

2005 DRAFTING REQUEST

Bill

Received: **05/10/2005**

Received By: **jkuesel**

Wanted: **Today**

Identical to LRB:

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

By/Representing: **Terri Griffiths**

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

Drafter: **jkuesel**

May Contact:

Adtl. Drafters:

Subject: **Elections - campaign finance**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Public information concerning WECF

Instructions:

Per 2003 LRB-4489/1- public information provision only.

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 05/10/2005	csicilia 05/10/2005		_____			
/1			jfrantze 05/10/2005	_____	lnorthro 05/10/2005	lnorthro 05/10/2005	

FE Sent For:

<END>

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1/?	jkuesel 5/10	1 cjs 5/10	5/10	5/10			
			05	Ch			

FE Sent For:

<END>

2005

Date (time) needed

(DNOTE)

LRB - 2998 / 1

BILL

wanted Tue 5/10

JTK: gjs :

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:**

public information access
purpose and effect of the law Wisconsin statute
sub

[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 #.

BILL

1 11.07 (5), 11.09 (3), 11.10 (1), 11.12 (2), 11.12 (4), 11.12 (5), 11.12 (6), 11.14 (3),
 2 11.16 (2), 11.16 (5), 11.19 (title), 11.19 (1), 11.20 (1), 11.20 (2), 11.20 (3) (a) and
 3 (b), 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12),
 4 11.21 (2), 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.),
 5 11.26 (2) (intro.), 11.26 (2) (a), 11.26 (3), 11.26 (4), 11.26 (5), 11.26 (6), 11.26 (8),
 6 11.26 (9) (a), 11.26 (9) (b), 11.26 (10), 11.26 (15), 11.26 (17) (a), 11.31 (1) (intro.),
 7 11.31 (1) (a) to (d), 11.31 (1) (e) and (f), 11.31 (2), 11.31 (2m), 11.31 (3), 11.38 (1)
 8 (a) 2., 11.38 (6), 11.38 (8) (b), 11.50 (1) (a) 2., 11.50 (2) (a), 11.50 (2) (b) 3., 11.50
 9 (2) (b) 4., 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50 (2) (g), 11.50 (2) (h), 11.50
 10 (2) (i), 11.50 (4), 11.50 (5), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (9), 11.50
 11 (10m), 11.50 (11) (e), 11.60 (4), 11.61 (1) (a), 25.42, 71.08 (1) (intro.) and 71.10
 12 (3); **to create** 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3) and 11.50 (10) of the
 13 statutes; and **to affect** 2001 Wisconsin Act 109, section 9115 (2v) and (2x), 2001
 14 Wisconsin Act 109, section 9115 (2y), 2001 Wisconsin Act 109, section 9132 (4v),
 15 2001 Wisconsin Act 109, section 9215 (3v), 2001 Wisconsin Act 109, section 9244
 16 (6v), 2001 Wisconsin Act 109, section 9315 (2v) and (2w), 2001 Wisconsin Act
 17 109, section 9344 (2v) and 2001 Wisconsin Act 109, section 9415 (1zx); **relating**
 18 **to:** deletion of changes to campaign finance and related laws made by 2001
 19 Wisconsin Act 109.

*affecting public information concerning the
 Wisconsin election campaign fund*

Analysis by the Legislative Reference Bureau

2001 Wisconsin Act 109 made comprehensive changes to campaign finance law, ethics, income tax, public broadcasting, and cable television laws. Most changes made by Act 109 took effect on July 1, 2003. With the exception of provisions requiring candidate time on public broadcasting stations and public access channels at public expense, these provisions were made nonseverable so that if a court found that any of the provisions were unconstitutional all of the provisions would then be invalid. In *Wisconsin Realtors Association et al. v. Ponto et al.*, 299 F.Supp.2d 889

BILL

(W.D. Wis., 2002), the U.S. District Court found that one provision of Act 109 relating to advance reporting of certain independent disbursements before obligations are incurred to make those disbursements violates the First and Fourteenth amendments. This decision apparently precludes enforcement and administration of the Act 109 changes as of December 11, 2002. The Act 109 changes, however, currently remain in the statutes.

This bill deletes the changes described above made by Act 109 that are affected by the nonseverability provision, ~~except that the bill does not affect provisions of the code of ethics for state and local public officials relating to official action in return for providing or withholding things of value, which has been affected by legislation enacted after Act 109.~~ The following is a description of the changes made by Act 109 to the statutes in effect before July 1, 2003:

Act 109 imposed registration and reporting requirements on certain individuals and committees that finance certain mass communications made during the 60-day period preceding an election. The act also imposed 24-hour reporting requirements on certain special interest committees and on certain candidates for state office who decline to accept public grants from the Wisconsin election campaign fund (WECF) to finance their campaigns. When expenditures or obligations reported by these committees or when expenditures reported by these candidates reach specified levels, the act permitted opposing candidates to receive additional campaign contributions from political parties and other committees and individuals, and to make additional expenditures to respond to the reported expenditures and obligations.

