

SENATE BILL 46**SECTION 94**

1 **SECTION 94.** 11.26 (3) of the statutes, as affected by 2001 Wisconsin Act 109,
2 is repealed and recreated to read:

3 11.26 (3) The contribution limitations of subs. (1) and (2) apply cumulatively
4 to the entire primary and election campaign in which a candidate participates,
5 whether or not there is a contested primary election. The total limitation may be
6 apportioned in any manner desired between the primary and election. All moneys
7 cumulate regardless of the time of contribution.

8 **SECTION 95.** 11.26 (4) of the statutes, as affected by 2001 Wisconsin Act 109,
9 is repealed and recreated to read:

10 11.26 (4) Except as provided in sub. (10), no individual, except an individual
11 serving as a conduit, may make any contribution or contributions to all candidates
12 for state and local offices and to any individuals who or committees which are subject
13 to a registration requirement under s. 11.05, including committees of a political
14 party, to the extent of more than a total of \$10,000 in any calendar year.

15 **SECTION 96.** 11.26 (5) of the statutes, as affected by 2001 Wisconsin Act 109,
16 is repealed and recreated to read:

17 11.26 (5) The contribution limits provided in subs. (1) and (4) do not apply to
18 a candidate who makes any contribution or contributions to his or her own campaign
19 for office from the candidate's personal funds or property or the personal funds or
20 property which are owned jointly or as marital property with the candidate's spouse,
21 with respect to any contribution or contributions made to that candidate's campaign
22 only. A candidate's personal contributions shall be deposited in his or her campaign
23 depository account and reported in the normal manner.

24 **SECTION 97.** 11.26 (6) of the statutes, as affected by 2001 Wisconsin Act 109,
25 is repealed and recreated to read:

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1 11.26 (6) When a candidate adopts a preexisting support committee as his or
2 her personal campaign committee, the support committee is deemed to have been the
3 same committee as the candidate's personal campaign committee for purposes of the
4 application of subs. (1), (2), and (9). The limitations prescribed in subs. (2) and (9)
5 do not apply to the transfer of contributions which is made at the time of such
6 adoption, but do apply to the contributions which have been made by any other
7 committee to the support committee at the time of adoption.

8 **SECTION 98.** 11.26 (8) of the statutes, as affected by 2001 Wisconsin Act 109,
9 is repealed and recreated to read:

10 11.26 (8) (a) No political party, as defined in s. 5.02 (13), may receive more than
11 a total of \$600,000 in value of its contributions in any biennium from all other
12 committees, excluding transfers between party committees of the party. In this
13 paragraph, a biennium commences with January 1 of each odd-numbered year and
14 ends with December 31 of each even-numbered year.

15 (b) No such political party may receive more than a total of \$18,000 in value
16 of its contributions in any calendar year from any specific committee or its subunits
17 or affiliates, excluding political party committees.

18 (c) No committee, other than a political party committee, may make any
19 contribution or contributions, directly or indirectly, to a political party under s. 5.02
20 (13) in a calendar year exceeding a total value of \$18,000.

21 **SECTION 99.** 11.26 (8m) of the statutes is created to read:

22 11.26 (8m) (a) In this subsection:

23 1. "Bona fide affiliated committees" means committees established and
24 maintained by statewide labor organizations or trade associations and, respectively,

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1 the committees established and maintained by the local branches, units, or divisions
2 of those statewide labor organizations or trade associations.

3 2. "Trade association" means an organization described in section 501 (c) (6) of
4 the Internal Revenue Code which is exempt from federal income tax under section
5 501 (a) of the Internal Revenue Code.

6 (b) Except as provided in par. (c), no committee may make a contribution to any
7 other committee except a political party, personal campaign, or support committee.

8 (c) Paragraph (b) does not apply to any contribution made by a committee to
9 another committee if the contribution is made between bona fide affiliated
10 committees.

11 **SECTION 100.** 11.26 (8n) and (8r) of the statutes, as created by 2001 Wisconsin
12 Act 109, are repealed.

13 **SECTION 101.** 11.26 (9) (a) of the statutes, as affected by 2001 Wisconsin Act
14 109, is repealed and recreated to read:

15 11.26 (9) (a) No individual who is a candidate for state or local office may receive
16 and accept more than 65 percent of the value of the total disbursement level
17 determined under s. 11.31 (1), adjusted as provided in s. 11.31 (9), for the office for
18 which he or she is a candidate during any primary and election campaign combined
19 from all committees subject to a filing requirement, including political party
20 committees. The limitation otherwise applicable under this paragraph to a
21 candidate who qualifies to receive a supplemental grant under s. 11.50 (9) (ba) or (bb)
22 is increased by the amount of the supplemental grant.

23 **SECTION 102.** 11.26 (9) (am) of the statutes, as created by 2001 Wisconsin Act
24 109, is repealed.

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1 **SECTION 103.** 11.26 (9) (b) of the statutes, as affected by 2001 Wisconsin Act
2 109, is repealed and recreated to read:

3 11.26 (9) (b) No individual who is a candidate for state or local office may receive
4 and accept more than 35 percent of the value of the total disbursement level
5 determined under s. 11.31 (1), adjusted as provided in s. 11.31 (9), for the office for
6 which he or she is a candidate during any primary and election campaign combined
7 from all committees other than political party committees subject to a filing
8 requirement. The limitation otherwise applicable under this paragraph to a
9 candidate who qualifies to receive a supplemental grant under s. 11.50 (9) (ba) or (bb)
10 is increased by the amount of the supplemental grant.

11 **SECTION 104.** 11.26 (9m) of the statutes, as created by 2001 Wisconsin Act 109,
12 is repealed.

13 **SECTION 105.** 11.26 (10) of the statutes, as affected by 2001 Wisconsin Act 109,
14 is repealed and recreated to read:

15 11.26 (10) (a) Except as provided in par. (b), no candidate for state office who
16 files a sworn statement and application to receive a grant from the Wisconsin election
17 campaign fund may make contributions of more than 200 percent of the amounts
18 specified in sub. (1) to the candidate's own campaign from the candidate's personal
19 funds or property or the personal funds or property which are owned jointly or as
20 marital property with the candidate's spouse, unless the board determines that the
21 candidate is not eligible to receive a grant or the candidate withdraws his or her
22 application under s. 11.50 (2) (h). For purposes of this paragraph, any contribution
23 received by a candidate or his or her personal campaign committee from a committee
24 which is registered with the federal elections commission as the authorized
25 committee of the candidate under 2 USC 432 (e) shall be treated as a contribution

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1 made by the candidate to his or her own campaign. The contribution limit of sub. (4)
2 applies to amounts contributed by such a candidate personally to the candidate's own
3 campaign and to other campaigns, except that a candidate may exceed the limitation
4 if authorized under this paragraph to contribute more than the amount specified to
5 the candidate's own campaign, up to the amount of the limitation.

6 (b) If a candidate is authorized to make disbursements under s. 11.31 (3p) or
7 (3r) exceeding the limitation otherwise applicable to the candidate as prescribed
8 under s. 11.31 (1) and adjusted under s. 11.31 (9), then the limitation otherwise
9 applicable to that candidate under par. (a) is increased by an amount equal to the
10 ratio that the amount specified in par. (a) bears to the disbursement limitation
11 specified for that candidate under s. 11.31 (1), as adjusted under s. 11.31 (9),
12 multiplied by the amount of the increased disbursement limitation authorized for
13 that candidate under s. 11.31 (3p) and (3r).

14 **SECTION 106.** 11.26 (10a) of the statutes, as created by 2001 Wisconsin Act 109,
15 is repealed.

