

2005 DRAFTING REQUEST

Bill

Received: **05/12/2005**

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Joseph Parisi (608) 266-5342**

By/Representing: **him**

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

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Elections - campaign finance**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disbursement limits for senate and assembly candidates

Instructions:

Limit assembly candidates to \$50,000 in the general election and senate candidates to \$100,000 in the general election. Do not apply to candidates who accept public grants.

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 01/12/2006	kfollett 01/13/2006		_____ _____			
/1			pgreensl 01/13/2006	_____ _____	lemery 01/13/2006	lnorthro 02/08/2006	
			pgreensl 01/13/2006	_____ _____	lemery 01/13/2006		
			pgreensl 01/13/2006	_____ _____	lemery 01/13/2006		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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<END>

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/?	jkuesel 01/12/2006	kfollett 01/13/2006		_____			
/1			pgreensl 01/13/2006	_____	lemery 01/13/2006		
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			pgreensl 01/13/2006	_____	lemery 01/13/2006		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

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DRAFT

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

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May Contact:

Addl. Drafters:

Subject: **Elections - campaign finance**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

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1/1	jkuesel 1/12/06	1/1 kif 1/11	1/13 pg	1/13 P8115			

FE Sent For:

<END>

2005

Date (time) needed

(DNOTE)
Tue 1/17

LRB - 3032 / 1

JTK: jgf:

BILL

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the

statutes; **relating to:** *imposition of disbursement and self-contribution limits applicable to candidates for legislative offices.*

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

- If titles are needed in the analysis, in the component bar:
 - For the main heading, execute: **create** → **anal:** → **title:** → **head**
 - For the subheading, execute: **create** → **anal:** → **title:** → **sub**
 - For the sub-subheading, execute: **create** → **anal:** → **title:** → **sub-sub**
- For the analysis text, in the component bar:
 - For the text paragraph, execute: **create** → **anal:** → **text**

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

SECTION #.

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3032/lins2
JTK.....

x Under current law, campaign disbursement (spending) levels are prescribed for all offices. A disbursement level operates as a binding limitation only upon a candidate who accepts a grant from the Wisconsin election campaign fund or who files an affidavit voluntarily agreeing to accept the level as a disbursement limitation. Current law also prescribes a contribution limit equal to 200% of the applicable individual contribution limit for a candidate making contributions to his or her own campaign. This limit applies only to a candidate who accepts a grant from the Wisconsin election campaign fund or a candidate who files an affidavit voluntarily agreeing to accept the limit. Under current law, a candidate who accepts a grant is released from his or her obligation to adhere to the disbursement and self-contribution limits if he or she is opposed by a major opponent who could have qualified to receive a grant but who declines to accept one. Currently, the disbursement level or limit for a candidate for the office of state senator is \$34,500 total, with disbursements not exceeding \$21,575 for either the primary or the election. The disbursement level or limit for a candidate for the office of representative to the assembly is \$17,250, with disbursements not exceeding \$10,775 for either the primary or the election. The self-contribution limit for a candidate for the office of state senator is \$2,000 per campaign, and the self-contribution limit for a candidate for the office of representative to the assembly is \$1,000 per campaign.

x This bill creates a new disbursement limit for candidates for the office of state senator of \$100,000 and a new disbursement limit for the office of representative to the assembly of \$50,000. The bill also provides that these limits, as well as the current self-contribution limits, are binding upon all candidates for these offices regardless of whether they accept grants from the Wisconsin election campaign fund.

percent

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3032/lins
JTK.....

SECTION 1. 11.26 (10) of the statutes is amended to read:

11.26 (10) (a) No candidate for a state office other than state senator or representative to the assembly who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund may make contributions of more than 200% of the amounts specified in sub. (1) to the candidate's own campaign from the candidate's personal funds or property or the personal funds or property which are owned jointly or as marital property with the candidate's spouse, unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws his or her application under s. 11.50 (2) (h), or s. 11.50 (2) (i) applies.

(c) ^{AD} For purposes of this subsection, any contribution received by a candidate or his or her personal campaign committee from a committee which is registered with the federal elections commission as the authorized committee of the candidate under 2 USC 432 (e) shall be treated as a contribution made by the candidate to his or her own campaign.

(d) ^{AD} The contribution limit of sub. (4) applies to amounts contributed by such a candidate personally to the candidate's own campaign and to other campaigns, except that a candidate may exceed the limitation if authorized under this subsection to contribute more than the amount specified to the candidate's own campaign, up to the amount of the limitation.

