



(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on Labor and Election Process
Reform...**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

State of Wisconsin \ Elections Board

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CARL HOLBORN
Chairperson

KEVIN J. KENNEDY
Executive Director

March 23, 2006

Honorable Tom Reynolds
State Capitol, 306 South
P.O. Box 7882
Madison, WI 53707

Attn: Patrick Henneger

Re: Elections Board Rule CR 05-061

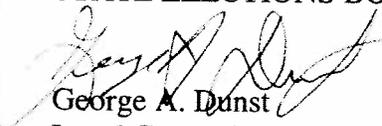
Dear Senator Reynolds and Mr. Henneger:

This letter is in regard to the Elections Board's consideration of modifications to the Board's proposed rule, CR 05-061, (ElBd 1.46(3)). After two deferrals because of an extensive agenda, the Elections Board considered the modifications to CR 05-061 proposed by the Senate Committee on Labor and Election Process Reform, at the Board's meeting on March 22, 2006. The Board agreed that the Committee had raised valid concerns, but also believed that the Board's version provided a brighter line test of compliance: a registrant either supplies statutorily required information within 60 days of the due date of a campaign finance report or the registrant returns the contribution. Therefore, the Board voted to decline the proposed modifications and to re-submit its proposed version of the rule.

Rather than attempt to measure the worth of a committee's attempt to obtain required information, the Board's version guarantees that the required information will be supplied or the contribution will have to be returned. The Board believes that the intent of the legislature, when Chapter 11, Stats., was adopted, was that contributions that were not documented with the required information should not be retained by a registrant. Committees that have attempted to obtain the required information, but have been unsuccessful as of the due date of the report, will still have 60 days in which to obtain the information.

The Board is hopeful that you and the Committee might reconsider an objection to the Board's version of the rule. If you have any questions about the Board's action, or if I can be of any other assistance, please let me know. (608) 266-0136.

STATE ELECTIONS BOARD


George A. Dunst
Legal Counsel

cc: Members of the Senate Committee on Labor and Election Process Reform

Rules/rules 2005/amnd elbd 1.46/3rd ltr sen rynlds rule modfcats bd mtg 23 mar



WISCONSIN STATE LEGISLATURE



Henneger, Patrick

From: Henneger, Patrick
Sent: Friday, April 07, 2006 4:21 PM
To: Dunst, George
Cc: Griffiths, Terri; Rep.Freese
Subject: Notice of Objection to CHR 05-061

Hello Mr. Dunst:

The purpose of this email is to inform you that the Senate Committee on Labor and Election Process Reform has objected to Clearinghouse Rule 05-061. Please let me know if you have any questions.

Thank you,

Patrick Henneger
Committee Clerk
Senate Committee on Labor and Election Process Reform
Office of Senator Tom Reynolds



WISCONSIN STATE LEGISLATURE



****AMENDED****

JOINT

COMMITTEE HEARINGS

Joint Committee for Review of Administrative Rules

The Joint Committee for Review of Administrative Rules will hold a **Public Hearing** on the following items at the time specified below:

Tuesday, May 16 2006
9:00 a.m.
300 Southeast – State Capitol
Madison, Wisconsin

Clearinghouse Rule 05-061

Relating to the identification of individual contributors on campaign finance reports.

An executive session will be held on LRBs 5000/1 and 5001/1, and an executive session may be held on any item before the committee.



Senator Glenn Grothman
Senate Co-Chair



Representative Daniel LeMahieu
Assembly Co-Chair





210 N. Bassett St., Suite 215 / Madison, WI 53703 / 608 255-4260 / www.wisdc.org

**Statement to the Joint Committee for Review of Administrative Rules regarding Clearinghouse
Rule 05-061 relating to identification of individual contributors on campaign finance reports**

May 16, 2006

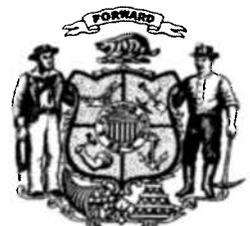
Current state statutes require that candidates' campaigns report the occupation and employer of all contributions greater than \$100. The law is the law. The SEB should enforce this law. Each individual contributor whose cumulative contributions for the calendar year are greater than \$100 that does not list this information should be considered "illegal," and as with any illegal contribution should be divested according to law.

Further, the Legislature is responsible for creating and refining state statutes. Administrative rules are the proper vehicles to effectively and efficiently administer state laws, not reform our laws. The Legislature should not be using the rule process to bypass the law when convenient.

Registrants have plenty of time between filing deadlines to report complete information on contributors to the Elections Board. If the current reporting laws were enforced consistently and even-handedly, you could bet that campaigns would obtain the required information in a timely manner.



WISCONSIN STATE LEGISLATURE



no date

TESTIMONY ON THE SENATE LABOR AND ELECTION PROCESS REFORM
COMMITTEE'S OBJECTION TO CLEARINGHOUSE RULE 05-061

Current Law

Wis. Stat. sections 11.06(1)(a) and (b) set forth reporting requirements for contributions received by campaign committees:

11.06 Financial report information; application; funding procedure. (1) CONTENTS OF REPORT. Except as provided in subs. (2), (3) and (3m) and ss. 11.05 (2r) and 11.19 (2), each registrant under s. 11.05 shall make full reports, upon a form prescribed by the board and signed by the appropriate individual under sub. (5), of all contributions received, contributions or disbursements made, and obligations incurred. Each report shall contain the following information, covering the period since the last date covered on the previous report, unless otherwise provided:

(a) An itemized statement giving the date, full name and street address of each contributor who has made a contribution in excess of \$20, or whose contribution if \$20 or less aggregates more than \$20 for the calendar year, together with the amount of the contribution and the cumulative total contributions made by that contributor for the calendar year.

(b) The occupation and name and address of the principal place of employment, if any, of each individual contributor whose cumulative contributions for the calendar year are in excess of \$100.

According to Wis. Stat. Section 11.06(5):

(5) REPORT MUST BE COMPLETE. A registered individual or treasurer of a group or committee shall make a good faith effort to obtain all required information. The first report shall commence no later than the date that the first contribution is received and accepted or the first disbursement is made. Each report shall be filed with the appropriate filing officer on the dates designated in s. 11.20. The individual or the treasurer of the group or committee shall certify to the correctness of each report. In the case of a candidate, the candidate or treasurer shall certify to the correctness of each report. If a treasurer is unavailable, any person designated as a custodian under s. 11.05 (3) (e) may certify to the correctness of a report.

Procedural History of CHR 05-061

The Elections Board previously interpreted Wisconsin's election laws as only requiring a good faith effort rather than strict compliance with the reporting requirements under section 11.06(1)(a) and (b).

An Elections Board memo describes a board meeting on Dec. 10th, 2003 in which the Board dismissed complaints against Governor Jim Doyle and Speaker John Gard because the Board determined that both campaigns had made good faith attempts to comply with reporting requirements. *See Ex. 1*

At a Board meeting in March 2004, the Board voted to adopt a new rule compelling the disclosure of missing contributor information. The final rule was promulgated by the Board in September 2005.

On Sept. 27th, 2005, Senator Reynolds sent a letter to Kevin Kennedy requesting a meeting with the agency to discuss CHR 05-061. *See Ex. 2.*

On November 2nd, 2005, the Senate Labor and Election Process Reform Committee passed a motion (by a vote of 3-2) requesting the Elections Board to modify Clearinghouse Rule 05-061 to address the concerns expressed in the Statutory Authority comments in the Legislative Council Clearinghouse Report on the Rule. The motion stated that if the Elections Board does not provide a written response agreeing to consider such modifications to the committee clerk for the Senate Committee on Labor and Election Process Reform by Friday, November 4th, 2005, the Senate Committee on Labor and Election Process Reform objects to Clearinghouse Rural 05-061 on the grounds that the rule lacks statutory authority.

The same day, Senator Reynolds notified the Elections Board via letter that the Committee had passed a motion requesting modifications to the rule. *See Ex. 3.*

On November 3rd, 2005, George Dunst, counsel to the Elections Board, sent a letter to Senator Reynolds indicating that the Elections Board has agreed to consider modifications to its rule. Mr. Dunst asks for suggested modifications to the rule for the Board to consider. Mr. Dunst also indicates that he will report back once the Board meets to consider modifications. *See Ex. 4.*

On November 16th, 2005, Patrick Henneger, Committee Clerk for the Senate Labor and Election Process Reform Committee sent an email to Mr. Dunst suggesting possible modifications to the rule in response to Mr. Dunst's request. One suggestion was to draft a rule that defines a "good faith effort" in terms of actions taken (such as a certain number of attempts to retrieve the information as documented through return receipt mail or phone records) rather than a certain timeframe. *See Ex. 5.*

On March 23rd, 2006, Mr. Dunst sent Sen. Reynolds a letter indicating that the Board considered the modifications proposed by the Senate Labor and Election Process Reform Committee at its March 22nd meeting. However, the Board declined to make modifications to the rule. *See Ex. 6.*

On April 6th, 2006, the Senate Labor and Election Process Reform Committee voted (3-2) to object to CHR 05-061 on the grounds that the rule lacks statutory authority.