16 **SECTION 107.** 11.26 (15) of the statutes, as affected by 2001 Wisconsin Act 109,
17 is repealed and recreated to read:

18 11.26 (15) The fact that 2 or more committees, other than personal campaign
19 committees, utilize common policies and practices concerning the endorsement of
20 candidates or agree to make contributions only to such endorsed candidates does not
21 affect the right of each committee independently to make contributions up to the
22 amount specified under sub. (2).

23 **SECTION 108.** 11.26 (17) (a) of the statutes, as affected by 2001 Wisconsin Act
24 109, is repealed and recreated to read:

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1 11.26 (17) (a) For purposes of application of the limitations imposed in subs.
2 (1), (2), (9), and (10), the “campaign” of a candidate begins and ends at the times
3 specified in this subsection.

4 **SECTION 109.** 11.265 of the statutes is repealed.

5 **SECTION 110.** 11.29 (1) of the statutes is amended to read:

6 11.29 (1) Nothing in this chapter restricts any corporation, cooperative or
7 voluntary association other than a political party or personal campaign committee
8 from making disbursements or other expenditures for the purpose of communicating
9 only with its members, shareholders or subscribers to the exclusion of all other
10 persons, with respect to endorsements of candidates, positions on a referendum or
11 explanation of its views or interests, without reporting such activity. No such
12 corporation, cooperative or voluntary association may solicit contributions or other
13 donations from persons who are not members, shareholders or subscribers to be used
14 for such purposes.

15 **SECTION 111.** 11.30 (4) of the statutes is amended to read:

16 11.30 (4) No owner or other person with a financial interest in a
17 communications medium may utilize such medium in support of or in opposition to
18 a candidate or referendum, except as provided in this chapter.

19 (4m) This chapter shall not be construed to restrict fair coverage of bona fide
20 news stories, interviews with candidates and other politically active individuals,
21 editorial comment or endorsement. Such activities need not be reported as a
22 contribution ~~or~~ disbursement, or noncandidate election expenditure.

23 **SECTION 112.** 11.31 (1) (intro.) of the statutes, as affected by 2001 Wisconsin
24 Act 109, is repealed and recreated to read:

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1 11.31 (1) SCHEDULE. (intro.) The following levels of disbursements are
2 established with reference to the candidates listed below. The levels are subject to
3 adjustment under sub. (9). Except as provided in sub. (2), such levels do not operate
4 to restrict the total amount of disbursements which are made or authorized to be
5 made by any candidate in any primary or other election.

6 **SECTION 113.** 11.31 (1) (a) to (d) of the statutes, as affected by 2001 Wisconsin
7 Act 109, are repealed and recreated to read:

8 11.31 (1) (a) Candidates for governor, \$4,000,000.

9 (b) Candidates for lieutenant governor, \$500,000.

10 (c) Candidates for attorney general, \$700,000.

11 (d) Candidates for secretary of state, state treasurer, or state superintendent,
12 \$250,000.

13 **SECTION 114.** 11.31 (1) (de) of the statutes, as created by 2001 Wisconsin Act
14 109, is repealed and recreated to read:

15 11.31 (1) (de) Candidates for justice, \$300,000.

16 **SECTION 115.** 11.31 (1) (e) and (f) of the statutes, as affected by 2001 Wisconsin
17 Act 109, are repealed and recreated to read:

18 11.31 (1) (e) Candidates for state senator, \$150,000 total in the primary and
19 election, with disbursements not exceeding \$108,000 for either the primary or the
20 election.

21 (f) Candidates for representative to the assembly, \$75,000 total in the primary
22 and election, with disbursements not exceeding \$54,000 for either the primary or the
23 election.

24 **SECTION 116.** 11.31 (2) of the statutes, as affected by 2001 Wisconsin Act 109,
25 is repealed and recreated to read:

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1 11.31 (2) LIMITATION IMPOSED. No candidate for state office at a spring or general
2 election who files a sworn statement and application to receive a grant from the
3 Wisconsin election campaign fund may make or authorize total disbursements from
4 his or her campaign treasury in any campaign to the extent of more than the amount
5 prescribed in sub. (1), adjusted as provided under sub. (9), unless the board
6 determines that the candidate is not eligible to receive a grant, the candidate
7 withdraws his or her application under s. 11.50 (2) (h), sub. (3p) applies to that
8 candidate, or the board issues a determination under sub. (3r) applicable to the
9 candidate. No candidate for state office at a special election who files a sworn
10 statement and application to receive a grant from the Wisconsin election campaign
11 fund may make or authorize total disbursements from his or her campaign treasury
12 in any campaign to the extent of more than the amount prescribed under sub. (1),
13 adjusted as provided under sub. (9), for the preceding spring or general election for
14 the same office, unless the board determines that the candidate is not eligible to
15 receive a grant, sub. (3p) applies to that candidate, or the board issues a
16 determination under sub. (3r) applicable to that candidate.

17 **SECTION 117.** 11.31 (2m) of the statutes, as affected by 2001 Wisconsin Act 109,
18 is repealed:

19 **SECTION 118.** 11.31 (3) of the statutes, as affected by 2001 Wisconsin Act 109,
20 is repealed and recreated to read:

21 11.31 (3) GUBERNATORIAL CAMPAIGNS. For purposes of compliance with the
22 limitations imposed under sub. (2), candidates for governor and lieutenant governor
23 of the same political party who both accept grants from the Wisconsin election
24 campaign fund may agree to combine disbursement levels under sub. (1) (a) and (b),

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1 adjusted as provided under sub. (9), and reallocate the total level between them. The
2 candidates shall each inform the board of any such agreement.

3 **SECTION 119.** 11.31 (3p) of the statutes, as created by 2001 Wisconsin Act 109,
4 is repealed and recreated to read:

5 **11.31 (3p) DISBURSEMENTS BY OPPOSING CANDIDATES FOR CERTAIN STATE OFFICES.**
6 If a candidate for a state office specified in sub. (1) (a) to (de), (e), or (f) files reports
7 under s. 11.12 (8) indicating that the candidate has made disbursements in any
8 campaign exceeding the amount of the disbursement level applicable to the
9 candidate under sub. (1), as adjusted under sub. (9), then each of his or her opponents
10 may make additional disbursements in that campaign exceeding the amount
11 authorized under sub. (1), as adjusted under sub. (9), in an amount equivalent to the
12 total disbursements made by the opposing candidate exceeding the disbursement
13 level applicable to that candidate under sub. (1), as adjusted under sub. (9), as
14 reported to the board under s. 11.12 (8).

15 **SECTION 120.** 11.31 (3r) of the statutes is created to read:

16 **11.31 (3r) INDEPENDENT DISBURSEMENTS AND NONCANDIDATE ELECTION**
17 **EXPENDITURES; CANDIDATES FOR CERTAIN STATE OFFICES.** (a) If the board receives a
18 report under s. 11.12 (6) (c) indicating that one or more disbursements have been
19 made against a candidate for a state office specified under sub. (1) (a) to (de), (e) or
20 (f), or in support of a candidate whose name is certified under s. 7.08 (2) (a) or 8.50
21 (1) (d) to appear on the ballot in opposition to such a candidate, or if the board receives
22 a report under s. 11.065 that one or more noncandidate election expenditures have
23 been made for the purpose of making a communication in opposition to a candidate
24 for a state office specified in sub. (1) (a) to (de), (e), or (f), or in support of a candidate
25 whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot in

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1 opposition to such a candidate, the board shall, no later than the end of the 3rd
2 calendar day after receiving the report under s. 11.12 (6) (c) or 11.065, issue a
3 determination that the candidate may make additional disbursements in that
4 campaign exceeding any limitation imposed under sub. (2) in an amount equivalent
5 to the aggregate amount of those disbursements and expenditures, as reported to the
6 board under ss. 11.12 (6) (c) and 11.065.

