

2005 ASSEMBLY BILL 1082

March 2, 2006 – Introduced by Representatives POCAN, ALBERS, HEBL, LEHMAN, POPE-ROBERTS, SEIDEL, SHERIDAN, SINICKI and TURNER, cosponsored by Senators MILLER and COGGS. Referred to Committee on Campaigns and Elections.

1 **AN ACT** *to amend* 8.35 (4) (a) 1. a., 8.35 (4) (a) 1. b., 11.06 (1) (e), 11.07 (5), 11.12
2 (2), 11.16 (2), 11.19 (1), 11.25 (2) (b) and 11.38 (6); *to repeal and recreate* 8.35
3 (4) (a) 1. a., 8.35 (4) (a) 1. b., 11.06 (1) (e), 11.07 (5), 11.12 (2), 11.16 (2), 11.19 (1),
4 11.26 (1t), 11.26 (2t) and 11.38 (6); and *to create* 11.65, 20.510 (1) (qm), 25.17
5 (1) (hs) and 25.426 of the statutes; **relating to:** investigation of illegal
6 campaign finance activity, creating an illegal activity investigation fund and
7 making an appropriation.

Analysis by the Legislative Reference Bureau

Currently, violations of the campaign finance law may be investigated and prosecuted as civil offenses by the Elections Board or by the district attorney for the county where a violation is alleged to occur. District attorneys may also prosecute criminal violations.

This bill creates a segregated state fund called the “Illegal Activity Investigation Fund,” which is financed by unrestricted gifts made to the fund by political committees and groups and other persons. Under the bill, moneys in this fund are appropriated to the Elections Board for the purpose of investigating suspected violations of the campaign finance law.

Currently, with certain exceptions, a registrant under the campaign finance law may only use moneys that are solicited for political purposes. However,

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contributions that are received and accepted contrary to law and residual moneys on hand when a registrant discontinues campaign finance activity may be donated to the common school fund or to a charitable organization.

This bill permits any campaign finance registrant to donate money to the illegal activity investigation fund.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 8.35 (4) (a) 1. a. of the statutes is amended to read:

2 8.35 **(4)** (a) 1. a. Donated to the former candidate's local or state political party
3 if the former candidate was a partisan candidate or donated to the a charitable
4 organization ~~of~~ or the illegal activity investigation fund, as directed by the former
5 ~~candidate's choice, or to the charitable organization chosen~~ candidate, or by the
6 former candidate's next of kin if the former candidate is deceased, or if no choice is
7 made returned to the donors on a proportional basis; or

8 **SECTION 2.** 8.35 (4) (a) 1. a. of the statutes, as affected by 2001 Wisconsin Act
9 109, is repealed and recreated to read:

10 8.35 **(4)** (a) 1. a. If the former candidate was a partisan candidate, donated to
11 the former candidate's local or state political party, donated to a charitable
12 organization or transferred to the board for deposit in the Wisconsin election
13 campaign fund or the illegal activity investigation fund, as instructed by the former
14 candidate or, if the candidate left no instruction, by the former candidate's next of
15 kin; or

16 **SECTION 3.** 8.35 (4) (a) 1. b. of the statutes is amended to read:

17 8.35 **(4)** (a) 1. b. If the former candidate was a nonpartisan candidate, donated
18 to the a charitable organization ~~of~~ or to the illegal activity investigation fund, as

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1 ~~directed by the former candidate's choice or the charitable organization chosen~~
2 ~~candidate or~~ by the former candidate's next of kin if the former candidate is deceased;
3 or

4 **SECTION 4.** 8.35 (4) (a) 1. b. of the statutes, as affected by 2001 Wisconsin Act
5 109, is repealed and recreated to read:

6 8.35 (4) (a) 1. b. If the former candidate was a nonpartisan candidate, donated
7 to a charitable organization or transferred to the board for deposit in the Wisconsin
8 election campaign fund or the illegal activity investigation fund, as instructed by the
9 former candidate or, if the candidate left no instruction, by the former candidate's
10 next of kin; or

11 **SECTION 5.** 11.06 (1) (e) of the statutes is amended to read:

12 11.06 (1) (e) An itemized statement of contributions over \$20 from a single
13 source donated to a charitable organization ~~or~~ to the common school fund, or to the
14 illegal activity investigation fund, with the full name and mailing address of the
15 donee.

16 **SECTION 6.** 11.06 (1) (e) of the statutes, as affected by 2001 Wisconsin Act 109,
17 is repealed and recreated to read:

18 11.06 (1) (e) An itemized statement of contributions over \$20 from a single
19 source donated to a charitable organization or to the common school fund, with the
20 full name and mailing address of the donee, and a statement of contributions over
21 \$20 transferred to the board for deposit in the Wisconsin election campaign fund or
22 the illegal activity investigation fund.