On April 7th, 2006, Patrick Henneger sent an email to Mr. Dunst and Rep. Steve Freese (as chair of the Assembly Campaigns and Elections Committee) informing them of the Senate committee's objection to the rule. *See Ex. 7.*

What CHR 05-061 Does

CHR 05-061 requires a campaign finance report to disclose all information required by s.11.06(1)(a) and (b) no later than 60 days after the due date for the report or the campaign committee will not have made a good faith effort as required by s. 11.06(5) and must divest itself of the contribution.

The rule only applies to contributions that exceed \$250.

Problems with CHR 05-061

The rule goes beyond the Election Board's statutory authority because it replaces the good faith effort standard in 11.06(5) with a mandatory reporting requirement standard. The Board undoes the good faith effort standard by essentially redefining a "good faith effort" as requiring the information to be reported within 60 days. The board lacks statutory authority to rewrite state statute. **The new rule is also contrary to state law.**

The new rule is arbitrary and capricious. Under current law, all contribution above \$100 have the same information that is required to be reported. However, under the new rule, only those contributions over \$250 would have to be divested if the required information is not reported within 60 days of the due date of the report. Presumably, the original good faith standard applies to contributions between \$100-\$249. **The result of the rule is that two different standards will apply to contributions over \$100 even though contributions over \$100 require the same information to be reported.** This makes the reporting rules arbitrary and capricious.



WISCONSIN STATE LEGISLATURE



CHR 05-061

WISCONSIN ADMINISTRATIVE CODE

STATE ELECTIONS BOARD

SECTION 1. EIBd 1.46(3) is created to read:

EIBd 1.46 Identification of individual contributors on campaign finance reports.

(3)(a) A registrant who files a campaign finance report which does not disclose all of the contributor information required by s.11.06(1)(a) or (b), Stats., shall, not later than 60 days after the due date for that report, notify the filing officer, in writing, of all the information required for each contribution included on that report or return the contribution to the contributor. A registrant who provides the required information or who returns the contribution to the contributor, within 60 days of the due date for the report, shall be considered to have made good faith compliance under s.11.06(5), Stats. and shall not be considered to have violated s.11.06(1), Stats.

*Based on
time not
effort*

(b) A registrant who does not provide the required information and does not return the contribution, within 60 days of the due date for the report, shall be considered to have failed to show good faith compliance under s.11.06(5), Stats.; and shall be considered to have violated s.11.06(1), Stats.; and, with respect to any contribution under par. (a) that exceeds \$250, shall divest itself of all of that contribution.

(c) Divestiture of a contribution under par. (b) shall consist of returning the contribution to the contributor, or paying the amount of the contribution to the common school fund or to any other charitable organization.

(d) The divestiture of the contribution after 60 days from the due date of the report shall not preclude the board's imposition of any civil penalties under s.11.60, Stats., if the circumstances warrant prosecution.

(e) The registrant's divestiture of a contribution under par. (a) shall be reported on its next succeeding campaign finance report.

INITIAL REGULATORY FLEXIBILITY ANALYSIS:

The creation of this rule does not affect business.

FISCAL ESTIMATE:

The creation of this rule has no fiscal effect.

CONTACT PERSON:

George A. Dunst
Legal Counsel, State Elections Board
17 W. Main Street, P.O. Box 2973
Madison, Wisconsin 53701-2973; Phone 266-0136

The creation of this rule will take effect on the first day of the month following its publication in the Wisconsin Administrative Register pursuant to s.227.22(2), Stats.

Dated September 2, 2005,

KEVIN J. KENNEDY
Executive Director



Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

Chapter EIBd 1

CAMPAIGN FINANCING

EIBd 1.02	Multiple candidacies.	EIBd 1.41	Mailing registration forms.
EIBd 1.04	Debt retirement; treatment of contributions received and accepted after election.	EIBd 1.42	Voluntary committees; scope of voluntary oath; restrictions on voluntary committees.
EIBd 1.05	Reporting of disbursements.	EIBd 1.43	Referendum-related activities by committees; candidate-related activities by groups.
EIBd 1.06	Corporate registration and reporting.	EIBd 1.44	Disbursement levels.
EIBd 1.10	Reporting by nonresident committees and groups.	EIBd 1.45	Return of excess grant funds from Wisconsin election campaign fund after campaign.
EIBd 1.11	Reporting of joint fundraiser.	EIBd 1.455	Allocation of disbursements of Wisconsin election campaign fund grant and other campaign funds.
EIBd 1.15	Filing reports of late campaign activity.	EIBd 1.46	Identification of individual contributors on campaign finance reports.
EIBd 1.20	Treatment and reporting of in-kind contributions.	EIBd 1.50	Non-candidate committees collecting on behalf of a specific candidate and the voluntary oath.
EIBd 1.25	Loan treatment respecting limitations.	EIBd 1.55	Reimbursement for campaign use of government vehicles.
EIBd 1.26	Return of contribution.	EIBd 1.56	Commercial sales by political registrants.
EIBd 1.28	Scope of regulated activity; election of candidates.	EIBd 1.60	Consulting services.
EIBd 1.29	Scope of regulated activity; referenda.	EIBd 1.65	Opinion poll results.
EIBd 1.30	Revocation of exemption from filing campaign finance reports.	EIBd 1.655	Identification of the source of communications paid for with money raised for political purposes.
EIBd 1.32	Contribution of partnership funds.	EIBd 1.70	Travel reimbursements.
EIBd 1.33	Retirement of campaign debts incurred to business creditors.	EIBd 1.75	Purchase of capital assets by campaign registrants.
EIBd 1.34	Use of funds received from Wisconsin election campaign fund.	EIBd 1.85	Conduit registration and reporting requirements.
EIBd 1.36	Allocation of expenditures in nonpartisan elections.	EIBd 1.855	Contributions from conduit accounts.
EIBd 1.38	Return of contributions to committees by candidates who receive public funding.	EIBd 1.95	Contributions of individuals under the age of 18.
EIBd 1.385	Return of contributions to contributors by candidates when candidates file nomination papers for offices that have lower contribution limits than the limits that applied at the time of the contributions.		
EIBd 1.39	Conversion of federal campaign committee to state committee.		

EIBd 1.02 Multiple candidacies. (1) Any candidate seeking election to an office other than that indicated on a registration statement or that of the candidate's personal campaign committee must file an amended registration statement with the appropriate filing officer or officers indicating such change. Financial disclosure reports filed subsequent to such change must be filed with the filing officer for the office designated on the amended registration statement.

(2) When a candidate is simultaneously seeking election to more than one office, the candidate shall file duplicate consolidated registration statements indicating all offices sought and duplicate consolidated financial disclosure reports with the appropriate filing officers. The personal campaign committee of such a candidate is responsible for ensuring compliance with the contribution limitation applicable to each office sought.

(3) Regardless of the number of offices sought, a candidate may not have more than one committee, treasurer and campaign depository account.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; correction in (1) and (2) made under s. 13.93 (2m) (b) 5., Stats., Register, November, 1986, No. 371.

EIBd 1.04 Debt retirement; treatment of contributions received and accepted after election. (1) Contributions received and accepted for the purpose of retiring debts incurred in a prior campaign should be counted against the contributor's contribution limit for said campaign. Contributions received and accepted in excess of the amount needed to retire such debt shall be counted against the contributor's contribution limits applicable to the next campaign on a first-in first-out basis with the contributions received and accepted first applied to debt retirement.

(2) Notwithstanding the above, a contribution received and accepted between the period that begins on the day after the closing date for the pre-election campaign finance report period and ends on the day after the closing date for the period covered by the first financial report filed by or on behalf of the candidate subsequent to the date of the previous election, or if the candidate has incurred obligations from a previous campaign, the date on which the candidate receives sufficient contributions to retire those obligations shall be counted against the limits for the campaign in

which the election took place, regardless of whether all campaign debts have been retired at the time the contribution is received.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; am. (2), Register, February, 1986, No. 362, eff. 3-1-86.

EIBd 1.05 Reporting of disbursements. Every withdrawal of funds except for internal transfers for investment purposes from the campaign depository account must be reported in accordance with ss. 11.06 and 11.20, Stats.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

EIBd 1.06 Corporate registration and reporting. (1) Every foreign or domestic corporation or association organized under ch. 185, Stats., which establishes a separate segregated fund pursuant to s. 11.38 (1) (a) 2., Stats., shall register with the appropriate filing officer on a form prescribed by the board.