7 (b) The board shall immediately file a written copy of its determination with
8 each of the candidates for the office that the candidate seeks.

9 **SECTION 121.** 11.31 (9) of the statutes, as created by 2001 Wisconsin Act 109,
10 is repealed and recreated to read:

11 11.31 (9) ADJUSTMENT OF DISBURSEMENT LEVELS. (a) In this subsection,
12 “consumer price index” means the average of the consumer price index over each
13 12-month period, all items, U.S. city average, as determined by the bureau of labor
14 statistics of the U.S. department of labor.

15 (b) The dollar amounts of all disbursement limitations specified in sub. (1) shall
16 be subject to a cost-of-living adjustment to be determined by rule of the board in
17 accordance with this subsection. To determine the adjustment, the board shall
18 calculate the percentage difference between the consumer price index for the
19 12-month period ending on December 31 of each odd-numbered year and the
20 consumer price index for calendar year 2005. For each biennium, the board shall
21 adjust the disbursement limitations specified under sub. (1) by that percentage to the
22 extent required to reflect any difference, rounded to the nearest multiple of \$25 in
23 the case of amounts of \$1 or more, which amount shall be in effect until a subsequent
24 rule is promulgated under this subsection. Notwithstanding s. 227.24 (1) (a), (2) (b),
25 and (3), determinations under this subsection may be promulgated as an emergency

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1 rule under s. 227.24 without providing evidence that the emergency rule is necessary
2 for the public peace, health, safety, or welfare, and without a finding of emergency.

3 **SECTION 122.** 11.38 (1) (a) 2. of the statutes, as affected by 2001 Wisconsin Act
4 109, is repealed and recreated to read:

5 11.38 (1) (a) 2. Notwithstanding subd. 1., any such corporation or association
6 may establish and administer a separate segregated fund and solicit contributions
7 from individuals to the fund to be utilized by such corporation or association, for the
8 purpose of supporting or opposing any candidate for state or local office but the
9 corporation or association may not make any contribution to the fund. The fund shall
10 appoint a treasurer and shall register as a political committee under s. 11.05. A
11 parent corporation or association engaging solely in this activity is not subject to
12 registration under s. 11.05, but shall register and file special reports on forms
13 prescribed by the board disclosing its administrative and solicitation expenses on
14 behalf of such fund. A corporation not domiciled in this state need report only its
15 expenses for administration and solicitation of contributions in this state together
16 with a statement indicating where information concerning other administration and
17 solicitation expenses of its fund may be obtained. The reports shall be filed with the
18 filing officer for the fund specified in s. 11.02 in the manner in which continuing
19 reports are filed under s. 11.20 (4) and (8), and s. 11.21 (16) if applicable.

20 **SECTION 123.** 11.38 (6) of the statutes, as affected by 2001 Wisconsin Act 109,
21 is repealed and recreated to read:

22 11.38 (6) Any individual or campaign treasurer who receives funds in violation
23 of this section shall promptly return such funds to the contributor, donate the funds
24 to the common school fund or a charitable organization or transfer the funds to the
25 board for deposit in the Wisconsin election campaign fund, at the treasurer's option.

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1 **SECTION 124.** 11.38 (8) (b) of the statutes, as affected by 2001 Wisconsin Act
2 109, is repealed and recreated to read:

3 11.38 **(8)** (b) Except as authorized in s. 11.05 (12) (b) and (13), prior to making
4 any disbursement on behalf of a political group which is promoting or opposing a
5 particular vote at a referendum and prior to accepting any contribution or making
6 any disbursement to promote or oppose a particular vote at a referendum, a
7 corporation or association organized under ch. 185 shall register with the
8 appropriate filing officer specified in s. 11.02 and appoint a treasurer. The
9 registration form of the corporation or association under s. 11.05 shall designate an
10 account separate from all other corporation or association accounts as a campaign
11 depository account, through which all moneys received or expended for the adoption
12 or rejection of the referendum shall pass. The corporation or association shall file
13 reports under s. 11.20 and under s. 11.21 (16), if applicable, providing the
14 information required under s. 11.06 (1).

15 **SECTION 125.** 11.385 of the statutes, as created by 2001 Wisconsin Act 109, is
16 repealed.

17 **SECTION 126.** 11.50 (1) (a) 1. of the statutes, as affected by 2001 Wisconsin Act
18 109, is repealed and recreated to read:

19 11.50 **(1)** (a) 1. For purposes of qualification for a grant from the general
20 account:

21 1. a. With respect to a spring or general election, any individual who is certified
22 under s. 7.08 (2) (a) as a candidate in the spring election for justice or state
23 superintendent, or an individual who receives at least 6 percent of the vote cast for
24 all candidates on all ballots for any state office, except district attorney, for which the
25 individual is a candidate at the September primary and who is certified under s. 7.08

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1 (2) (a) as a candidate for that office in the general election, or an individual who has
2 been lawfully appointed and certified to replace either such individual on the ballot
3 at the spring or general election; and who has qualified for a grant under sub. (2).

4 b. With respect to a special election, an individual who is certified under s. 8.50
5 (1) (d) as a candidate in a special election for state superintendent, or an individual
6 who is certified under s. 8.50 (1) (d) as a candidate in a special election for any state
7 office, except district attorney, on the ballot or column of a party whose candidate for
8 the same office at the preceding general election received at least 6 percent of the vote
9 cast for all candidates on all ballots for the office, or an individual who has been
10 lawfully appointed and certified to replace either such individual on the ballot at a
11 special election, or an individual who receives at least 6 percent of the vote cast for
12 all candidates on all ballots for any state office, except district attorney, at a partisan
13 special election; and who qualifies for a grant under sub. (2). Where the boundaries
14 of a district in which an individual seeks office have been changed since the preceding
15 general election such that it is not possible to calculate the exact number of votes that
16 are needed by that individual to qualify as an eligible candidate prior to an election
17 under this subdivision, the number of votes cast for all candidates for the office at the
18 preceding general election in each ward, combination of wards or municipality which
19 is wholly contained within the boundaries of the newly formed district shall be
20 calculated. If the candidate of the political party on whose ballot or column the
21 individual appears in the newly formed district obtained at least 6 percent of the
22 number of votes calculated, the individual is deemed to qualify as an eligible
23 candidate prior to the election under this subdivision.

24 **SECTION 127.** 11.50 (1) (a) 2. of the statutes, as affected by 2001 Wisconsin Act
25 109, is repealed.

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1 **SECTION 128.** 11.50 (1) (a) 2m. of the statutes, as created by 2001 Wisconsin Act
2 109, is repealed and recreated to read:

3 11.50 (1) (a) 2m. For purposes of qualification for a grant from a political party
4 account, an individual who is certified under s. 7.08 (2) (a) in the general election or
5 a special election as the candidate of an eligible political party for a state office, other
6 than district attorney, or an individual who has been lawfully appointed and certified
7 to replace such an individual on the ballot at the general or a special election and who
8 has qualified for a grant under sub. (2).

9 **SECTION 129.** 11.50 (1) (am) of the statutes, as created by 2001 Wisconsin Act
10 109, is repealed and recreated to read:

11 11.50 (1) (am) “Eligible political party” means any of the following:

12 1. A party qualifying under s. 5.62 (2) for a separate ballot or one or more
13 separate columns or rows on a ballot for the period beginning on the preceding June
14 1, or, if that June 1 is in an odd-numbered year, the period beginning on June 1 of
15 the preceding even-numbered year, and ending on May 31 of the 2nd year following
16 the beginning of that period.