23 **SECTION 7.** 11.07 (5) of the statutes is amended to read:

24 11.07 (5) Any campaign treasurer or individual who knowingly receives a
25 contribution made by an unregistered nonresident in violation of this section may

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1 not use or expend such contribution but shall immediately return it to the source or
2 at the option of the campaign treasurer or individual, donate the contribution to a
3 charitable organization ~~or~~, to the common school fund, or to the illegal activity
4 investigation fund.

5 **SECTION 8.** 11.07 (5) of the statutes, as affected by 2001 Wisconsin Act 109, is
6 repealed and recreated to read:

7 11.07 (5) Any campaign treasurer or individual who knowingly receives a
8 contribution made by an unregistered nonresident in violation of this section may
9 not use or expend such contribution but shall immediately return it to the source or
10 at the option of the campaign treasurer or individual, donate the contribution to a
11 charitable organization or to the common school fund or transfer the contribution to
12 the board for deposit in the Wisconsin election campaign fund or the illegal activity
13 investigation fund.

14 **SECTION 9.** 11.12 (2) of the statutes is amended to read:

15 11.12 (2) Any anonymous contribution exceeding \$10 received by a campaign
16 or committee treasurer or by an individual under s. 11.06 (7) may not be used or
17 expended. The contribution shall be donated to the common school fund or the illegal
18 activity investigation fund or to any charitable organization at the option of the
19 treasurer.

20 **SECTION 10.** 11.12 (2) of the statutes, as affected by 2001 Wisconsin Act 109,
21 is repealed and recreated to read:

22 11.12 (2) Any anonymous contribution exceeding \$10 received by a campaign
23 or committee treasurer or by an individual under s. 11.06 (7) may not be used or
24 expended. The contribution shall be donated to the common school fund or to any
25 charitable organization or transferred to the board for deposit in the Wisconsin

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1 election campaign fund or the illegal activity investigation fund, at the option of the
2 treasurer.

3 **SECTION 11.** 11.16 (2) of the statutes is amended to read:

4 11.16 (2) LIMITATION ON CASH CONTRIBUTIONS. Every contribution of money
5 exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized
6 credit card receipt bearing on the face the name of the remitter. No treasurer may
7 accept a contribution made in violation of this subsection. The treasurer shall
8 promptly return the contribution, or donate it to the common school fund or the
9 illegal activity investigation fund, or to a charitable organization in the event that
10 the donor cannot be identified.

11 **SECTION 12.** 11.16 (2) of the statutes, as affected by 2001 Wisconsin Act 109,
12 is repealed and recreated to read:

13 11.16 (2) LIMITATION ON CASH CONTRIBUTIONS. Every contribution of money
14 exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized
15 credit card receipt bearing on the face the name of the remitter. No treasurer may
16 accept a contribution made in violation of this subsection. The treasurer shall
17 promptly return the contribution, donate the contribution to the common school fund
18 or to a charitable organization, or transfer the contribution to the board for deposit
19 in the Wisconsin election campaign fund or the illegal activity investigation fund in
20 the event that the donor cannot be identified.

21 **SECTION 13.** 11.19 (1) of the statutes is amended to read:

22 11.19 (1) Whenever any registrant disbands or determines that obligations will
23 no longer be incurred, and contributions will no longer be received nor disbursements
24 made during a calendar year, and the registrant has no outstanding incurred
25 obligations, the registrant shall file a termination report with the appropriate filing

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1 officer. Such report shall indicate a cash balance on hand of zero at the end of the
2 reporting period and shall indicate the disposition of residual funds. Residual funds
3 may be used for any political purpose not prohibited by law, returned to the donors
4 in an amount not exceeding the original contribution, or donated to a charitable
5 organization ~~or~~ the common school fund, or the illegal activity investigation fund.

6 The report shall be filed and certified as were previous reports, and shall contain the
7 information required by s. 11.06 (1). A registrant to which s. 11.055 (1) applies shall
8 pay the fee imposed under that subsection with a termination report filed under this
9 subsection. If a termination report or suspension report under sub. (2) is not filed,
10 the registrant shall continue to file periodic reports with the appropriate filing
11 officer, no later than the dates specified in s. 11.20. This subsection does not apply
12 to any registrant making an indication under s. 11.05 (2r).