(2) Every foreign or domestic corporation or association organized under ch. 185, Stats., which is required to register pursuant to sub. (1), shall file financial disclosure reports with the appropriate filing officer in accordance with s. 11.20 (4), Stats., on a form prescribed by the board.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

EIBd 1.10 Reporting by nonresident committees and groups. Every nonresident committee or group as defined in s. 11.07 (6), Stats., acting in support of or in opposition to any candidate for state or local office, which makes or accepts contributions, incurs obligations or makes disbursements exceeding \$25 cumulatively in a calendar year within this state shall register both with the appropriate filing officer under s. 11.05 (1), Stats., and with the secretary of state under s. 11.07 (1), Stats.

History: Emerg. cr. 8-16-74; cr. Register, November, 1974, No. 227, eff. 12-1-74.

EIBd 1.11 Reporting of joint fundraiser. (1) Any personal campaign committee, political party committee, or legislative campaign committee which conducts a joint fundraiser under s. 11.16 (5), Stats., shall register with the appropriate filing officer by filing a supplemental schedule, Form EB-2JF, at the time of signing the escrow agreement with the candidate on whose behalf the joint fundraiser is conducted.

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

(2) The supplemental schedule, Form EB-2JF, shall identify the committees conducting the fundraiser, the candidates on whose behalf the joint fundraiser is conducted, the percentage of the net proceeds distributed to the candidate, and the escrow depository account. A copy of the escrow agreement shall be attached to form EB-2JF.

(3) The sponsors of the joint fundraiser shall prepare a regular campaign finance report, Form EB-2, or a public funding campaign finance report, Form EB-24, to report expenses qualifying for exclusion under s. 11.31 (6), Stats. The campaign finance report shall report all contributions and disbursements. The sponsors shall give a copy of the report to each candidate or committee receiving any share of the net proceeds from the fundraiser within 25 days after the fundraiser is held. The sponsors shall file the campaign finance report with the filing officer when the next campaign finance report is due under s. 11.20 (3) and (4), Stats. If the sponsors have not received and paid all the bills for the joint fundraiser by the time the sponsors file the first campaign finance report, the sponsors shall continue to file a regular campaign finance report as required until termination.

(4) The candidates or committees receiving any of the net proceeds from the joint fundraiser shall report on their regular campaign finance report their share of the net proceeds as a single contribution from the joint fundraiser, attaching a copy of the campaign finance report received from the sponsors. If any contributor to the joint fundraiser also makes an individual contribution to the candidate's campaign during the calendar year of the joint fundraiser, and the contributor's total contributions exceed \$20 in that period, the candidate who receives the additional contribution from the contributor shall report the additional contribution as an itemized contribution with the applicable information about the contributor under s. 11.06 (1) (a) and (b), Stats. The amount of any itemized contribution shall be subtracted from the reportable amount of the single contribution from the joint fundraiser.

History: Cr. Register, June, 1987, No. 378, eff. 7-1-87.

EIBd 1.15 Filing reports of late campaign activity.

(1) Any registrant required to file a special report of late campaign activity pursuant to ss. 11.12 (5), (6) and 11.23 (6), Stats., shall comply with the provisions of this section.

(2) A registrant required to file a special report disclosing the receipt of contributions from a single source, totaling \$500 or more cumulatively during the 15 day period immediately preceding a primary or an election, shall use Form EB-3 or use a format which is acceptable to the filing officer and which contains the information required by the board on Form EB-3.

(3) A registrant required to file a special report of late independent disbursement exceeding \$20 during the 15 day period immediately preceding a primary or an election shall use Form EB-7 or shall use a format which is acceptable to the filing officer and which contains the information required by the board on form EB-7.

(4) A special report of late campaign activity is timely filed when it is in the physical possession of the filing officer within the time prescribed for filing. Except as provided in sub. (6), any special report of late campaign activity also shall be treated as timely filed when it is mailed with the U.S. postal service, by first class mail, with sufficient prepaid postage, addressed to the appropriate filing officer, and postmarked not later than the date prescribed by law for the filing of such report.

(5) If the date on which a special report of late campaign activity is due is a Saturday, Sunday, or legal holiday, the special report shall not be due until the next business day.

(6) If a special report of late campaign activity is required to be filed on the day of or the day immediately preceding a primary or an election, the report is not timely filed unless it is actually received at the office of the appropriate filing officer before the

close of business on that day, unless that day is a Saturday, Sunday, or legal holiday.

(7) If the filing officer for a special report of late campaign activity is the state elections board, a registrant filing the report on the day of or the day immediately preceding a primary or an election may file by sending a facsimile (FAX) copy by telecopier on the date, if the signed original of the report is received through the U.S. mail with a postmark not later than the date due.

History: Cr. Register, January, 1992, No. 433, eff. 2-1-92.

EIBd 1.20 Treatment and reporting of in-kind contributions. (1) In this section:

(a) "Actual value" means the fair market value.

(b) "Authorized person" means a candidate, treasurer, agent, other person whom a candidate designates, or a person whom any other registrant designates to authorize a proposed in-kind contribution.

(c) "Contributor" means any individual or registrant who proposes to make an in-kind contribution.

(d) "Date of contribution" means the time as of which the benefit, of the thing of value given or of the service performed, is conferred upon the candidate's campaign or upon the registrant.

(e) "In-kind contribution" means a disbursement by a contributor to procure a thing of value or service for the benefit of a registrant who authorized the disbursement.

(f) "Registrant" has the same meaning as provided in s. 11.01 (18m), Stats.

(2) Before making an in-kind contribution to a candidate or other registrant, the prospective contributor shall notify an authorized person and obtain that person's oral or written consent to the contribution.

(3) When an individual other than a registrant receives authorization to make an in-kind contribution, the authorized person shall obtain from the contributor, in writing: the contributor's name and address and, where applicable, the contributor's occupation and the name and address of his or her principal place of employment; the nature of the contribution, its actual value and the date of the contribution.

(4) When a registrant receives authorization to make an in-kind contribution, the registrant shall provide to the authorized person, in writing, before the closing date of the next campaign finance report in which the contribution is required to be listed: the registrant's name and address; the nature of the contribution and its actual value; and the date of the contribution.

(5) If a contributor does not know the actual value of an in-kind contribution, the contributor shall give an authorized person a good-faith and reasonable estimate of the fair market value, before the closing date of the next campaign finance report in which the contribution is required to be listed. When the contributor receives bills or other statements reflecting the actual value of the in-kind contribution, the contributor shall immediately forward that information to an authorized person.

(6) An in-kind contribution shall be reported as received and accepted by the candidate or registrant on the date that the benefit, of the material supplied or the service performed, is conferred upon the candidate or other registrant.

(7) A candidate or registrant shall report the value of the in-kind contribution disclosed to him or her by the contributor. If a contributor estimates the fair market value, a candidate or registrant shall report the estimated value. After being informed of the actual value, by the contributor, a candidate or registrant shall report the actual value on the next campaign finance report.

(8) Without the proper authorization to make an in-kind contribution, a contributor may not make the proposed in-kind contribution unless the contribution qualifies as an independent expenditure under s. 11.06 (7), Stats., and under s. EIBd 1.42.

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

(9) Any registrant who makes or receives an in-kind contribution shall report the contribution on Schedule 3-C of its campaign finance report.

History: Cr. Register, January, 1992, No. 433, eff. 2-1-92.

EIBd 1.25 Loan treatment respecting limitations. A loan when made by any person, committee or group (except a loan of money by a commercial lending institution made by the institution in accordance with applicable banking laws and regulations in the ordinary course of business) shall be reported as a contribution or disbursement, and also as an incurred obligation by the debtor. When such a loan is received by a registrant, it is counted within the contribution limitation of the creditor while outstanding, but is not counted within the limitation after repayment. The amount or value of any such outstanding loans and any other contributions or disbursements shall at no time exceed any limitation specified in ss. 11.26 and 11.31, Stats.

History: Cr. Register, March, 1975, No. 231, eff. 4-1-75; am. Register, February, 1986, No. 362, eff. 3-1-86.

EIBd 1.26 Return of contribution. (1) This rule is promulgated to clarify the treatment and reporting of returned contributions.

(2) The return of a contribution is not a disbursement subject to the limitations on disbursements in s. 11.31, Stats., and it is not a contribution subject to the limitations on contributions in s. 11.26, Stats.