17 2. A party qualifying under s. 5.62 (1) (b) for a separate ballot or one or more
18 separate columns or rows on a ballot for the period beginning on the date of the
19 preceding general election and ending on the day before the general election that
20 follows that election.

21 **SECTION 130.** 11.50 (1) (bm) and (cm) of the statutes, as created by 2001
22 Wisconsin Act 109, are repealed and recreated to read:

23 11.50 (1) (bm) “General account” means the account in the fund created under
24 sub. (2w).

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1 (cm) "Political party account" means an account in the fund created under sub.
2 (2s).

3 **SECTION 131.** 11.50 (1) (e) of the statutes is created to read:

4 11.50 (1) (e) "Qualifying period" means the period ending on the date of the
5 spring primary and July 1 preceding that date in the case of candidates at the spring
6 election; the date of the September primary and January 1 preceding that date in the
7 case of candidates at the general election; or the date on which a special primary will
8 or would be held, if required, and 90 days preceding that date or the date on which
9 a special election is ordered, whichever is earlier, in the case of candidates at a special
10 election.

11 **SECTION 132.** 11.50 (2) (a) of the statutes, as affected by 2001 Wisconsin Act
12 109, is repealed and recreated to read:

13 11.50 (2) (a) Any individual who desires to qualify as an eligible candidate may
14 file an application with the board requesting approval to participate in the fund. The
15 application shall be filed no later than the applicable deadline for filing nomination
16 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.
17 on the 7th day after the primary or date on which the primary would be held if
18 required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day
19 after appointment in the case of candidates appointed to fill vacancies. The
20 application shall contain a sworn statement that the candidate and his or her
21 authorized agents have complied with the contribution limitations prescribed in s.
22 11.26 and the disbursement limitations imposed under s. 11.31 (2), as adjusted under
23 s. 11.31 (9), at all times to which such limitations have applied to his or her candidacy
24 and will continue to comply with the limitations at all times to which the limitations
25 apply to his or her candidacy for the office in contest, unless the board determines

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1 that the candidate is not eligible to receive a grant, the candidate withdraws his or
2 her application under par. (h), or s. 11.31 (3r) applies.

3 **SECTION 133.** 11.50 (2) (b) 3. of the statutes, as affected by 2001 Wisconsin Act
4 109, is repealed and recreated to read:

5 11.50 (2) (b) 3. The candidate has an opponent who is certified for placement
6 on the election ballot as a candidate for the same office;

7 **SECTION 134.** 11.50 (2) (b) 4. of the statutes, as affected by 2001 Wisconsin Act
8 109, is repealed and recreated to read:

9 11.50 (2) (b) 4. The financial reports filed by or on behalf of the candidate as
10 of the date of the spring or September primary, or the date that the special primary
11 is or would be held, if required, indicate that his or her statement filed with the
12 application under par. (a) is true; and

13 **SECTION 135.** 11.50 (2) (b) 5. of the statutes, as affected by 2001 Wisconsin Act
14 109, is repealed and recreated to read:

15 11.50 (2) (b) 5. The financial reports filed by or on behalf of the candidate as
16 of the date of the spring or September primary, or the date that the special primary
17 is or would be held, if required, indicate that the candidate has received an amount
18 equal to at least 5 percent of the applicable authorized disbursement limitation, as
19 determined under s. 11.31 (1) and adjusted under s. 11.31 (9), from contributions of
20 money, other than loans, made by individuals who reside in this state and, in the case
21 of a candidate for legislative office, except as provided in par. (bm), at least 50 percent
22 of the amount of which are made by individuals who reside within the legislative
23 district in which the candidate seeks office, which contributions have been received
24 during the qualifying period, which contributions are in the aggregate amount of
25 \$100 or less, except as provided in par. (bm), and which contributions are fully

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1 identified and itemized as to the exact source thereof. A contribution received from
2 a conduit which is identified by the conduit as originating from an individual shall
3 be considered a contribution made by the individual. Except as provided in par. (bm),
4 only the first \$100 of an aggregate contribution of more than \$100 may be counted
5 toward the required percentage.

6 **SECTION 136.** 11.50 (2) (b) 6. of the statutes, as created by 2001 Wisconsin Act
7 109, is repealed.

8 **SECTION 137.** 11.50 (2) (bm) of the statutes is created to read:

9 11.50 (2) (bm) A candidate for legislative office may substitute contributions
10 received by the candidate from political party committees for not more than 50
11 percent of the contributions that are required under par. (b) 5. to be received from
12 individuals who reside within the legislative district in which the candidate seeks
13 office.

14 **SECTION 138.** 11.50 (2) (c) of the statutes, as affected by 2001 Wisconsin Act 109,
15 is repealed and recreated to read:

16 11.50 (2) (c) If a candidate has not filed financial reports as of the date of the
17 spring primary, September primary, special primary, or date that the special primary
18 would be held, if required, which indicate that he or she has met the qualification
19 under par. (b) 5., the candidate may file a special report with the board. Such report
20 shall be filed not later than the 7th day after the primary, or 7th day after the date
21 the primary would be held, if required, and shall include such supplementary
22 information as to sources of contributions which may be necessary to complete the
23 candidate's qualification. The special report shall cover the period from the day after
24 the last date covered on the candidate's most recent report, or from the date on which
25 the first contribution was received or the first disbursement was made, whichever

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1 is earlier, if the candidate has not previously filed a report, to the date of such report.
2 All information included on the special report shall also be included in the
3 candidate's next report under s. 11.20. This paragraph does not apply to a candidate
4 who files reports under s. 11.21 (16).

5 **SECTION 139.** 11.50 (2) (f) of the statutes, as affected by 2001 Wisconsin Act 109,
6 is repealed and recreated to read:

7 11.50 (2) (f) The board shall inform each candidate in writing of the approval
8 or disapproval of the candidate's application, as promptly as possible after the date
9 of the spring primary, September primary, special primary, or date that the primary
10 would be held, if required. With respect to a candidate at a special election who
11 applies for a postelection grant under sub. (1) (a) 1. b., the board shall inform the
12 candidate in writing of the conditional approval or disapproval of the candidate's
13 application at the same time.

14 **SECTION 140.** 11.50 (2) (g) of the statutes, as affected by 2001 Wisconsin Act
15 109, is repealed and recreated to read:

16 11.50 (2) (g) A candidate who voluntarily files an application to receive a grant
17 in accordance with this subsection accepts and agrees to comply with the
18 contribution limitations prescribed in s. 11.26 and the disbursement limitations
19 imposed under s. 11.31 (2), as adjusted under s. 11.31 (9), as binding upon himself
20 or herself and his or her agents during the campaign of that candidate as defined in
21 s. 11.31 (7), as a precondition to receipt of a grant under this section, unless the board
22 determines that the candidate is not eligible to receive a grant, the candidate
23 withdraws the application under par. (h), or s. 11.31 (3r) applies.

24 **SECTION 141.** 11.50 (2) (h) of the statutes, as affected by 2001 Wisconsin Act
25 109, is repealed and recreated to read:

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1 11.50 (2) (h) An eligible candidate who files an application under par. (a) may
2 file a written withdrawal of the application. A withdrawal of an application may be
3 filed with the board no later than the 7th day after the day of the primary in which
4 the person withdrawing the application is a candidate or the 7th day after the date
5 on which the primary would be held, if required. If an application is withdrawn in
6 accordance with this paragraph, the person withdrawing the application is no longer
7 bound by the statement filed under par. (a) after the date of the withdrawal.

