect before Act 109 is removed from the statutes on July 1, 2003.

**BILL**

This bill reenacts changes made by Act 109 to the ethics laws, effective on the day the bill becomes law. In the description which follows, "current law" means the law in effect before July 1, 2003.

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

This bill provides, in addition, that no state or local public official holding an elective office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of or upon condition that any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any other person who is subject to a registration requirement under the campaign finance law, or any person making a mass communication that contains a reference to a clearly identified state or local public official or a candidate for state or local public office.

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

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

**BILL**

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

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

1           **SECTION 1.** 11.25 (2) (b) of the statutes is amended to read:

2           11.25 (2) (b) Notwithstanding par. (a), a registrant may accept contributions  
3 and make disbursements from a campaign depository account for the purpose of  
4 making expenditures in connection with a campaign for national office; for payment  
5 of civil penalties incurred by the registrant under this chapter but not under any  
6 other chapter; or for payment of the expenses of nonpartisan campaigns to increase  
7 voter registration or participation. Notwithstanding par. (a), a personal campaign  
8 committee or support committee may accept contributions and make disbursements  
9 from a campaign depository account for payment of inaugural expenses of an  
10 individual who is elected to state or local office. If such expenses are paid from  
11 contributions made to the campaign depository account, they are reportable under  
12 s. 11.06 (1) as disbursements. Otherwise, such expenses are not reportable under s.  
13 11.06 (1). If contributions from the campaign depository account are used for such  
14 expenses, they are subject to s. 11.26.

15           **SECTION 2.** 19.42 (3m), (4g) and (4r) of the statutes, as created by 2001  
16 Wisconsin Act 109, are repealed and recreated to read:

17           **19.42 (3m)** "Candidate," except as otherwise provided, has the meaning given  
18 in s. 11.01 (1).

19           **(4g)** "Clearly identified," when used in reference to a communication  
20 containing a reference to a person, means one of the following:

21           (a) The person's name appears.

**BILL**

1 (b) A photograph or drawing of the person appears.

2 (c) The identity of the person is apparent by unambiguous reference.

3 (4r) "Communication" means a message transmitted by means of a printed  
4 advertisement, billboard, handbill, sample ballot, radio or television advertisement,  
5 telephone call, or any medium that may be utilized for the purpose of disseminating  
6 or broadcasting a message, but not including a poll conducted solely for the purpose  
7 of identifying or collecting data concerning the attitudes or preferences of electors.

8 **SECTION 3.** 19.45 (13) of the statutes, as created by 2001 Wisconsin Act 109, is  
9 repealed and recreated to read:

10 19.45 (13) No state public official holding an elective office may, directly or by  
11 means of an agent, give, or offer or promise to give, or withhold, or offer or promise  
12 to withhold, his or her vote or influence, or promise to take or refrain from taking  
13 official action with respect to any proposed or pending matter in consideration of, or  
14 upon condition that, any other person make or refrain from making a political  
15 contribution, or provide or refrain from providing any service or other thing of value,  
16 to or for the benefit of a candidate, a political party, any other person who is subject  
17 to a registration requirement under s. 11.05, or any person making a communication  
18 that contains a reference to a clearly identified state public official holding an  
19 elective office or to a candidate for state public office.

20 **SECTION 4.** 19.49 (1m) of the statutes, as created by 2001 Wisconsin Act 109,  
21 is repealed and recreated to read:

22 19.49 (1m) No complaint alleging a violation of s. 19.45 (13) may be filed during  
23 the period beginning 120 days before a general or spring election, or during the  
24 period commencing on the date of the order of a special election under s. 8.50, and

**BILL**

1 ending on the date of that election, against a candidate who files a declaration of  
2 candidacy to have his or her name appear on the ballot at that election.

3 **SECTION 5.** 19.49 (5) (a) of the statutes, as affected by 2001 Wisconsin Act 109,  
4 is repealed and recreated to read:

5 19.49 (5) (a) Except as provided in par. (b), no action may be taken on any  
6 complaint that is filed later than 3 years after a violation of this subchapter or subch.  
7 III of ch. 13 is alleged to have occurred.