(3) A candidate who applies for a grant from the Wisconsin election campaign fund and who returns a contribution that was deposited into the campaign depository shall report the returned contribution on either the Wisconsin election campaign fund campaign finance report, Form EB-24, or the campaign finance report, Form EB-2. The candidate shall make the report on the form that is due for the period when the contribution was returned. When the candidate reports on Form EB-24, the candidate shall report the returned contributions on both Schedule 2-A, DISBURSEMENTS, Schedule 2-D, EXCLUSIONS FROM SPENDING LIMITS, and Schedule 3-A, ADDITIONAL DISCLOSURE as a returned contribution. When the candidate reports on Form 2-A, the candidate shall report the returned contribution on both Schedule 2-A, DISBURSEMENTS, and Schedule 3-A, ADDITIONAL DISCLOSURE, as returned contribution.

(4) Any registrant and candidate who does not apply for a grant from the Wisconsin election campaign fund who returns a contribution that was deposited into the campaign depository shall report the returned contribution on the campaign finance report, Form EB-2, that is due for the period when the contribution was returned. The candidate shall report the returned contribution on both Schedule 2-A, DISBURSEMENTS, and Schedule 3-A, ADDITIONAL DISCLOSURE, as a returned contribution.

(5) Any registrant and candidate who returns a contribution that is not deposited into the campaign depository within 10 days of receipt is not required to report the returned, unaccepted contribution on a campaign finance report.

(6) A registrant who receives a return of contribution shall report it on the campaign finance report, Form EB-2, on Schedule 1-C, OTHER INCOME, and shall designate this as "return of contribution."

History: Cr. Register, March, 1975, No. 231, eff. 4-1-75; am. Register, September, 1978, No. 273, eff. 10-1-78; r. and recr. (3) to (5), cr. (6), Register, February, 1986, No. 362, eff. 3-1-86.

EIBd 1.28 Scope of regulated activity; election of candidates. (1) Definitions. As used in this rule:

(a) "Political committee" means every committee which is formed primarily to influence elections or which is under the control of a candidate.

(b) "Contributions for political purposes" means contributions made to 1) a candidate, or 2) a political committee or 3) an individ-

ual who makes contributions to a candidate or political committee or incurs obligations or makes disbursements for the purpose of expressly advocating the election or defeat of an identified candidate.

(2) Individuals other than candidates and committees other than political committees are subject to the applicable disclosure-related and recordkeeping-related requirements of ch. 11, Stats., only when they:

(a) Make contributions for political purposes, or

(b) Make contributions to any person at the request or with the authorization of a candidate or political committee, or

(c) Make a communication containing terms such as the following or their functional equivalents with reference to a clearly identified candidate that expressly advocates the election or defeat of that candidate and that unambiguously relates to the campaign of that candidate:

1. "Vote for;"
2. "Elect;"
3. "Support;"
4. "Cast your ballot for;"
5. "Smith for Assembly;"
6. "Vote against;"
7. "Defeat;"
8. "Reject."

(3) Consistent with s. 11.05 (2), Stats., nothing in sub. (1) or (2) should be construed as requiring registration and reporting, under ss. 11.05 and 11.06, Stats., of an individual whose only activity is the making of contributions.

History: Emerg. cr. eff. 8-25-76; cr. Register, January, 1977, No. 253, eff. 2-1-77; am. (1) (b) and (2) (a), Register, February, 1986, No. 362, eff. 3-1-86; am. (2) (c), Register, May, 2001, No. 545, eff. 6-1-01.

EIBd 1.29 Scope of regulated activity; referenda.

The requirements of disclosure and recordkeeping of s. 11.23, Stats., are applicable to individuals and groups other than groups formed primarily to influence the outcome of a referendum as to contributions, disbursements and obligations which are directly related to express advocacy of a particular result in a referendum. Nothing contained herein should be construed to exempt groups formed primarily to influence the outcome of a referendum from the requirements of disclosure and recordkeeping of s. 11.23, Stats.

History: Emerg. cr. eff. 8-25-76; emerg. am. eff. 9-7-76; cr. Register, January, 1977, No. 253, eff. 2-1-77.

EIBd 1.30 Revocation of exemption from filing campaign finance reports. (1) When a person, committee or group other than a committee or individual required to file an oath under s. 11.06 (7), Stats., who or which claims an exemption from filing campaign finance reports because the registrant will not receive contributions, make disbursements, or incur obligations in an aggregate amount in excess of \$1,000 in a calendar year and who or which does not anticipate accepting any contribution or contributions from a single source, other than contributions totaling no more than \$1,000 made by the candidate to his or her own campaign, exceeding \$100 in that year, the registrant shall lose the exemption when the registrant exceeds the \$1,000 and \$100 limits, respectively. The registrant shall then inform the appropriate filing officer by filing either an amended campaign registration statement (Form EB-1) stating that the registrant is no longer eligible for exemption or by a letter filed with the filing officer or with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no later than the date on which the registrant exceeds the \$1,000 and \$100 limits. The registrant becomes subject to the applicable reporting requirements as of the date on which the registrant exceeds the \$1,000 and \$100 limits, including the requirement to report contributions received, disbursements made, and obligations incurred before the registrant exceeds the \$1,000 and \$100 limits.

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(2) When any political party committee claims an exemption from filing campaign finance reports because the registrant has signed an indication on a registration statement that the committee will not accept contributions, make disbursements, or incur obligations in the aggregate in excess of \$1,000 in any calendar year and will not accept any contribution or contributions from a single source exceeding \$100 in that year, the registrant shall lose the exemption when the committee's financial activity exceeds the \$1,000 and \$100 limits, respectively. The committee shall then inform its filing officer by verified letter filed with the filing officer or with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no later than the date on which the registrant exceeds the \$1,000 and \$100 limits. The committee becomes subject to the applicable reporting requirements as of the date on which the registrant exceeds the \$1,000 and \$100 limits, including the requirement to report contributions received, disbursements made, and obligations incurred before the registrant exceeds the \$1,000 and \$100 limits.

(3) For purposes of qualifying for exempt status under s. 11.05 (2r), Stats., the transfer of party member dues from a state political party to a local party shall not be considered a contribution from a single source. A local political party shall not lose its exempt status because of transfers to it by the state party of party member dues in excess of \$100.

History: Emerg. cr. eff. 9-13-76; cr. Register, January, 1977, No. 253, eff. 2-1-77; r. and recr. Register, May, 1986, No. 365, eff. 6-1-86; emerg. am. (1), eff. 7-1-86; am. (1), Register, November, 1986, No. 371, eff. 12-1-86; cr. (3), Register, April, 1998, No. 508, eff. 5-1-98.

EIBd 1.32 Contribution of partnership funds. (1) As used in this rule, "partnership" includes all associations organized for profit and all other partnerships.

(a) A contribution in the name of a partnership shall be treated as an individual contribution from each partner in relation to each partner's interest in the partnership profits or losses unless the partners agree to apportion the contribution otherwise.

(b) When a contribution is made in the name of a partnership, the registrant must obtain the information as to each partner's share thereof within 30 days after receiving the contribution or return the contribution.

History: Cr. Register, June, 1977, No. 258, eff. 7-1-77.

EIBd 1.33 Retirement of campaign debts incurred to business creditors. (1) As used in this section "an obligation incurred by a registrant to a business creditor" means an obligation incurred by the registrant for goods or services.

(2) An obligation incurred by a registrant to a business creditor will be treated as a contribution of the creditor if any part of the obligation is outstanding for a period longer than that consistent with normal business or trade practice, or if the obligation is settled for less than the outstanding debt, unless a showing is made to the registrant's filing officer that the creditor has treated the obligation in a commercially reasonable manner. Such a showing must include at least the following:

(a) The initial extension of credit on which the obligation was incurred was made in the ordinary course of business with terms substantially similar to those granted to non-political debtors of similar credit risk; and

(b) The creditor has made all reasonable efforts to retire the debt, including pursuit of all remedies which would normally be employed by the creditor in pursuit of a non-political debtor. "Reasonable efforts to retire the debt" include lawsuits, if filed in similar circumstances.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

EIBd 1.34 Use of funds received from Wisconsin election campaign fund. (1) The term "printing, graphic arts or advertising services" includes, but is not limited to, the ordinary and necessary direct costs of planning, preparing proof copy and

paste up, and printing or other like production of copy that is used in the candidate's election campaign.

(2) The term "office supplies" includes expendable items normally utilized in office situations such as, but not limited to, envelopes, paper, cards, notebooks, pens, pencils, ribbons, tapes, paper clips, rubber bands, duplicating supplies, manuals and journals.

(3) Grant funds from the Wisconsin election campaign fund may not be used for the purchase or rental of office furniture and equipment; office rent; utilities; telephone, telegraph or teletype costs; or insurance costs.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80; emerg. am. (1), eff. 7-1-86; am. (1), Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.36 Allocation of expenditures in nonpartisan elections. (1) This rule is promulgated to clarify the allocation of expenditures between the primary and general election by candidates who receive public funding in a nonpartisan election.