Act 109 made changes to the laws regulating campaign contributions. With certain exceptions, the act prohibited any candidate who accepts a public grant from WECF from accepting contributions from any committee other than a political party committee. The act also permitted candidates for legislative office who are bound by campaign spending and self-contribution limits as a result of accepting a public grant from WECF to accept double the amount of contributions otherwise permitted from particular individuals and, when permitted, from particular committees. The act imposed restrictions on fundraising by incumbents during a legislative session.

Act 109 increased spending limits for candidates for partisan state offices. The act decreased contribution limits for candidates for legislative office who decline to accept spending limits. The act increased the amount that a political party may receive in a biennium from all committees, other than political party committees, from \$150,000 to \$450,000 and increased the amount that a committee, other than a political party committee, may contribute to a political party in a calendar year from \$6,000 to \$18,000. The act further permitted political parties to accept an additional \$450,000 from all committees in any biennium to be used in providing certain additional campaign contributions to legislative candidates. The act also imposed restrictions on the transfer of contributions between certain committees other than political party committees.

Act 109 increased the amount of campaign expenditures that candidates for state office who accept a public grant from WECF may make. The act provided that the maximum grant under WECF is an amount equal to 40 percent of the applicable

one percent

relating to authorizing for the Elections Board to allocate up to 1% of the annual amounts designated by individuals filing income tax returns for the Wisconsin Election Campaign Fund (WECF) to provide public information concerning the purpose and effect of WECF.

BILL**SECTION 121**

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 that 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 122.** 11.50 (2) (i) of the statutes, as affected by 2001 Wisconsin Act 109,
9 is repealed and recreated to read:

10 11.50 (2) (i) Notwithstanding par. (g), if an eligible candidate at the spring
11 election or a special nonpartisan election who accepts a grant is opposed by one or
12 more candidates in the election, or if an eligible candidate at the general election or
13 a special partisan election who accepts a grant is opposed by one or more candidates
14 in the election who receive at least 6 percent of the vote cast for all candidates for the
15 same office on all ballots at the September primary or a special partisan primary if
16 a primary was held, and in either case if any such opponent of the eligible candidate
17 does not accept a grant under this section in whole or in part, the eligible candidate
18 is not bound by the pledge made in his or her application to adhere to the contribution
19 limitations prescribed in s. 11.26 and the disbursement limitation prescribed under
20 s. 11.31, unless each such opponent files an affidavit of voluntary compliance under
21 s. 11.31 (2m).

22 **SECTION 123.** 11.50 (2) (j) of the statutes, as created by 2001 Wisconsin Act 109,
23 is repealed.

24 **SECTION 124.** 11.50 (2m) of the statutes, as created by 2001 Wisconsin Act 109,
25 is repealed. ✓

BILL**SECTION 139**

1 **SECTION 139.** 11.60 (4) of the statutes, as affected by 2001 Wisconsin Act 109,
2 is repealed and recreated to read:

3 11.60 (4) Actions under this section arising out of an election for state office or
4 a statewide referendum may be brought by the board or by the district attorney of
5 the county where the violation is alleged to have occurred, except as specified in s.
6 11.38. Actions under this section arising out of an election for local office or a local
7 referendum may be brought by the district attorney of the county where the violation
8 is alleged to have occurred. Actions under this section arising out of an election for
9 county office or a county referendum may be brought by the county board of election
10 commissioners of the county wherein the violation is alleged to have occurred. If a
11 violation concerns a district attorney or circuit judge or candidate for such offices, the
12 action shall be brought by the attorney general. If a violation concerns the attorney
13 general or a candidate for such office, the governor may appoint special counsel
14 under s. 14.11 (2) to bring suit in behalf of the state. The counsel shall be independent
15 of the attorney general and need not be a state employee at the time of appointment.

16 **SECTION 140.** 11.61 (1) (a) of the statutes, as affected by 2001 Wisconsin Act
17 109, is repealed and recreated to read:

18 11.61 (1) (a) Whoever intentionally violates s. 11.05 (1), (2), (2g) or (2r), 11.07
19 (1) or (5), 11.10 (1), 11.12 (5), 11.23 (6) or 11.24 (1) is guilty of a Class I felony.