8 **SECTION 6.** 19.49 (5) (b) of the statutes, as created by 2001 Wisconsin Act 109,  
9 is repealed and recreated to read:

10 19.49 (5) (b) The period of limitation under par. (a) is tolled for a complaint  
11 alleging a violation of s. 19.45 (13) or 19.59 (1) (br) for the period during which such  
12 a complaint may not be filed under s. 19.49 (1m) or 19.59 (8) (cm).

13 **SECTION 7.** 19.53 (6) of the statutes, as affected by 2001 Wisconsin Act 109, is  
14 repealed and recreated to read:

15 19.53 (6) An order requiring the accused to forfeit not more than \$500 for each  
16 violation of s. 19.43, 19.44, or 19.56 (2) or not more than \$5,000 for each violation of  
17 any other provision of this subchapter, or not more than the applicable amount  
18 specified in s. 13.69 for each violation of subch. III of ch. 13. If the board determines  
19 that the accused has realized economic gain as a result of the violation, the board  
20 may, in addition, order the accused to forfeit the amount gained as a result of the  
21 violation. In addition, if the board determines that a state public official has violated  
22 s. 19.45 (13), the board may order the official to forfeit an amount equal to the amount  
23 or value of any political contribution, service, or other thing of value that was  
24 wrongfully obtained. If the board determines that a state public official has violated  
25 s. 19.45 (13) and no political contribution, service or other thing of value was

**BILL**

1 obtained, the board may order the official to forfeit an amount equal to the maximum  
2 contribution authorized under s. 11.26 (1) for the office held or sought by the official,  
3 whichever amount is greater. The attorney general, when so requested by the board,  
4 shall institute proceedings to recover any forfeiture incurred under this section or s.  
5 19.545 which is not paid by the person against whom it is assessed.

6 **SECTION 8.** 19.535 of the statutes, as created by 2001 Wisconsin Act 109, is  
7 repealed and recreated to read:

8 **19.535 Direct enforcement.** If the board refuses or otherwise fails to  
9 authorize an investigation under s. 19.49 (3) with respect to a violation of s. 19.45 (13)  
10 within 30 days after receiving a verified complaint alleging a violation of s. 19.45 (13),  
11 the person making the complaint may bring an action to recover the forfeiture under  
12 s. 19.53 (6) on his or her relation in the name, and on behalf, of the state. In such  
13 actions, the court may award actual and necessary costs of prosecution, including  
14 reasonable attorney fees, to the relator if he or she prevails, but any forfeiture  
15 recovered shall be paid to the state. If the court finds in any such action that the  
16 cause of action was frivolous as provided in s. 814.025, the court shall award costs  
17 and fees to the defendant under that section.

18 **SECTION 9.** 19.59 (1) (br) of the statutes, as affected by 2001 Wisconsin Act 109,  
19 is repealed and recreated to read:

20 **19.59 (1) (br)** No local public official holding an elective office may, directly or  
21 by means of an agent, give, or offer or promise to give, or withhold, or offer or promise  
22 to withhold, his or her vote or influence, or promise to take or refrain from taking  
23 official action with respect to any proposed or pending matter in consideration of, or  
24 upon condition that, any other person make or refrain from making a political  
25 contribution, or provide or refrain from providing any service or other thing of value,

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1 to or for the benefit of a candidate, a political party, any other person who is subject  
2 to a registration requirement under s. 11.05, or any person making a communication  
3 that contains a reference to a clearly identified local public official holding an elective  
4 office or to a candidate for local public office.

5 **SECTION 10.** 19.59 (7) (a) of the statutes, as affected by 2001 Wisconsin Act 109,  
6 is repealed and recreated to read:

7 19.59 (7) (a) Any person who violates sub. (1) may be required to forfeit not  
8 more than \$1,000 for each violation, and, if the court determines that the accused has  
9 violated sub. (1) (br), the court may, in addition, order the accused to forfeit an  
10 amount equal to the amount or value of any political contribution, service, or other  
11 thing of value that was wrongfully obtained.

12 **SECTION 11.** 19.59 (7) (b) of the statutes, as created by 2001 Wisconsin Act 109,  
13 is repealed and recreated to read:

14 19.59 (7) (b) Any person who violates sub. (1) may be required to forfeit not  
15 more than \$1,000 for each violation, and, if the court determines that a local public  
16 official has violated sub. (1) (br) and no political contribution, service or other thing  
17 of value was obtained, the court may, in addition, order the accused to forfeit an  
18 amount equal to the maximum contribution authorized under s. 11.26 (1) for the  
19 office held or sought by the official, whichever amount is greater.