(2) A candidate in a nonpartisan election who is subject to the limitations and disbursement levels specified in s. 11.31, Stats., may make expenditures for items used in the pre-primary period to be allocated toward the disbursement limitations for the primary until the date the candidate knows there is no primary.

(3) Any expenditures made after the date the candidate knows that there is no primary, shall be applied to the disbursement limitation for the general election.

(4) For purposes of this rule, a candidate shall be deemed to know that there will be no primary on the day following the last day that nomination papers must be filed with the appropriate officer.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80.

EIBd 1.38 Return of contributions to committees by candidates who receive public funding. (1) A candidate may return any contribution received from a committee or a political party committee for purposes of receiving a larger grant from the Wisconsin election campaign fund within the time period specified in sub. (3).

(2) The candidate shall disclose the date, amount and source of the returned contribution on the applicable campaign finance report form.

(3) Any contribution returned no later than 7 days after the primary shall not be counted against the limits specified in s. 11.50 (9), Stats.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80.

EIBd 1.385 Return of contributions to contributors by candidates when candidates file nomination papers for offices that have lower contribution limits than the limits that applied at the time of the contributions. A candidate shall be subject to the contribution limits that apply to the candidate at the time of the primary election at which the candidate's name appears on the ballot. If a candidate for any office has unspent contributions in his or her campaign depository at the time of filing nomination papers that were lawful at the time of receipt but exceeded the contribution limit that applies to the office for which the candidate is seeking nomination, the candidate shall dispose of the unspent contributions. The candidate shall either return the excess contribution to the contributor on a reasonable basis that the candidate determines or donate the excess contribution to either the common school fund or a charitable organization.

History: Emerg. cr. eff. 6-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.39 Conversion of federal campaign committee to state committee. (1) As used in this rule,

(a) "Federal campaign committee" means the campaign committee of a candidate for federal office, which is not registered with a state or local filing officer, and

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(b) "State campaign committee" means the personal campaign committee of a candidate for state or local office.

(2) A federal campaign committee may convert to a state campaign committee and use funds collected for federal purposes in a state or local campaign by filing a campaign finance registration statement, pursuant to s. 11.05, Stats., with the appropriate filing officer and simultaneously filing a campaign finance disclosure report showing the sources of all funds on hand at the time of the report, pursuant to the requirements of s. 11.06 (1) (a), (b), (c), (d) and (f), Stats. In determining the sources of funds on hand and allocating those funds among the sources, the funds shall be treated on a last-in, last-out basis, so that they will be attributed in the report to the most recent sources, in the full amount received from each source.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

EIBd 1.41 Mailing registration forms. (1) Where a requirement is imposed for the filing of a registration statement no later than a certain date, the requirement may be satisfied either by actual receipt of the statement by the prescribed time for filing at the office of the filing officer, or by filing a report with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no later than the date provided by law for receipt of such report.

(2) In any case where the postal service is employed by a person subject to a registration requirement as the agent for transmittal of a statement, the burden is upon such person to show that a statement has been filed with the postal service.

(3) It is presumed until the contrary is established that the date shown by the postal service cancellation mark on the envelope containing the statement is the date that it was deposited in the mail.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78; corrections made under s. 13.93 (2m) (b) 1., Stats., Register, January, 1994, No. 457.

EIBd 1.42 Voluntary committees; scope of voluntary oath; restrictions on voluntary committees.

(1) **NECESSITY OF VOLUNTARY OATH FOR INDEPENDENT CANDIDATE-RELATED ACTIVITIES.** No expenditure may be made or obligation incurred over \$25 in support of or opposition to a specific candidate unless such expenditure or obligation is treated and reported as a contribution to the candidate or the candidate's opponent, or is made or incurred by or through an individual or committee filing the voluntary oath specified in s. 11.06 (7), Stats.

(2) **SCOPE OF VOLUNTARY OATH.** A committee or individual filing the voluntary oath may make expenditures or incur obligations in support of or opposition to a candidate if the expenditures or obligations incurred are made in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed, so long as the expenditures or obligations are treated and reported as a contribution to such candidate. A committee or individual filing the voluntary oath is prohibited from making expenditures in support of or opposition to a candidate if the expenditures or incurred obligations are made in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed, and the expenditures or obligations are not reported as a contribution to such candidate.

(3) **TREATMENT AND REPORTING OF INDEPENDENT ACTIVITY BY VOLUNTARY COMMITTEE.** When a committee or individual filing the voluntary oath makes an expenditure or incurs an obligation in support of or in opposition to a candidate and the individual or committee does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or

suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed, the expenditure or incurred obligation shall be treated and reported as an "independent disbursement" or "independent incurred obligation". When such disbursements or obligations are reported, the candidate in whose support or opposition the disbursement is made or obligation incurred should be identified on a separate schedule (EB-9) giving the name and address of the candidate, the amount, the date, and the purpose of the disbursement and an indication whether the candidate is supported or opposed.

(4) **AN INDIVIDUAL OR COMMITTEE MAY MAKE BOTH DIRECT CONTRIBUTIONS AND INDEPENDENT EXPENDITURES.** An individual or the committee filing the voluntary oath may make both direct contributions, and independent expenditures on behalf of a candidate in support or opposition to a candidate as long as the direct contributions are within the contribution limits set out in s. 11.26, Stats., and the individual or committee making the independent expenditure does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed.

(5) **SPECIAL DISCLAIMER REQUIREMENT.** A political message in support of or opposition to a candidate by a committee or individual not acting in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed shall contain, in addition to the ordinary identification required by s. 11.30 (2), Stats., the words: "The committee (individual) is the sole source of this communication and the committee (individual) did not act in cooperation or consultation with, and in concert with, or at the request or suggestion of any candidate or any agent or authorized committee of a candidate who is supported or opposed by this communication".

(6) **GUIDELINES.** (a) Any expenditure made on behalf of a candidate will be presumed to be made in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed and treated as an in-kind contribution if:

1. It is made as a result of a decision in which any of the following persons take part:

a. A person who is authorized to raise funds for, to spend the campaign funds of or to incur obligations for the candidate's personal campaign committee;

b. An officer of the candidate's personal campaign committee;

c. A campaign worker who is reimbursed for expenses or compensated for work by the candidate's personal campaign committee;

d. A volunteer who is operating in a position within a campaign organization that would make the person aware of campaign needs and useful expenditures; or

2. It is made to finance the distribution of any campaign materials prepared by the candidate's personal campaign committee or agents;

(b) The presumption in par. (a) may be rebutted by countervailing evidence that the expenditure is not made in cooperation or consultation with any candidate or agent or any authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78; emerg. am. eff. 9-4-84; am. Register, March, 1985, No. 351, eff. 4-1-85; correction in (6) (a) 1. c. made under s. 13.93 (2m) (b) 5., Stats., Register, January, 1994, No. 457.

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EIBd 1.43 Referendum-related activities by committees; candidate-related activities by groups. (1) As used in this rule, "committee-group" means any committee which acts in support of or opposition to a referendum, and any group which acts in support of or opposition to a candidate.

(2) Any committee-group may consolidate referendum-related and candidate-related activity by:

(a) Filing a duplicate consolidated registration statement or amending a previously filed registration statement with the appropriate filing officer or officers, indicating all candidates and referenda supported or opposed, or

(b) Filing duplicate consolidated financial disclosure reports, which indicate the specific purpose of each expenditure so as to differentiate between expenditures intended to influence referenda and expenditures intended to influence the election or defeat of a candidate.

(3) A committee-group which consolidates activity pursuant to this rule is subject to those limits on the receipt of contributions to which it would be subject if it were operating solely as a committee.

(4) A committee-group which consolidates activity pursuant to this rule must have a single treasurer and a single depository.

(5) Notwithstanding the above, any committee-group may separate referendum-related and candidate-related activity by filing separate registration statements, separate financial disclosure reports, and by maintaining a separate depository for each type of activity.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

EIBd 1.44 Disbursement levels. (1) **LIMITATION IMPOSED.** Except as authorized in s. 11.50 (2) (i), Stats., applying to disbursement levels, no candidate for state office who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund and who receives and accepts any such grant may make or authorize total disbursements from the campaign treasury in any campaign which exceed the amounts specified below.

(2) The following levels of disbursements are established with reference to the candidates listed below until the disbursement levels are adjusted pursuant to s. 11.31, Stats. Except as provided in sub. (1), such levels do not operate to restrict the total amount of disbursements which are made or authorized to be made by any candidate in any primary or other election.

(a) Candidates for governor, \$323,450 in the primary, and \$754,750 in the election.

(b) Candidates for lieutenant governor, \$215,650 in the primary, and \$107,825 in the election.