20 **SECTION 141.** 20.510 (1) (q) of the statutes, as affected by 2001 Wisconsin Act
21 109, is amended to read:

22 20.510 (1) (q) *Wisconsin election campaign fund.* As a continuing
23 appropriation, from the Wisconsin election campaign fund, the moneys determined
24 under s. 11.50 to provide for payments to eligible candidates whose names are

✓

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1 certified under s. 7.08 (2) (c) and (cm) and to provide for public information as
2 authorized under s. 11.50 (2m).

3 ~~SECTION 142.~~ 25.42 of the statutes, as affected by 2001 Wisconsin Act 109, is
4 repealed and recreated to read:

5 **25.42 Wisconsin election campaign fund.** All moneys appropriated under
6 s. 20.855 (4) (b) together with all moneys reverting to the state under s. 11.50 (8) and
7 all gifts, bequests and devises received under s. 11.50 (13) constitute the Wisconsin
8 election campaign fund, to be expended for the purposes of s. 11.50. All moneys in
9 the fund not disbursed by the state treasurer shall continue to accumulate
10 indefinitely.

11 ~~SECTION 143.~~ 71.07 (6s) of the statutes, as created by 2001 Wisconsin Act 109,
12 is repealed.

13 ~~SECTION 144.~~ 71.08 (1) (intro.) of the statutes, as affected by 2001 Wisconsin
14 Act 109 and 2003 Wisconsin Acts 99 and 135, is repealed and recreated to read:

15 **71.08 (1) IMPOSITION.** (intro.) If the tax imposed on a natural person, married
16 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
17 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3s),
18 (3t), z95b), (5d), (6), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd),
19 (2m), (3), (3n), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd),
20 (2m), (3), (3n), and (3t) and subchs. VIII and IX and payments to other states under
21 s. 71.07 (7), is less than the tax under this section, there is imposed on that natural
22 person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02,
23 an alternative minimum tax computed as follows:

24 ~~SECTION 145.~~ 71.10 (3) of the statutes, as affected by 2001 Wisconsin Act 109,
25 is repealed and recreated to read:

BILL

SECTION 145

1 71.10 (3) CAMPAIGN FUND. (a) Every individual filing an income tax return who
 2 has a tax liability or is entitled to a tax refund may designate \$1 for the Wisconsin
 3 election campaign fund for the use of eligible candidates under s. 11.50. If the
 4 individuals filing a joint return have a tax liability or are entitled to a tax refund,
 5 each individual may make a designation of \$1 under this subsection.

6 (b) The secretary of revenue shall provide a place for those designations on the
 7 face of the individual income tax return and shall provide next to that place a
 8 statement that a designation will not increase tax liability. Annually on August 15,
 9 the secretary of revenue shall certify to the elections board, the department of
 10 administration and the state treasurer under s. 11.50 the total amount of
 11 designations made during the preceding fiscal year. If any individual attempts to
 12 place any condition or restriction upon a designation, that individual is deemed not
 13 to have made a designation on his or her tax return. ✓

14 (c) The names of persons making designations under this subsection shall be
 15 strictly confidential.

16 **SECTION 146.** 71.10 (4) (gw) of the statutes, as created by 2001 Wisconsin Act
 17 109, is repealed.

18 **SECTION 147.** 806.04 (11m) of the statutes, as created by 2001 Wisconsin Act
 19 109, is repealed.

20 **SECTION 148.** 2001 Wisconsin Act 109, section 9115 (2v) and (2x) are repealed.

21 **SECTION 149.** 2001 Wisconsin Act 109, section 9115 (2y), as last affected by 2003
 22 Wisconsin Act 39, is repealed.

23 **SECTION 150.** 2001 Wisconsin Act 109, section 9132 (4v) is repealed.

24 **SECTION 151.** 2001 Wisconsin Act 109, section 9215 (3v) is repealed.

25 **SECTION 152.** 2001 Wisconsin Act 109, section 9244 (6v) is repealed.

(end)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2998/1dn

JTK.....

9
/

gjs

Representative Freese:

✓
This draft contains only the portions of LRB-1835/1 that relate to authorization for the Elections Board to allocate up to one percent of the annual designations for the Wisconsin Elections Campaign Fund to provide public information concerning the purpose and effect of WECF.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2998/1dn
JTK:cjs:jf

May 10, 2005

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

Northrop, Lori

From: Griffiths, Terri
Sent: Tuesday, May 10, 2005 3:45 PM
To: LRB.Legal
Subject: Draft review: LRB 05-2998/1 Topic: Public information concerning WECF

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

Draft review: LRB 05-2998/1 Topic: Public information concerning WECF