NOTE: NOTE: Sub. (10) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

SECTION 2. 11.26 (10) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

11.26 (10) (a) No candidate for state office other than state senator or representative to the assembly who files an application to receive a grant from the Wisconsin election campaign fund and an affidavit under s. 11.31 (2m) (a) may make contributions of more than 200%^{percent} of the applicable amount specified in sub. (1) to the candidate's own campaign from the candidate's personal funds or property or the personal funds or property that are owned jointly or as marital property with the candidate's spouse, unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws his or her application under s. 11.50 (2) (h), or s. 11.31 (3p) or 11.50 (2) (i) applies to the candidate.

(b) No candidate for the office of state senator or representative to the assembly may make contributions of more than 200%^{percent} of the applicable amount specified in sub. (1) to the candidate's own campaign from the candidate's personal funds or property or the personal funds or property that are owned jointly or as martial property with the candidate's spouse.

(c) For purposes of this subsection, any contribution received by a candidate or his or her personal campaign committee from a committee which is registered with the federal elections commission as the authorized committee of the candidate under 2 USC 432 (e) shall be treated as a contribution made by the candidate to his or her own campaign.

(d) The contribution limit of sub. (4) applies to amounts contributed by such a candidate personally to the candidate's own campaign and to other campaigns, except that a candidate may exceed the limitation if authorized under this subsection

to contribute more than the amount specified to the candidate's own campaign, up to the amount of the limitation.

History: 1973 c. 334; 1975 c. 93 ss. 89 to 95, 119 (1); 1975 c. 200; 1977 c. 107, 187; 1977 c. 427 s. 132; 1979 c. 263, 328; 1979 c. 355 s. 32; 1983 a. 183, 186; 1985 a. 303 ss. 44 to 55m, 86; 1987 a. 27, 370; 1989 a. 31, 192; 1995 a. 27 s. 9145 (1); 1995 a. 219, 225; 1999 a. 32; 2001 a. 109.

SECTION 3. 11.26 (10) (b) of the statutes is created to read:

X
11.26 (10) (b) No candidate for the office of state senator or representative to the assembly may make contributions of more than 200%^{percent} of the amounts specified in sub. (1) to the candidate's own campaign from the candidate's personal funds or property or the personal funds or property that are owned jointly with the candidate's spouse.

SECTION 4. 11.31 (1) (e) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed.

SECTION 5. 11.31 (1) (f) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed.

X
~~SECTION 6. 11.31 (2) of the statutes is renumbered 11.31 (2) (a).~~

SECTION 7. 11.31 (2) of the statutes is renumbered 11.31 (2) (a) and amended to read:

11.31 (2) (a) No candidate for state office at a spring or general election, other than a candidate for the office of state senator or representative to the assembly, who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund may make or authorize total disbursements from the campaign treasury in any campaign to the extent of more than the amount prescribed in sub. (1), unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws his or her application under s. 11.50 (2) (h), or s. 11.50 (2) (i) applies. No candidate for state office at a special election, other than a candidate for the office of state senator or representative to the assembly, who files a sworn

statement and application to receive a grant from the Wisconsin election campaign fund may make or authorize total disbursements from the campaign treasury in any campaign to the extent of more than the amount prescribed under sub. (1) for the preceding spring or general election for the same office, unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws his or her application under s. 11.50 (2) (h), or s. 11.50 (2) (i) applies.

NOTE: NOTE: Sub. (2) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

SECTION 8. 11.31 (2) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

11.31 (2) LIMITATION IMPOSED. No candidate for state office at a spring or general election, other than a candidate for the office of state senator or representative to the assembly, who files an application to receive a grant from the Wisconsin election campaign fund and an affidavit under sub. (2m) (a) may make or authorize total disbursements from his or her campaign treasury in any campaign to the extent of more than the amount prescribed in sub. (1), adjusted as provided under sub. (9), unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws his or her application under s. 11.50 (2) (h), or s. 11.50 (2) (i) or sub. (3p) applies to that candidate. No candidate for state office at a special election, other than a candidate for the office of state senator or representative to the assembly, who files an application to receive a grant from the Wisconsin election campaign fund and an affidavit under sub. (2m) (a) may make or authorize total disbursements from his or her campaign treasury in any campaign to the extent of more than the amount prescribed under sub. (1), adjusted as provided under sub. (9), for the preceding spring or general election for the same office, unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws his or her

X

assembly

application under s. 11.50 (2) (h), or s. 11.50 (2) (i) or sub. (3p) applies to that candidate.

History: 1973 c. 334; 1975 c. 93 ss. 97 to 102, 119 (1), (2); 1975 c. 199, 422; 1977 c. 107, 187, 272, 449; 1979 c. 263, 328; 1981 c. 314; 1983 a. 51; 1985 a. 182 s. 57; 1985 a. 303; 1985 a. 332 s. 251 (1); 1987 a. 370; 1989 a. 192; 1993 a. 184; 1995 a. 225; 1997 a. 230; 1999 a. 83; 2001 a. 109.