(c) Candidates for attorney general, \$269,500 in the primary, and \$269,500 in the election.

(d) Candidates for secretary of state, state treasurer, justice of the supreme court and state superintendent of public instruction, \$86,250 in the primary, and \$129,375 in the election.

(e) Candidates for court of appeals judge, \$32,350 in the primary, and \$53,900 in the election.

(f) Candidates for state senator, \$34,500 total in the primary and election, with disbursements not exceeding \$21,575 for either the primary or the election.

(g) Candidates for representative to the assembly, \$17,250 total in the primary and election, with disbursements not exceeding \$10,775 for either the primary or the election.

(h) Candidates for circuit judge, \$86,250 total in the primary and election.

(i) In any jurisdiction or district, other than a judicial district or circuit, with a population of 500,000 or more, according to the most recent federal census covering the entire jurisdiction or district:

1. For the following county offices:

a. Candidates for county executive, \$269,550 total in the primary and election.

b. Candidates for district attorney, \$161,725 total in the primary and election.

c. Candidates for county supervisor, \$17,250 total in the primary and election.

d. Candidates for any other countywide elective office, not specified in counties of this size, \$107,825 total in the primary and election.

2. For the following offices in cities of the 1st class:

a. Candidates for mayor, \$269,550 total in the primary and election.

b. Candidates for city attorney, \$161,725 total in the primary and election.

c. Candidates for alderperson, \$17,250 total in the primary and election.

d. Candidates for any other citywide office, \$107,825 total in the primary and election.

(j) Candidates for any local office who are elected from a jurisdiction or district with less than 500,000 inhabitants, according to the latest federal census or census information on which the district is based, as certified by the appropriate filing officer, an amount equal to the greater of:

1. \$1,075, or

2. 53.91% of the annual salary for the office sought, rounded to the nearest \$25, or

3. 32.35 cents per inhabitant of the jurisdiction or district, rounded to the nearest \$25, but in no event more than \$43,125 in the primary and election.

History: Emerg. cr. eff. 4-27-78; cr. Register, August, 1978, No. 272, eff. 9-1-78; emerg. am. eff. 2-19-80; emerg. am. eff. 6-17-80; emerg. am. eff. 2-18-82; emerg. r. and recr. eff. 5-1-84; am. Register, October, 1984, No. 346, eff. 11-1-84; emerg. am. (1), eff. 5-1-86; am. (2), Register, November, 1986, No. 371, eff. 12-1-86; correction in (2) (i) 2. c. made under s. 13.93 (2m) (b) 5., Stats., Register, January, 1994, No. 457; correction in (2) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1999, No. 524.

EIBd 1.45 Return of excess grant funds from Wisconsin election campaign fund after campaign. Pursuant to s. 11.50 (8), Stats., all grants from the Wisconsin election campaign fund which are unspent and unencumbered by any candidate on the day after the election shall be returned to the state elections board no later than the date of filing the use of grant report which is filed with the next continuing campaign finance report due after the election.

History: Cr. Register, February, 1985, No. 350, eff. 3-1-85; emerg. am. eff. 7-1-86; am. Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.455 Allocation of disbursements of Wisconsin election campaign fund grant and other campaign funds. A candidate subject to the disbursement limitations under s. 11.31, Stats., and s. EIBd 1.44 who disburses grant and other campaign funds:

(1) May prorate a disbursement between the primary election spending limit and the general election spending limit if the proration accurately reflects the use of the purchased materials or services in the respective primary and general election campaigns.

(2) May use grant money from the Wisconsin election campaign fund to pay the amount allocated to the general election even if the disbursement was made before the primary election.

(3) May not allocate to a future campaign any disbursements for services or materials delivered during the current campaign.

(4) May not make any disbursements during the current campaign for a future campaign until on or after the first day after the day of the election and may only make such disbursements out of campaign funds which are not excess funds that must be returned to the Wisconsin election campaign fund.

(5) May not encumber any excess funds remaining on the first day after the day of the election with incurred obligations for a future campaign.

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(6) May retire debts from previous campaigns by making disbursements during the current campaign.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

EIBd 1.46 Identification of individual contributors on campaign finance reports. (1) The requirement contained in s. 11.06 (1) (a), Stats., to furnish the street address of a contributor who has made a contribution or contributions aggregating more than \$20 in a calendar year includes the municipality and state as well as the street address. A complete postal address is sufficient to meet the disclosure requirement contained in the statute.

(2) The requirement contained in s. 11.06 (1) (b), Stats., to furnish the occupation and principal place of business, if any, of each individual contributor whose cumulative contributions for the calendar year are in excess of \$100 refers to the contributor's occupation and the name of the employing entity of the contributor. The listing of a business address only does not comply with the disclosure requirement of the statute.

History: Cr. Register, February, 1985, No. 350, eff. 3-1-85.

EIBd 1.50 Non-candidate committees collecting on behalf of a specific candidate and the voluntary oath.

When a non-candidate committee accepts contributions on behalf of a specific candidate, it must file the voluntary oath in s. 11.06 (7), Stats., by which the committee's independence of the candidate is affirmed. A political action committee whose campaign finance reports show support of only one candidate is presumed to be accepting contributions in support of that candidate and required to file the voluntary oath in s. 11.06 (7), Stats., by which the committee's independence of the candidate is affirmed. That presumption may be overcome by countervailing evidence.

History: Cr. Register, June, 1979, No. 282, eff. 7-1-79.

EIBd 1.55 Reimbursement for campaign use of government vehicles.

Whenever a state or local government vehicle is used primarily for the purposes of campaigning in support of or in opposition to a candidate for national, state, or local office, there must be paid to the state treasurer or governing body of the local government a fee which is comparable to the commercial market rate for a similar vehicle or aircraft. The obligation, if any, to reimburse the state or local government shall be included on the campaign finance report covering the period during which the obligation was incurred.

History: Cr. Register, October, 1979, No. 286, eff. 11-1-79; r. and recr. Register, May, 1986, No. 365, eff. 6-1-86; emerg. am. eff. 7-1-86; am. Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.56 Commercial sales by political registrants.

(1) When a registrant receives donated items for resale the proceeds from the resale transaction shall be reported in the following manner:

(a) The receipt of the item shall be reported in the registrant's campaign finance report as an in-kind contribution and as an in-kind expenditure at the fair market value of the donated item;

(b) The resale of the item shall be reported in the registrant's campaign finance report as a contribution from the purchaser in the amount paid by the purchaser.

(c) The registrant must make a good faith effort to accurately reflect the fair market value of the item in its campaign finance report.

(2) When a registrant sells an item which it has purchased for resale to raise funds for political purposes, the entire amount of the proceeds of the sale shall be reported in the registrant's campaign finance report as a contribution from the purchaser.

(3) The proceeds from the sale of food and beverage at a fundraiser by a registrant shall be reported in the registrant's campaign finance report as a contribution from the purchaser.

(4) When items are sold, including food and beverage, at a cost that is less than \$10.00, the registrant should report the pro-

ceeds of the sales as contributions, but they may be listed as "unitemized contributions" in the campaign finance reports. A good faith effort does not require that records be kept of the identity of the purchaser of items where the cost is less than \$10.00.

(5) When a registrant disposes of tangible assets of the campaign by sale in a regular commercial transaction for fair market value, the proceeds of the sale shall be reported as "other income" in the registrant's campaign finance reports.

History: Cr. Register, February, 1985, No. 350, eff. 3-1-85.

EIBd 1.60 Consulting services.

(1) (a) Expenditures for consulting services made by a candidate's committee, political action committee, or political party committee on behalf of more than one candidate shall be attributable to each candidate in proportion to, and shall be reported to reflect, the benefit reasonably derived, except as provided in par. (c). This rule shall not apply to independent expenditures made under s. 11.06 (7), Stats., and s. EIBd 1.42.

(b) An authorized expenditure for consulting services made by a candidate, candidate's committee, political action committee, or political party committee on behalf of another candidate shall be reported as an in-kind contribution to the candidate on whose behalf the expenditure was made, except that expenditures made by political party committees on behalf of that party's presidential candidates shall not be reportable and shall not count against that party's state or local candidates' applicable contribution limits under s. 11.26 (9) (a), Stats., and spending limits under s. 11.31 (2), Stats., and s. EIBd 1.44, except as provided in par. (c).

(c) Exceptions to pars. (a) and (b). Expenditures for rent, personnel, overhead, general administrative, fund-raising, and other costs of political party committees, which costs are incurred in the ordinary course of its day-to-day operations, need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.

(2) If a candidate, candidate's committee, political action committee, or political party committee, for itself or another, hires a consultant to work during a campaign period as that term is defined in s. 11.26 (17), Stats., the amount paid or incurred shall be presumed to be an expenditure on behalf of a candidate or candidates who receive assistance from the consultant. This presumption may be rebutted.