13 **SECTION 14.** 11.19 (1) of the statutes, as affected by 2001 Wisconsin Act 109,
14 is repealed and recreated to read:

15 11.19 (1) Whenever any registrant disbands or determines that obligations will
16 no longer be incurred, and contributions will no longer be received nor disbursements
17 made during a calendar year, and the registrant has no outstanding incurred
18 obligations, the registrant shall file a termination report with the appropriate filing
19 officer. Such report shall indicate a cash balance on hand of zero at the end of the
20 reporting period and shall indicate the disposition of residual funds. Residual funds
21 may be used for any political purpose not prohibited by law, returned to the donors
22 in an amount not exceeding the original contribution, transferred to the board for
23 deposit in the Wisconsin election campaign fund or donated to a charitable
24 organization, the common school fund, or the illegal activity investigation fund. The
25 report shall be filed and certified as were previous reports, and shall contain the

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1 information required by s. 11.06 (1). A registrant to which s. 11.055 (1) applies shall
2 pay the fee imposed under that subsection with a termination report filed under this
3 subsection. If a termination report or suspension report under sub. (2) is not filed,
4 the registrant shall continue to file periodic reports with the appropriate filing
5 officer, no later than the dates specified in s. 11.20 and, if the registrant files reports
6 under s. 11.21 (16), no later than the times specified in s. 11.21 (16). This subsection
7 does not apply to any registrant making an indication under s. 11.06 (2m).

8 **SECTION 15.** 11.25 (2) (b) of the statutes is amended to read:

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

23 **SECTION 16.** 11.26 (1t) of the statutes, as created by 2001 Wisconsin Act 109,
24 is repealed and recreated to read:

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1 11.26 (1t) The limitations under sub. (1m) apply to any candidate for legislative
2 office who files an affidavit under s. 11.31 (2m) (a) but who the board determines is
3 ineligible to receive a grant from the Wisconsin election campaign fund, who
4 withdraws his or her application for a grant under s. 11.50 (2) (h), or to whom s. 11.50
5 (2) (i) applies, unless the candidate subsequently files an affidavit under s. 11.31 (2m)
6 (b). Any such candidate who has received a contribution that exceeds the amount
7 specified for the office the candidate seeks under sub. (1m) before the date on which
8 a limitation under sub. (1m) applies to the candidate shall return the excess amount
9 of the contribution to the contributor, donate it to the common school fund or to any
10 charitable organization, or transfer it to the board for deposit in the Wisconsin
11 election campaign fund or the illegal activity investigation fund. If a candidate for
12 legislative office files an affidavit under s. 11.31 (2m) (b), the limitations under sub.
13 (1) apply to that candidate beginning on the date that the affidavit is filed.

14 **SECTION 17.** 11.26 (2t) of the statutes, as created by 2001 Wisconsin Act 109,
15 is repealed and recreated to read:

16 11.26 (2t) The limitations under sub. (2m) apply to any candidate for legislative
17 office who files an affidavit under s. 11.31 (2m) (a) but who the board determines is
18 ineligible to receive a grant from the Wisconsin election campaign fund, who
19 withdraws his or her application for a grant under s. 11.50 (2) (h), or to whom s. 11.50
20 (2) (i) applies, unless the candidate subsequently files an affidavit under s. 11.31 (2m)
21 (b). Any such candidate who has received a contribution that exceeds the amount
22 specified for the office the candidate seeks under sub. (2m) before the date on which
23 a limitation under sub. (2m) applies to the candidate shall return the excess amount
24 of the contribution to the contributor, donate it to the common school fund or to any
25 charitable organization, or transfer it to the board for deposit in the Wisconsin

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1 election campaign fund or the illegal activity investigation fund. If a candidate for
2 legislative office files an affidavit under s. 11.31 (2m) (b), the limitations under sub.
3 (2) apply to that candidate beginning on the date that the affidavit is filed.

4 **SECTION 18.** 11.38 (6) of the statutes is amended to read:

5 11.38 (6) Any individual or campaign treasurer who receives funds in violation
6 of this section shall promptly return such funds to the contributor or donate the funds
7 to the common school fund or the illegal activity investigation fund or a charitable
8 organization, at the treasurer's option.

9 **SECTION 19.** 11.38 (6) of the statutes, as affected by 2001 Wisconsin Act 109,
10 is repealed and recreated to read:

11 11.38 (6) Any individual or campaign treasurer who receives funds in violation
12 of this section shall promptly return such funds to the contributor, donate the funds
13 to the common school fund or a charitable organization or transfer the funds to the
14 board for deposit in the Wisconsin election campaign fund or the illegal activity
15 investigation fund, at the treasurer's option.

16 **SECTION 20.** 11.65 of the statutes is created to read:

17 **11.65 Donations to illegal activity investigation fund.** Any committee,
18 group, or other person may make an unrestricted donation to the illegal activity
19 investigation fund by gift or bequest.

20 **SECTION 21.** 20.510 (1) (qm) of the statutes is created to read:

21 20.510 (1) (qm) *Investigation of illegal campaign finance activity.* From the
22 illegal activity investigation fund, a sum sufficient to investigate suspected illegal
23 campaign finance activity.

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

25 25.17 (1) (hs) Illegal activity investigation fund (s. 25.426);