20 **SECTION 12.** 19.59 (8) (c) of the statutes, as affected by 2001 Wisconsin Act 109,  
21 is repealed and recreated to read:

22 19.59 (8) (c) If the district attorney fails to commence an action to enforce sub.  
23 (1) (a), (b), or (c) to (g) within 20 days after receiving a verified complaint or if the  
24 district attorney refuses to commence such an action, the person making the

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1 complaint may petition the attorney general to act upon the complaint. The attorney  
2 general may then bring an action under par. (a) or (b), or both.

3 **SECTION 13.** 19.59 (8) (cm) and (cn) of the statutes, as created by 2001  
4 Wisconsin Act 109, are repealed and recreated to read:

5 19.59 (8) (cm). No complaint alleging a violation of sub. (1) (br) may be filed  
6 during the period beginning 120 days before a general or spring election, or during  
7 the period commencing on the date of the order of a special election under s. 8.50, and  
8 ending on the date of that election, against a candidate who files a declaration of  
9 candidacy to have his or her name appear on the ballot at that election.

10 (cn) If the district attorney refuses or otherwise fails to commence an action to  
11 enforce sub. (1) (br) within 30 days after receiving a verified complaint alleging a  
12 violation of sub. (1) (br), the person making the complaint may bring an action to  
13 recover the forfeiture under sub. (7) on his or her relation in the name, and on behalf,  
14 of the state. In such actions, the court may award actual and necessary costs of  
15 prosecution, including reasonable attorney fees, to the relator if her or she prevails,  
16 but any forfeiture recovered shall be paid to the state. If the court finds in any such  
17 action that the cause of action was frivolous as provided in s. 814.025, the court shall  
18 award costs and fees to the defendant under that section.

19 **SECTION 14.** 2001 Wisconsin Act 109, section 9115 (2y) (b) is amended to read:

20 [2001 Wisconsin Act 109] Section 9115 (2y) (b) Notwithstanding section  
21 990.001 (11) of the statutes, if a court finds that any part of the repeal of sections  
22 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and 11.50 (10) of the statutes, the  
23 renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50 (1) (a) 1. of the statutes,  
24 the renumbering and amendment of sections 11.05 (1), 11.05 (2), 11.05 (2r), 11.12 (6),  
25 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

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1 71.10 (3) (a) of the statutes, the amendment of sections 5.02 (13), 5.05 (2), 7.08 (2) (c),  
2 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  
3 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e), 11.06 (2),  
4 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b), 11.06 (7m)  
5 (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),  
6 11.16 (2), 11.16 (5), 11.19 (title), 11.19 (1), 11.20 (1), 11.20 (2), 11.20 (3) (a) and (b),  
7 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12), 11.21 (2),  
8 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26 (2) (intro.),  
9 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),  
10 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  
11 (2), 11.31 (2m) (title), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8) (b), 11.50 (2) (a),  
12 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)  
13 (h), 11.50 (2) (i), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (10m), 11.50 (11) (e), 11.60  
14 (4), 11.61 (1) (a) (by SECTION 2d), ~~19.53 (6), 19.59 (8) (e)~~, 20.510 (1) (q), 25.42, 71.08  
15 (1) (intro.), and 71.10 (3) (b) of the statutes, the repeal and recreation of sections 11.05  
16 (9) (title) and 11.50 (4) of the statutes, the creation of sections 11.001 (2m), 11.01 (4m),  
17 11.01 (12w), (13) and (14), 11.01 (16) (a) 3., 11.05 (1) (b), 11.05 (2) (b), 11.05 (3) (m),  
18 11.05 (3) (r), 11.06 (1) (cm) and (dm), 11.06 (2m) (b) to (d), 11.06 (11) (bm), 11.12 (6)  
19 (am), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t), 11.20 (8) (am), 11.24  
20 (1w), 11.24 (4), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae), (am), (as) and (av), 11.26 (2m),  
21 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  
22 (10a), 11.31 (1) (de), 11.31 (2m) (a), 11.31 (3p), 11.31 (9), 11.385, 11.50 (1) (a) 1. (intro.),  
23 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm), 11.50 (2) (b) 6., 11.50 (2) (j),  
24 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (9) (b), 11.50 (14), 11.60 (3r), ~~19.42 (3m), (4g)~~  
25 ~~and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535, 19.59 (1) (br), 19.59 (7) (b), 19.59~~

**BILL****SECTION 14**

1 (~~8~~) (~~cm~~) and (~~en~~), 71.07 (6s), 71.10 (3) (ac), 71.10 (3) (d), 71.10 (4) (gw), and 806.04  
2 (11m) of the statutes or SECTIONS 9115 (2v), (2x), and (2y), 9132 (4v), 9215 (3v), 9244  
3 (6v), 9315 (2v) and (2w), and 9344 (2v) of this act is unconstitutional, the treatment  
4 of those provisions by this act is void.