SECTION 9. 11.31 (2) (b) of the statutes is created to read:

11.31 (2) (b) No candidate for the office of state senator or representative to the assembly who does not accept a grant from the Wisconsin election campaign fund may make or authorize total disbursements from his or campaign treasury in any campaign to the extent of more than the following applicable amount:

1. Candidates for state senator, \$100,000.
2. Candidates for representative to the assembly, \$50,000.

SECTION 10. 11.31 (3m) of the statutes is repealed.

SECTION 11. 11.31 (4) of the statutes is amended to read:

11.31 (4) ALLOCATION. ~~Except as provided in sub. (3m),~~ whenever Whenever a separate disbursement level is specified for a primary and election under sub. (1), a candidate who disburses less than the authorized level in the primary may not reallocate the balance to increase the level in the election. Whenever a separate disbursement level is not specified for a primary and election under sub. (1), a candidate may allocate disbursements between the primary and election campaign within the total level of disbursements specified in sub. (1) in any proportion desired, and may carry over unexpended contributions from a primary campaign to an election campaign.

History: 1973 c. 334; 1975 c. 93 ss. 97 to 102, 119 (1), (2); 1975 c. 199, 422; 1977 c. 107, 187, 272, 449; 1979 c. 263, 328; 1981 c. 314; 1983 a. 51; 1985 a. 182 s. 57; 1985 a. 303; 1985 a. 332 s. 251 (1); 1987 a. 370; 1989 a. 192; 1993 a. 184; 1995 a. 225; 1997 a. 230; 1999 a. 83; 2001 a. 109.

(END)



LRB-2364/1
JTK:kjf.rs
SECTION 39

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SECTION 41. Nonstatutory provisions.

(1) Notwithstanding section 990.001 (1) of the statutes, if a court finds that all or any portion of section ^{11.26(10) or 11.31(2)} ~~11.06 (4) (b) or (5), 11.19 (1), 11.20 (1) or (7), 11.21 (16), 11.31 (2m), 11.38 (8) (b), 11.50 (2) (a), (g), or (i) or (9) (c), or 11.61 (1) (a)~~ of the statutes, as repealed and recreated by this act, or any part of the laws specified in 2001 Wisconsin Act 109, section 9115 (2y), is unconstitutional, then the repeal and recreation of sections ^{11.26(10) and 11.31(2)} ~~11.06 (4) (b) and (5), 11.19 (1), 11.20 (1) and (7), 11.21 (16), 11.38 (8) (b), 11.50 (2) (g) and (9) (c), and 11.61 (1) (a)~~ of the statutes by this act is void in its entirety.

(End)

D-Note

09/30/93

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

3032/1dn
LRB-4053/1dn
JTK:skg:kaf

date

kjf

(1) Per our phone conversation of 9/27/93, I understand the committee did not wish to amend s. 11.26 (10), stats., to delete the current specification that a candidate's self-contribution limit is applicable only if the candidate accepts a grant from the Wisconsin election campaign fund.

(2) The proposed treatment of s. 11.31 (1), stats., by this draft and related provisions, may not be enforceable in view of the position of the U.S. Supreme Court that a campaign spending limit burdens the candidate's right to freedom of speech. See Buckley v. Valeo, et al., 96 S.Ct. 612, 652-653 (1976).

is not

(3) Similarly, proposed s. 11.25 (1m) may not be enforceable in view of the position taken by the U.S. Supreme Court that limits may not be imposed on the spending of committees that wish to express their views independently of candidates. See Buckley v. Valeo, 96 S.Ct. 612, 644-650 (1976) and F.E.C. v. N.C.P.A.C., 105 S.Ct. 1459, 1465-1471 (1985).

currently

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or self-contribution

limit

650-653

Jeffery T. Kuesel
Assistant Chief Counsel
266-6778

JTK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3032/1dn
JTK:kjf:pg

January 13, 2006

The proposed treatment of ss. 11.31 and 11.26 (10), stats., by this draft, is not currently enforceable in view of the position of the U.S. Supreme Court that a campaign spending limit or self-contribution limit burdens the candidate's right to freedom of speech. See *Buckley v. Valeo*, et. al., 96 S. Ct. 612, 650-653 (1976).

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

Northrop, Lori

From: Whitmore, Lori
Sent: Wednesday, February 08, 2006 3:38 PM
To: LRB.Legal
Subject: Draft review: LRB 05-3032/1 Topic: Disbursement limits for senate and assembly candidates

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

Draft review: LRB 05-3032/1 Topic: Disbursement limits for senate and assembly candidates