8 **SECTION 142.** 11.50 (2) (i) of the statutes, as affected by 2001 Wisconsin Act 109,
9 is repealed.

10 **SECTION 143.** 11.50 (2) (j) of the statutes, as created by 2001 Wisconsin Act 109,
11 is repealed.

12 **SECTION 144.** 11.50 (2s) of the statutes, as created by 2001 Wisconsin Act 109,
13 is repealed and recreated to read:

14 11.50 (2s) POLITICAL PARTY ACCOUNTS. (a) There is established a political party
15 account for each eligible political party. Each political party account consists of all
16 moneys designated by individuals for deposit in that account under s. 71.10 (3) (a).

17 (b) From the account of each eligible political party, the board shall apportion
18 moneys to eligible candidates representing that party who qualify to receive grants.
19 If there are insufficient moneys in the account of any eligible political party to make
20 full payment of all grants for which candidates of that political party qualify, the
21 board shall apportion available moneys to candidates of the party at each election
22 using the same method of allocation provided in sub. (4) (a) to (c).

23 (c) If a political party for which an account is established under this subsection
24 ceases to be an eligible political party, the board shall transfer the unencumbered
25 balance of that account to the general account.

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1 **SECTION 145.** 11.50 (2w) of the statutes, as created by 2001 Wisconsin Act 109,
2 is repealed and recreated to read:

3 **11.50 (2w) GENERAL ACCOUNT.** There is established a general account within
4 the fund consisting of all moneys in the fund not designated by individuals for deposit
5 in a political party account under s. 71.10 (3) (a).

6 **SECTION 146.** 11.50 (3) of the statutes, as affected by 2001 Wisconsin Act 109,
7 is repealed and recreated to read:

8 **11.50 (3) NONPARTISAN CANDIDATES.** (a) Annually on August 15, all moneys in
9 the general account shall be apportioned as follows by the state treasurer:

10 1. If an election for state superintendent is scheduled in the following year, 8
11 percent of the general account shall be placed in a superintendency account. From
12 this account, an equal amount shall be disbursed to the campaign depository account
13 of each eligible candidate by the state treasurer.

14 2. If an election for justice is scheduled in the following year, 8 percent of the
15 general account shall be placed in a supreme court account. From this account, an
16 equal amount shall be disbursed to the campaign depository account of each eligible
17 candidate by the state treasurer.

18 3. The balance shall be apportioned under sub. (4).

19 (b) If a vacancy occurs in the office of state superintendent or justice after
20 August 15 in any year and an election is scheduled to fill the vacancy at the spring
21 election in the following year, the state treasurer shall transfer an amount not
22 exceeding 8 percent of the moneys designated by individuals for deposit in the
23 general account under s. 71.10 (3) (a) during that year to the account for the office
24 in which the vacancy occurs, such moneys to be drawn from any account within the

SENATE BILL 46**SECTION 146**

1 accounts in the general account created under sub. (4) in the amount or amounts
2 specified by the board.

3 **SECTION 147.** 11.50 (4) of the statutes, as affected by 2003 Wisconsin Act 109,
4 is repealed and recreated to read:

5 11.50 (4) **PARTISAN AND SPECIAL ELECTION CANDIDATES.** After apportionment
6 under sub. (3), the remaining moneys in the general account shall constitute the
7 partisan campaign account.

8 (a) In the partisan campaign account, 25 percent of the moneys shall be
9 apportioned into an executive campaign account and 75 percent of the moneys shall
10 be apportioned into a legislative and special election campaign account.

11 (b) The executive campaign account shall be divided into accounts for each
12 executive office as provided in this paragraph. The apportionment of moneys in the
13 executive campaign account shall be made as follows:

14 1. Sixty-seven percent to be apportioned between all eligible candidates for
15 governor.

16 2. Eight percent to be apportioned between all eligible candidates for
17 lieutenant governor.

18 3. Seventeen percent to be apportioned between all eligible candidates for
19 attorney general.

20 4. Four percent to be apportioned between all eligible candidates for state
21 treasurer.

22 5. Four percent to be apportioned between all eligible candidates for secretary
23 of state.

24 (c) The legislative and special election campaign account shall be divided into
25 a senate campaign account to receive 25 percent of the moneys, and an assembly

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1 campaign account to receive 75 percent of the moneys. Each account shall then be
2 apportioned between all eligible candidates for the same office in the entire state.
3 No apportionment shall be made by legislative district.

4 (cm) Unless otherwise required under subs. (4e), (9), and (10), each eligible
5 candidate for the same office at a special election shall receive a grant in an equal
6 amount from the general account, which amount shall be equivalent to the maximum
7 grant which was payable to any candidate for that office at the most recent spring
8 or general election. The amount shall be drawn from the senate campaign account
9 and the assembly campaign account in the same proportions as the balance in each
10 account bears to the total balance in both accounts at the time that payments are
11 made. Whenever there are insufficient moneys in the senate campaign account and
12 the assembly campaign account to make the payments required by this paragraph,
13 payments shall be appropriately reduced or discontinued by the board.

14 (d) Except as otherwise provided in sub. (4e), within the accounts established
15 under this subsection for each office at each general election, the entire amount of
16 all available moneys shall be apportioned equally to all eligible candidates.

17 **SECTION 148.** 11.50 (4e) of the statutes is created to read:

18 11.50 (4e) PAYMENT OF GRANT AMOUNTS. The state treasurer shall make payment
19 of each grant to an eligible candidate from the political party account of that
20 candidate's political party, if any, if there are sufficient moneys in that account to
21 make full payment of the grant, and then from the general account. If there are
22 sufficient moneys in the political party account of a candidate's political party to
23 make full payment of a grant under sub. (9) (a) but there are insufficient moneys in
24 that account to make full payment of any grant for which the candidate qualifies
25 under sub. (9) (ba) or (bb), the board shall first make payment of grants under sub.

SENATE BILL 46**SECTION 148**

1 (9) (ba) and (bb) to all candidates of the candidate's political party at the election from
2 available moneys in the political party account in the manner provided in sub. (2s)
3 (b) and shall then make payments to those candidates from available moneys in the
4 general account in the manner provided in sub. (9) (c). If there are insufficient
5 moneys in the general account to make full payment of a grant, the board shall
6 proportionately reduce the grant as provided in sub. (9) (c).

7 **SECTION 149.** 11.50 (5) of the statutes, as affected by 2001 Wisconsin Act 109,
8 is repealed and recreated to read:

9 11.50 (5) TIME OF GRANT PAYMENTS. (a) Except as provided in par. (b), the state
10 treasurer shall make each grant payment that becomes payable to an eligible
11 candidate under sub. (9) to the campaign depository account of that candidate by the
12 end of the 3rd business day following notice from the board under s. 7.08 (2) (c) or (cm)
13 of the amount to be paid.

14 (b) If an eligible candidate notifies the state treasurer of the information
15 required to make electronic transfers to the candidate's campaign depository
16 account, the state treasurer shall transfer to the campaign depository account of that
17 candidate any grant payment that becomes payable to the candidate under sub. (9)
18 as soon as possible following notice from the board under s. 7.08 (2) (c) or (cm), but
19 no later than the time specified in par. (a).

20 (c) Eligible candidates for governor and lieutenant governor of the same
21 political party may combine campaign depository accounts if desired.

22 **SECTION 150.** 11.50 (6) of the statutes, as affected by 2001 Wisconsin Act 109,
23 is repealed and recreated to read:

24 11.50 (6) EXCESS MONEYS. If the amounts which are to be apportioned to each
25 eligible candidate under subs. (3) and (4) are more than the amount which a

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1 candidate may accept under sub. (9), or more than the amount which a candidate
2 elects to accept under sub. (10), the excess moneys shall be retained in the fund.