(3) Any expenditures for consulting services shall be valued at the fair market value of the item or services at the time of the contribution.

History: Emerg. cr. eff. 6-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86; correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1999, No. 524.

EIBd 1.65 Opinion poll results.

(1) The term "overall cost" as used in s. 11.06 (12) (b), Stats., means the value of the opinion poll or voter survey results, as defined in s. 11.06 (12) (a) 4., Stats., as determined by the individual or committee which commissions the poll or survey.

(2) The transfer to a candidate or committee of the results of a poll or survey, other than by a sale, is an in-kind contribution to such candidate or committee and reportable on the candidate's or committee's campaign finance report due for the period during which the results are received.

(3) The value of the poll or survey equal to the applicable percentage of full value as provided in s. 11.06 (12) (b) through (f), Stats., is based on the reasonable costs incurred in conducting the poll or survey. These costs include the costs for staff salary or other compensation, rent, telephones, poll lists, telephone calls, and computer use and supplies, and other reasonable and necessary items associated with creating the opinion results as defined in s. 11.06 (12) (a) 3., Stats.

History: Emerg. cr. eff. 7-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, March, 2001, No. 543.

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

EIBd 1.655 Identification of the source of communications paid for with money raised for political purposes. (1) Definitions: as used in this rule:

(a) "Bona fide poll" means a poll which is conducted for the purpose of identifying, or collecting data on, voter attitudes and preferences and not for the purpose of expressly advocating the election, defeat, recall or retention of a clearly identified candidate or a particular vote at a referendum.

(b) "Communication" means any printed advertisement, billboard, handbill, sample ballot, television or radio advertisement, telephone call, and any other form of communication that may be utilized by a registrant for the purpose of influencing the election or nomination of any individual to state or local office or for the purpose of influencing a particular vote at a referendum.

(bm) "Political party" has the meaning provided in s. 5.02 (13), Stats.

(c) "Political purpose" has the meaning provided in s. 11.01 (16), Stats.

(d) "Registrant" has the meaning provided in s. 11.01 (18m), Stats.

(e) "Source" means the individual who, or committee which, pays for, or the individual who takes responsibility for, a communication that is required, by s. 11.30, Stats., to be identified.

(2) Pursuant to s. 11.30 (2) (a), Stats., any communication paid for with money that has been raised for political purposes must identify the source of that communication, subject to the following exceptions:

(a) The source identification requirements of s. 11.30, Stats., do not apply to communications paid for by an individual who, or a committee which, is not subject to the registration requirements of s. 11.05, Stats.

(b) A bona fide poll or survey under s. 11.30 (5), Stats., concerning the support for or opposition to a candidate, political party, referendum or a position on issues, may be conducted without source identification unless the person being polled requests such information. If requested, the person conducting the poll shall disclose the name and address of the person making payment for the poll and, in the case of a registrant under s. 11.05, Stats., the name of the treasurer or the person making the payment.

(c) Incidental administrative communications need not identify their source if such communications are singular in nature and are not intended to communicate a political message.

(d) Communications for which reporting is not required under s. 11.06 (2), Stats., are not required to identify their source.

(3) When making communications requiring source identification, disclosure is not required to be made at any particular place within or time during the communication. In the case of telephone calls, or other audio communications, the required disclosure may be made at any time prior to the end of the call or other communication.

(4) A registrant who conducts a bona fide poll must report the expense of conducting the poll on its campaign finance reports, whether or not the registrant is required to identify the source of that poll under s. 11.30 (5), Stats., and this rule.

(5) If a political party makes a communication supporting the election of more than one candidate, the source identification for that communication shall be as follows:

"Paid for by the (name of party) Party as an in-kind contribution to the candidates named."

History: Cr. Register, September, 1996, No. 489, eff. 10-1-96; cr. (1) (bm) and (5), Register, April, 1998, No. 508, eff. 5-1-98.

EIBd 1.70 Travel reimbursements. (1) A candidate for or a person elected to a state or local office does not make an in-kind contribution to another candidate for a state or local office in another district when a candidate or election official travels to the district of the other candidate for political purposes. The candidate

for or person elected to state or local office may be reimbursed from his or her personal campaign committee subject to the applicable spending limits of s. 11.31 (2), Stats., and s. EIBd 1.44 and is deemed to provide nonreportable volunteer services to the candidate in the other district.

(2) If the candidate or elected official is reimbursed by another individual, personal campaign committee, political action committee, or legislative campaign committee for travel, the reimbursement is a reportable contribution to the candidate.

(3) If the candidate or elected official is an officer or employee of a legislative campaign committee who travels on committee business, the reimbursement is not a reportable contribution to the candidate or elected official, but is a reportable disbursement of the legislative campaign committee.

History: Emerg. cr. eff. 6-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.75 Purchase of capital assets by campaign registrants. (1) In this section:

(a) "Capital asset" means any asset, purchased by, or contributed to, a campaign committee, which has a useful life greater than the campaign period in which the asset was purchased, received or otherwise acquired.

(b) "Non-political use" means any usage, by a registrant, for purposes other than those specified in s. 11.01 (16), Stats.

(c) "Political purposes" has the meaning provided in s. 11.01 (16), Stats.

(d) "Registrant" has the same meaning as provided in s. 11.01 (18m), Stats.

(2) No capital asset may be purchased with campaign funds by a registrant unless the asset will be used principally for political purposes.

(3) Any non-political use of a capital asset purchased with campaign funds shall be incidental.

(4) A capital asset purchased and owned by an individual for personal use may be leased by a campaign registrant for use for political purposes only.

(5) Any rent or reimbursement paid for the use of a capital asset, by a registrant, shall be comparable to the commercial rate paid for the lease or rent of a similar item.

(6) The cost of materials, supplies or other expenses incurred in the use of a capital asset for political purposes may be paid with campaign funds by a registrant.

(7) If campaign funds are used by a registrant to pay for the lease and service of a capital asset, the terms of the lease or other rental agreement, including those of a service or maintenance contract, shall be in writing.

History: Cr. Register, January, 1992, No. 433, eff. 2-1-92.

EIBd 1.85 Conduit registration and reporting requirements. (1) A conduit, as defined in s. 11.01 (5m), Stats., is required to register no later than the date of the initial transfer of a contribution to a candidate, personal campaign committee, legislative campaign committee, or political party committee, or within 5 days of the receipt of a contribution from a conduit member, whichever event occurs first.

(2) A conduit shall register with the filing officer as defined in s. 11.02, Stats., on the conduit registration statement, form EB-9.

(3) A conduit shall send to each candidate or committee at the time funds are transferred a letter identifying itself as a conduit, the name and address of the transferee, and listing the name and address of each contributor and the date and amount of each contribution.

(4) A conduit shall report to the transferee the full name and address, the occupation and the name and address of the principal place of employment, if any, of the contributor if the contributor's cumulative contributions exceed \$50 for the calendar year.

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

(5) A conduit shall file a campaign finance report, form EB-10, at the times specified in s. 11.20, Stats., except that the pre-primary or pre-election report is filed only when a contribution is made during that period. If the conduit has no reportable activity during the continuing report period, the conduit may report on the campaign finance report, short form, form EB-2a.

(6) A conduit shall file with its campaign finance report 2 copies of each letter of transmittal sent to each transferee during the reporting period.

(7) A conduit shall file with the filing officer a special report of late contribution, form EB-3, within 24 hours of making a transfer to a candidate or committee of more than \$500 in a single amount or cumulatively received during the 15 day period before the primary or election.

History: Emerg. cr. eff. 7-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86; am. (1) and (4), Register, April, 1998, No. 508, eff. 5-1-98.

EIBd 1.855 Contributions from conduit accounts.

(1) No contribution may be made from a conduit member's account without the conduit member's authorization which is specific as to the amount of the contribution and as to the identity of the candidate who is to receive the contribution. The conduit member's authorization may be made in writing, or may be made orally if a contemporaneous written record of the oral authorization is made by the conduit administrator.

(2) A contribution from a conduit account shall be in the form of a check or other negotiable instrument made out to the named candidate or to the candidate's personal campaign committee, or to a legislative campaign committee, political party committee, or

support committee under s. 11.18, Stats. A conduit may not make an in-kind contribution as defined in s. EIBd 1.20 (1) (e).

(3) A contribution from a conduit account shall be transferred to a candidate, a personal campaign or legislative campaign committee, or a political party or support committee, within 15 days of the conduit administrator's receipt of the member's authorization.

History: Cr. Register, April, 1998, No. 508, eff. 5-1-98.