5 **SECTION 15.** 2001 Wisconsin Act 109, section 9415 (1zx) is amended to read:

6 [2001 Wisconsin Act 109] Section 9415 (1zx) CAMPAIGN FINANCE AND RELATED  
7 CHANGES. The repeal of sections 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and 11.50  
8 (10) of the statutes, the renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50  
9 (1) (a) 1. of the statutes, the renumbering and amendment of sections 11.05 (1), 11.05  
10 (2), 11.05 (2r), 11.12 (6), 11.26 (9) (a), 11.31 (2m), 11.50 (1) (a) 2., 11.50 (5), and 11.50  
11 (9), ~~19.49 (5), and 19.59 (7)~~ of the statutes, the amendment of sections 5.02 (13), 5.05  
12 (2), 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  
13 (3) (c), 11.05 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e),  
14 11.06 (2), 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b),  
15 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),  
16 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)  
17 and (b), 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12),  
18 11.21 (2), 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26  
19 (2) (intro.), 11.26 (2) (a), 11.26 (3), 11.26 (4), 11.26 (5), 11.26 (6), 11.26 (8), 11.26 (9)  
20 (b), 11.26 (10), 11.26 (15), 11.26 (17) (a), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1)  
21 (e) and (f), 11.31 (2), 11.31 (2m) (title), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8)  
22 (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  
23 (2) (g), 11.50 (2) (h), 11.50 (2) (i), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (10m),  
24 11.50 (11) (e), 11.60 (4), 11.61 (1) (a) (by SECTION 2d), ~~19.53 (6), 19.59 (8) (e), 20.510~~  
25 (1) (q), and 25.42 of the statutes, the repeal and recreation of sections 11.05 (9) (title)

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1 and 11.50 (4) of the statutes, the creation of sections 11.001 (2m), 11.01 (4m), 11.01  
2 (12w), (13) and (14), 11.01 (16) (a) 3., 11.01 (17g) and (17r), 11.05 (1) (b), 11.05 (2) (b),  
3 11.05 (3) (m), 11.05 (3) (r), 11.06 (1) (cm) and (dm), 11.06 (2m) (b) to (d), 11.06 (11) (bm),  
4 11.12 (6) (am), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t), 11.20 (8)  
5 (am), 11.21 (17), 11.24 (1w), 11.24 (4), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae), (am), (as)  
6 and (av), 11.26 (2m), 11.26 (2t), 11.26 (8n), 11.26 (8r), 11.26 (9) (a) 1. to 4., 11.26 (9)  
7 (am), 11.26 (9m), 11.26 (10a), 11.31 (1) (de), 11.31 (2m) (a), 11.31 (3p), 11.31 (9),  
8 11.385, 11.50 (1) (a) 1. (intro.), 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm),  
9 11.50 (2) (b) 6., 11.50 (2) (j), 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (9) (b), 11.50 (14),  
10 11.60 (3r), ~~19.42 (3m), (4g) and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535, 19.59~~  
11 ~~(1) (br), 19.59 (7) (b), 19.59 (8) (cm) and (cn),~~ and 806.04 (11m) of the statutes and  
12 SECTIONS 9115 (2v) and (2w) and 9315 (2v) and (2w) of this act take effect on July 1,  
13 2003.

14 (END)

**Emery, Lynn**

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**From:** Churchill, Jolene  
**Sent:** Thursday, January 16, 2003 9:51 AM  
**To:** LRB.Legal  
**Subject:** Pay to Play Bill - Draft 2 - Draft review: LRB-1159/2 Topic: Official action in return for contributions or services

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

Pay to Play Bill - Draft 2 - Draft review: LRB-1159/2 Topic: Official action in return for contributions or services