3 **SECTION 151.** 11.50 (7) (intro.) of the statutes, as affected by 2001 Wisconsin
4 Act 109, is repealed and recreated to read:

5 11.50 (7) UTILIZATION. (intro.) Grants distributed under this section may be
6 utilized only for deposit in a campaign depository account under s. 11.10. Grants may
7 be expended only for one or more of the following:

8 **SECTION 152.** 11.50 (8) of the statutes, as affected by 2001 Wisconsin Act 109,
9 is repealed and recreated to read:

10 11.50 (8) LAPSING GRANTS. All grants disbursed under sub. (5) remain the
11 property of the state until disbursed or encumbered for a lawful purpose. All grant
12 moneys that are unspent and unencumbered by a candidate on the day after the
13 election in which the candidate participates shall revert to the state. All deposits and
14 refunds derived from grant moneys that are received by a candidate at any time after
15 the day of the election in which the candidate participates shall revert to the state.
16 All reversions shall be returned to the board by the candidate and shall be deposited
17 in the fund.

18 **SECTION 153.** 11.50 (9) of the statutes, as affected by 2001 Wisconsin Act 109,
19 is repealed and recreated to read:

20 11.50 (9) (a) AMOUNT OF GRANTS. Except as provided in this paragraph and pars.
21 (ba), (bb), and (c) and sub. (10), the total grant available to an eligible candidate may
22 not exceed that amount which, when added to all other contributions accepted by the
23 candidate from sources other than individuals and political party committees, is
24 equal to 35 percent of the disbursement level specified for the office that the
25 candidate seeks, as determined under s. 11.31 (1) and adjusted as provided under s.

SENATE BILL 46**SECTION 153**

1 11.31 (9). The board shall scrutinize accounts and reports and records kept under
2 this chapter to assure that applicable limitations under ss. 11.26 (9) and 11.31 are
3 not exceeded and any violation is reported. No candidate or campaign treasurer may
4 accept grants exceeding the amount authorized by this subsection.

5 (ba) Except as provided in par. (c) and sub. (10), if an eligible candidate at a
6 primary or election, or both, who accepts a grant is opposed by one or more candidates
7 who are required, or whose personal campaign committees are required, to file a
8 report under s. 11.12 (8), then the board shall make an additional grant to the eligible
9 candidate who accepts a grant from the account for the applicable office in an amount
10 equal to the total amount or value of disbursements, as reported under s. 11.12 (8),
11 made by the opposing candidate or candidates exceeding the amount specified under
12 s. 11.31 (1) (a) to (de), (e), or (f) for the office which the candidate seeks, as adjusted
13 under s. 11.31 (9), but not more than, together with any additional grant provided
14 under par. (bb), an amount equal to 3 times the amount specified in s. 11.31 (1) (a)
15 to (de), (e), or (f) for the office that the eligible candidate seeks, as adjusted under s.
16 11.31 (9).

17 (bb) Except as provided in par. (c) and sub. (10), if the sum of the aggregate
18 disbursements and noncandidate election expenditures made against an eligible
19 candidate and the aggregated disbursements and noncandidate election
20 expenditures made for an opponent of that candidate, as reported under ss. 11.065
21 and 11.12 (6) (c), exceeds 10 percent of the amount specified under s. 11.31 (1) (a) to
22 (de), (e), or (f) for the office that the candidate seeks, as adjusted under s. 11.31 (9),
23 then the board shall make an additional grant to the eligible candidate who accepts
24 a grant from the account for the applicable office in an amount equivalent to the
25 amount of those disbursements and expenditures, as reported under ss. 11.065 and

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1 11.12 (6) (c), but not more than, together with any additional grant provided under
2 par. (ba), an amount equal to 3 times the amount specified in s. 11.31 (1) (a) to (de),
3 (e), or (f) for the office that the eligible candidate seeks, as adjusted under s. 11.31
4 (9). The board shall immediately file a written copy of its determination with each
5 of the candidates for the office that the candidate seeks.

6 (c) If on any business day the balance within an account in the fund is
7 insufficient to make full payment of grants to all eligible candidates who qualify to
8 receive a grant from that account, the board shall first make full payment of grants
9 to all eligible candidates under par. (a) before making any payments of grants under
10 par. (ba) or (bb), and, if full payments of grants cannot be made to all eligible
11 candidates who qualify to receive a grant on that business day, the board shall
12 proportionately reduce the grants payable to all eligible candidates whose grants are
13 payable from that account for that business day and shall credit any eligible
14 candidate who does not receive full payment with any balance that remains payable
15 to that candidate for that business day. If on any subsequent business day prior to
16 the date of an election at which one or more eligible candidates qualify to receive
17 grants the balance available in the account from which a grant is payable becomes
18 sufficient to make additional grant payments, the board shall make those payments
19 to candidates in the same chronological sequence that the candidates were credited,
20 and, if the balance within an account is insufficient to make full payment of grants
21 to all candidates who have credits of equal priority that would entitle them to receive
22 payments for that business day, the board shall proportionately reduce the grants
23 payments to candidates for that business day.

24 **SECTION 154.** 11.50 (10) of the statutes is created to read:

SENATE BILL 46**SECTION 154**

1 **11.50 (10) VOLUNTARY LIMITATION.** Any eligible candidate may, by written
2 request, limit his or her participation in the fund to a lesser amount than that
3 authorized under sub. (9).

4 **SECTION 155.** 11.50 (10m) of the statutes, as affected by 2001 Wisconsin Act
5 109, is repealed and recreated to read:

6 **11.50 (10m) RETURN OF GRANTS.** An individual who receives a grant prior to an
7 election in which he or she is a candidate and who desires to return any portion of
8 the grant shall return that portion no later than the 2nd Tuesday in October
9 preceding a general election, the 4th Tuesday preceding a spring election, or the 3rd
10 Tuesday preceding a special election. A candidate who returns all or any portion of
11 a grant under this subsection remains bound by the candidate's statement filed
12 under sub. (2) (a).

13 **SECTION 156.** 11.50 (11) (e) of the statutes, as affected by 2001 Wisconsin Act
14 109, is repealed and recreated to read:

15 **11.50 (11) (e)** No candidate may expend, authorize the expenditure of or incur
16 any obligation to expend any grant if he or she violates the pledge required under
17 sub. (2) (a) as a precondition to receipt of a grant, except as authorized in sub. (2) (h).

18 **SECTION 157.** 11.50 (13) of the statutes is amended to read:

19 **11.50 (13) DONATIONS TO FUND.** Any committee or other person may make an
20 unrestricted contribution to the general account of the fund by gift, bequest or devise.

21 **SECTION 158.** 11.50 (14) of the statutes, as created by 2001 Wisconsin Act 109,
22 is repealed and recreated to read:

23 **11.50 (14) CERTIFICATIONS TO SECRETARY OF REVENUE.** (a) In each
24 even-numbered year, the board shall certify to the secretary of revenue:

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1 1. No later than July 1, the name of each political party that qualifies under
2 sub. (1) (am) 1. as an eligible political party as of the preceding June 1 and whose
3 state chairperson has filed a request to establish an account for the party under sub.
4 (2s) (a).

5 2. No later than December 15, the name of each political party that qualifies
6 under sub. (1) (am) 2. as an eligible political party as of the date of the preceding
7 general election.

8 (b) In each certification under this subsection, the board shall specify the
9 expiration date of the certification.

10 **SECTION 159.** 11.60 (3r) of the statutes, as created by 2001 Wisconsin Act 109,
11 is repealed.

12 **SECTION 160.** 11.60 (3s), (3t) and (3u) of the statutes are created to read:

13 11.60 (3s) Notwithstanding sub. (1), if any candidate or committee, other than
14 a conduit, makes a disbursement for the purpose of supporting or opposing a
15 candidate for an office specified in s. 11.31 (1) (a) to (de), (e), or (f) without reporting
16 the information required under s. 11.12 (6) (c) or (8) or 11.20 (3) or (4) with respect
17 to that disbursement, to the extent required under ss. 11.12 (6) (c) and (8) and 11.20
18 (3) and (4), the candidate or committee may be required to forfeit not more than \$500
19 per day for each day of continued violation.

20 (3t) Notwithstanding sub. (1), if any person makes a noncandidate election
21 expenditure for the purpose of making a communication without reporting the
22 information required under s. 11.065, to the extent required under s. 11.065, the
23 person may be required to forfeit not more than \$500 for each day of continued
24 violation.

SENATE BILL 46**SECTION 160**

1 **(3u)** Notwithstanding sub. (1), if any person, including any candidate or
2 committee to whom s. 11.065 or 11.12 (6) (c) or (8) applies, makes one or more
3 disbursements or noncandidate election expenditures for the purpose of supporting
4 or opposing a candidate for an office specified in s. 11.31 (1) (a) to (de), (e), or (f) in
5 an amount or value that differs from the amount reported by that person under s.
6 11.065, 11.12 (6) (c) or (8), or 11.20 (3) or (4):

7 (a) By more than 5 percent but not more than 10 percent cumulatively, the
8 person shall forfeit 4 times the amount or value of the difference.

9 (b) By more than 10 percent but not more than 15 percent cumulatively, the
10 person shall forfeit 6 times the amount or value of the difference.

11 (c) By more than 15 percent cumulatively, the person shall forfeit 8 times the
12 amount of the difference.

13 **SECTION 161.** 11.60 (4) of the statutes, as affected by 2001 Wisconsin Act 109,
14 is repealed and recreated to read:

15 **11.60 (4)** Actions under this section arising out of an election for state office or
16 a statewide referendum may be brought by the board or by the district attorney of
17 the county where the violation is alleged to have occurred, except as specified in s.
18 11.38. Actions under this section arising out of an election for local office or local
19 referendum may be brought by the district attorney of the county where the violation
20 is alleged to have occurred. Actions under this section arising out of an election for
21 county office or a county referendum may be brought by the county board of election
22 commissioners of the county wherein the violation is alleged to have occurred. In
23 addition, whenever a candidate or personal campaign committee or agent of a
24 candidate is alleged to have violated this chapter, action may be brought by the
25 district attorney of any county any part of which is contained within the jurisdiction

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1 or district in which the candidate seeks election. If a violation concerns a district
2 attorney or circuit judge or candidate for such offices, the action shall be brought by
3 the attorney general. If a violation concerns the attorney general or a candidate for
4 such office, the governor may appoint special counsel under s. 14.11 (2) to bring suit
5 in behalf of the state. The counsel shall be independent of the attorney general and
6 need not be a state employe at the time of appointment.

7 **SECTION 162.** 11.61 (1) (a) of the statutes, as affected by 2001 Wisconsin Act
8 109, is repealed and recreated to read:

9 11.61 (1) (a) Whoever intentionally violates s. 11.05 (1), (2), or (2g), 11.07 (1)
10 or (5), 11.10 (1), 11.12 (5), 11.23 (6), or 11.24 is guilty of a Class I felony.

11 **SECTION 163.** 25.42 of the statutes, as affected by 2001 Wisconsin Act 109, is
12 repealed and recreated to read:

13 **25.42 Wisconsin election campaign fund.** All moneys appropriated under
14 s. 20.855 (4) (b) together with all moneys deposited under ss. 8.35 (4) (a), 11.07 (5),
15 11.12 (2), 11.16 (2), 11.19 (1), 11.23 (2), and 11.38 (6), all moneys reverting to the state
16 under s. 11.50 (8) and all gifts, and bequests and devises received under s. 11.50 (13)
17 constitute the Wisconsin election campaign fund, to be expended for the purposes of
18 s. 11.50. All moneys in the fund not disbursed by the state treasurer shall continue
19 to accumulate indefinitely.

20 **SECTION 164.** 71.07 (6n) of the statutes is created to read:

21 71.07 (6n) PUBLIC INTEGRITY ENDOWMENT TAX CREDIT. (a) *Definitions.* In this
22 subsection:

23 1. "Claimant" means an individual who makes a contribution.

SENATE BILL 46**SECTION 164**

1 2. “Contribution” means a contribution, as defined in s. 11.01 (6), made to the
2 Public Integrity Endowment, the creation of which is described in 2005 Wisconsin
3 Act (this act), section 178 (1).

4 (b) *Filing claims.* Subject to the limitations and conditions provided in this
5 subsection, a claimant may claim as a credit against the tax imposed under s. 71.02,
6 up to the amount of those taxes, for the taxable year to which the income tax return
7 relates, an amount equal to the claimant’s contribution.

8 (c) *Limitations.* No credit may be allowed under this subsection unless it is
9 claimed within the time period under s. 71.75 (2).

10 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit
11 under that subsection, applies to the credit under this subsection.

12 **SECTION 165.** 71.07 (6s) of the statutes, as created by 2001 Wisconsin Act 109,
13 is repealed.

14 **SECTION 166.** 71.10 (3) of the statutes, as affected by 2001 Wisconsin Act 109,
15 is repealed and recreated to read:

16 71.10 (3) CAMPAIGN. (a) Every individual filing an income tax return who has
17 a tax liability or is entitled to a tax refund may designate \$5 for transfer to the
18 Wisconsin election campaign fund. If the individuals filing a joint return have a tax
19 liability or are entitled to a tax refund, each individual may make a designation of
20 \$5 under this subsection. Each individual making a designation shall indicate
21 whether the amount designated by that individual shall be placed in the general
22 account for the use of all eligible candidates for state office, or in the account of an
23 eligible political party whose name is certified to the secretary of revenue under s.
24 11.50 (14). If an individual does not indicate that the amount of his or her designation

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1 shall be placed in the account of a particular eligible political party, that amount shall
2 be placed in the general account.

3 (b) The secretary of revenue shall provide a place for designations under par.
4 (a) on the face of the individual income tax return and shall provide next to that place
5 a statement that a designation will not increase tax liability. No later than the 15th
6 day of each month, the secretary of revenue shall certify to the elections board, the
7 department of administration, and the state treasurer the total amount of
8 designations made on returns processed by the department of revenue during the
9 preceding month and the amount of designations made during that month for the
10 general account and for the account of each eligible political party. If any individual
11 attempts to place any condition or restriction upon a designation not authorized
12 under par. (a), the designation is void.

13 (c) The names of individuals making designations under this subchapter shall
14 be strictly confidential.

15 **SECTION 167.** 71.10 (4) (ds) of the statutes is created to read:

16 71.10 (4) (ds) The Public Integrity Endowment tax credit under s. 71.07 (6n).

17 **SECTION 168.** 71.10 (4) (gw) of the statutes, as created by 2001 Wisconsin Act
18 109, is repealed.

19 **SECTION 169.** 806.04 (11m) of the statutes, as created by 2001 Wisconsin Act
20 109, is repealed and recreated to read:

21 **806.04 (11m) CAMPAIGN FINANCE REGISTRATION.** Any person who proposes to
22 publish, disseminate, or broadcast, or causes to be published, disseminated, or
23 broadcast, any communication may commence a proceeding under this section to
24 determine the application to that person of a registration requirement under s. 11.05
25 (1), (2), or (2g).

SENATE BILL 46**SECTION 170**

1 **SECTION 170.** 2001 Wisconsin Act 109, section 9115 (2v), (2w) and (2x) are
2 repealed.

3 **SECTION 171.** 2001 Wisconsin Act 109, section 9115 (2y), as last affected by 2003
4 Wisconsin Act 39, is repealed.

5 **SECTION 172.** 2001 Wisconsin Act 109, section 9132 (4v) is repealed.

6 **SECTION 173.** 2001 Wisconsin Act 109, section 9215 (3v) is repealed.

7 **SECTION 174.** 2001 Wisconsin Act 109, section 9244 (6v) is repealed.

8 **SECTION 175.** 2001 Wisconsin Act 109, section 9315 (2v) and (2w) are repealed.

9 **SECTION 176.** 2001 Wisconsin Act 109, section 9344 (2v) is repealed.

10 **SECTION 177.** 2001 Wisconsin Act 109, section 9415 (1zx), as last affected by
11 2003 Wisconsin Act 39, is repealed.

12 **SECTION 178. Nonstatutory provisions.**

13 (1) PUBLIC INTEGRITY ENDOWMENT. The executive director of the elections board
14 shall prepare and file articles of incorporation for the incorporation under chapter
15 181 of the statutes of an organization to be known as the “Public Integrity
16 Endowment.” The executive director shall ensure that the organization is structured
17 so that it will qualify as a nonprofit organization, as defined in section 108.02 (19)
18 of the statutes. The executive director shall specify in the articles of incorporation
19 that the sole purpose of the foundation shall be to solicit contributions for the purpose
20 of supplementing the assets of the Wisconsin election campaign fund and, after
21 December 31, 2006, to the general account of that fund, and transferring those
22 contributions, after deduction of solicitation costs, to that fund or account.

23 (2) WISCONSIN ELECTION CAMPAIGN FUND BALANCE TRANSFER. The balance in the
24 Wisconsin election campaign fund on the effective date of this subsection is credited

SENATE BILL 46

1 to the general account of the Wisconsin election campaign fund established under
2 section 11.50 (2w) of the statutes, as affected by this act.

3 (3) NONSEVERABILITY. Notwithstanding section 990.001 (11) of the statutes, if
4 a court finds that all or any portion of section 11.01 (4m), (13), and (14m), 11.065,
5 11.12 (6) (c) or (8), 11.26 (8m), or 11.50 (9) (ba) or (bb) of the statutes, as affected by
6 this act, is unconstitutional, then sections 11.01 (4m), (13), and (14m), 11.065, 11.12
7 (6) (c) and (8), 11.26 (8m), and 11.50 (9) (ba) and (bb) of the statutes, as affected by
8 this act, are void in their entirety.

9 (4) NONSEVERABILITY OF 2001 WISCONSIN ACT 109 PROVISIONS. The repeal of 2001
10 Wisconsin Act 109, section 9115 (2y) by this act does not affect the validity or
11 invalidity of any provision specified in that subsection under any court decision
12 issued before the effective date of this subsection.

13 **SECTION 179. Initial applicability.**

14 (1) Except as provided in subsection (2), this act first applies to elections held
15 on the effective date of this subsection.

16 (2) The treatment of section 11.31 (9) of the statutes first applies to adjustments
17 for the biennium beginning on January 1, 2008.

18 (3) The treatment of sections 71.07 (6n) and 71.10 (3) (a) and (4) (ds) of the
19 statutes first applies to claims filed for taxable years beginning on January 1 of the
20 year in which this subsection takes effect, except that if this subsection takes effect
21 after July 31 the treatment first applies to claims filed for taxable years beginning
22 on January 1 of the year following the year in which this subsection takes effect.

23 **SECTION 180. Effective dates.** This act takes effect on January 1, 2006, or on
24 the day after publication, whichever is later, except as follows:

SENATE BILL 46

SECTION 180

1 (1) SECTION 178 (1) takes effect on the day after publication.

2 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

-2257/Idn
LRB-1151/Idn

JTK:jds
|
keep

~~December 29, 2004~~ new date

Representative Freese:

Senator Ellis:

1. This draft provides funding for one additional campaign finance investigator position and one additional auditor position at the Elections Board. Because the biennial budget act repeals and recreates the appropriation schedule under s. 20.005 (3), stats., if the bill resulting from this draft becomes law before enactment of the budget act and the budget act does not include the funding provided in this draft, the effect will be to eliminate the funding provided in this draft. To preserve the funding of these positions, you may wish to seek inclusion of the funding in the biennial budget bill.

2. I want to note briefly that a few of the provisions of this draft are innovative, and I do not yet have, to my knowledge, specific guidance from the U.S. Supreme Court concerning the enforceability of provisions of these types. It is well possible that a court may find a rational basis for these provisions that would permit them to be upheld. However, because of the concerns expressed by the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612 (1976), and certain other cases, that attempts to regulate campaign financing activities may, in some instances, impermissibly intrude upon freedom of speech or association or upon equal protection guarantees, it is possible that enforceability problems with these provisions may occur. In particular, those provisions concerning which I do not have specific guidance at this time are:

#1 (a) Proposed s. 11.12 (8), which requires candidates who do not accept public grants to file special reports that are not required of candidates who accept public grants.

#2 (b) Proposed s. 11.50 (9) (b), (ba), and (bb) which provides public grants to qualifying candidates to match contributions received by independent committees and certain independent disbursements and other expenditures and disbursements exceeding the disbursement limitations by candidates who do not accept public grants. Although relevant case law has developed regarding this issue in the federal courts of appeal, there is no consensus among these courts on this issue. Due to the unsettled nature of the law in this area, it is not possible to predict how a court would rule if proposed s. 11.50 (9) (b), (ba), or (bb) were challenged.

If you need further information or would like to make any changes based on the above information, please let me know.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2257/1dn
JTK:jld:jf

February 24, 2005

Representative Freese:

I want to note briefly that a few of the provisions of this draft are innovative, and I do not yet have, to my knowledge, specific guidance from the U.S. Supreme Court concerning the enforceability of provisions of these types. It is well possible that a court may find a rational basis for these provisions that would permit them to be upheld. However, because of the concerns expressed by the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612 (1976), and certain other cases, that attempts to regulate campaign financing activities may, in some instances, impermissibly intrude upon freedom of speech or association or upon equal protection guarantees, it is possible that enforceability problems with these provisions may occur. In particular, those provisions concerning which I do not have specific guidance at this time are:

- (1) Proposed s. 11.12 (8), which requires candidates who do not accept public grants to file special reports that are not required of candidates who accept public grants.
- (2) Proposed s. 11.50 (9) (b), (ba), and (bb) which provides public grants to qualifying candidates to match contributions received by independent committees and certain independent disbursements and other expenditures and disbursements exceeding the disbursement limitations by candidates who do not accept public grants. Although relevant case law has developed regarding this issue in the federal courts of appeal, there is no consensus among these courts on this issue. Due to the unsettled nature of the law in this area, it is not possible to predict how a court would rule if proposed s. 11.50 (9) (b), (ba), or (bb) were challenged.

If you need further information or would like to make any changes based on the above information, please let me know.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Basford, Sarah

From: Richard, Rob
Sent: Thursday, February 24, 2005 12:43 PM
To: LRB.Legal
Subject: Draft review: LRB 05-2257/1 Topic: Campaign finance changes

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

Draft review: LRB 05-2257/1 Topic: Campaign finance changes