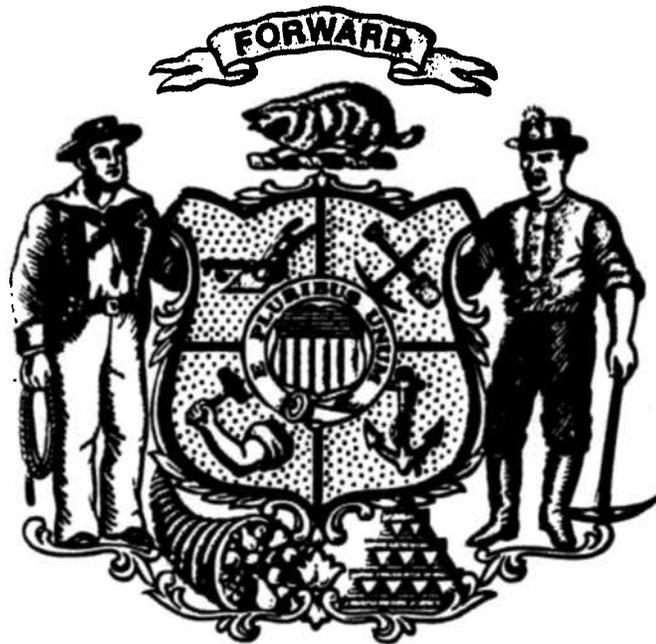
EIBd 1.95 Contributions of individuals under the age of 18. For purposes of campaign finance regulation under ch. 11, Stats., the contribution to a candidate for election or nomination to any of the offices specified in s. 11.26, Stats., of any individual less than 18 years of age at the time of contribution, shall be treated as follows:

(1) The contribution of individual contributors less than 14 years of age at the time of the contribution shall be treated as the contribution of the contributor's parents or legal guardians. If the contributor has more than one parent or one legal guardian, the contribution shall be attributed to each parent or each guardian in equal shares or in such shares as the parents or the guardians determine by written agreement.

(2) The contribution of individual contributors who are 14 years of age or older at the time of the contribution shall be treated for all purposes of campaign finance regulation under ch. 11, Stats., as the contribution of the individual contributor.

(3) This section shall not affect the determination of an individual's right or authority to make contributions from a multi-party account at a financial institution.

History: Cr. Register, January, 1992, No. 433, eff. 2-1-92.



CHAPTER 11 CAMPAIGN FINANCING

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Cross-reference: See definitions in s. 5.02.

Cross Reference: See also chs. EIBd 1 and 6, Wis. adm. code.

11.001 Declaration of policy. (1) The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed. It further finds that excessive spending on campaigns for public office jeopardizes the integrity of elections. It is desirable to encourage the broadest possible participation in financing campaigns by all citizens of the state, and to enable candidates to have an equal opportunity to present their programs to the voters. One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information which aids the public in fully understanding the public positions taken by a candidate or political organization. When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence. The legislature therefore finds that the state has a compelling interest in designing a system for fully disclosing contributions and disbursements made on behalf of every candidate for public office, and in placing reasonable limitations on such activities. Such a system must make readily available to the voters complete information as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly. This chapter is intended to serve the public purpose of stimulating vigorous campaigns on a fair and equal basis and to provide for a better informed electorate.

(2) This chapter is also intended to ensure fair and impartial elections by precluding officeholders from utilizing the perquisites of office at public expense in order to gain an advantage over nonincumbent candidates who have no perquisites available to them.

(2m) The legislature finds a compelling justification for minimal disclosure of all communications that are to be made near the time of an election and that include a reference to or depiction of a clearly identified candidate at that election in order to permit increased funding for candidates who are affected by those communications. This minimal disclosure burden is outweighed by the need to establish an effective funding mechanism for affected candidates to effectively respond to communications that may impact an election.

NOTE: Sub. (2m) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(3) This chapter is declared to be enacted pursuant to the power of the state to protect the integrity of the elective process and to assure the maintenance of free government.

History: 1973 c. 334; 1979 c. 328; 1985 a. 303; 2001 a. 109.

Campaign finance in Wisconsin after *Buckley*. 1976 WLR 816.

11.002 Construction. This chapter shall be construed to impose the least possible restraint on persons or organizations whose activities do not directly affect the elective process, consistent with the right of the public to have a full, complete and readily understandable accounting of those activities intended to influence elections.

History: 1979 c. 328 ss. 9, 11.

11.01 Definitions. As used in this chapter:

(1) "Candidate" means every person for whom it is contemplated or desired that votes be cast at any election held within this state, other than an election for national office, whether or not the person is elected or nominated, and who either tacitly or expressly consents to be so considered. A person does not cease to be a candidate for purposes of compliance with this chapter or ch. 12 after the date of an election and no person is released from any requirement or liability otherwise imposed under this chapter or ch. 12 by virtue of the passing of the date of an election.

(2) "Charitable organization" means any organization described in section 170 (c) (2) of the internal revenue code, and also includes the United States, any state, territory or possession, the District of Columbia and any political subdivision thereof, when a gift is made exclusively for public purposes; but does not include any private organization conducting activities for political purposes.

(3) "Clearly identified", when used with reference to a communication in support of or in opposition to a candidate, means:

(a) The candidate's name appears;

(b) A photograph or drawing of the candidate appears; or

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

(4) "Committee" or "political committee" means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements, whether or not engaged in activities which are exclusively political, except that a "committee" does not include a political "group" under this chapter.

(4m) "Communication" means a message, other than a communication that is exempt from reporting under s. 11.29, that is transmitted by means of a printed advertisement, billboard, handbill, marked sample ballot, radio or television advertisement, mass electronic communication, mass telephoning, or mass mailing, or any medium that may be utilized for the purpose of disseminating or broadcasting a message, but not including a poll conducted solely for the purpose of identifying or collecting data concerning the attitudes or preferences of electors.

NOTE: Sub. (4m) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(5) "Communications media" means newspapers, periodicals, commercial billboards and radio and television stations, including community antenna television stations.

(5m) "Conduit" means an individual who or an organization which receives a contribution of money and transfers the contribution to another individual or organization without exercising discretion as to the amount which is transferred and the individual to whom or organization to which the transfer is made.

(6) (a) Except as provided in par. (b), "contribution" means any of the following:

1. A gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, made for political purposes. In this subdivision "anything of value" means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.

3. A contract, promise or agreement, if legally enforceable, to make a gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business, for a political purpose.

4. A transfer of funds between candidates, committees, individuals or groups subject to a filing requirement under this chapter.

5. The purchase of a ticket for a meal, rally or other fund-raising event for a purpose under subd. 1., whether or not actually utilized.

6. The distribution of any publication or advertising matter for any purpose under subd. 1. other than by a registrant under s. 11.05, or as provided in s. 11.29.

7. A gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, or a contract, promise or agreement, if legally enforceable, to make the same, made by a committee for a purpose authorized under s. 11.25 (2) (b), or by an individual for a purpose authorized under s. 11.25 (2) (b) if deposited in a campaign depository account.

(b) "Contribution" does not include any of the following:

1. Services for a political purpose by an individual on behalf of a registrant under s. 11.05 who is not compensated specifically for the services.

2. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. (a) 1. if no funds are raised with the knowledge of the host.

3. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers his or her personal services for political purposes.

4. The costs of preparation and transmission of personal correspondence, provided that the correspondence is not reproduced by machine for distribution.

5. Compensation or fringe benefits provided as a result of employment by an employer to regular employees or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.

6. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a contribution under s. 11.06.

7. A gift, subscription, loan, advance, or deposit of anything of value received by a committee or group not organized exclusively for political purposes that the group or committee does not utilize for political purposes.

(6L) "Corporation" includes a limited liability company.

(7) (a) Except as provided in par. (b), "disbursement" means any of the following:

1. A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, made for political purposes. In this subdivision, "anything of value" means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.

3. A contract, promise, or agreement, if legally enforceable, to make a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business, for a political purpose.

4. An expenditure authorized under s. 11.25 (2) (b) made from a campaign depository account.

(b) "Disbursement" does not include any of the following:

1. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. (a) 1. if no funds are raised with the knowledge of the host.

2. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers his or her personal services for political purposes.

3. The costs of preparation and transmission of personal correspondence, provided that the correspondence is not reproduced by machine for distribution.

4. Compensation or fringe benefits provided as a result of employment by an employer to regular employees or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.

5. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous

campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a disbursement under s. 11.06.

(8) "Filing officer" means the official or agency determined in accordance with s. 11.02.

(9) "Filing requirement" means the continuing duty to file reports of contributions, disbursements or incurred obligations with the appropriate filing officer.

(10) "Group" or "political group" means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements for the purpose of influencing the outcome of any referendum whether or not engaged in activities which are exclusively political.

(11) "Incurred obligation" means every express obligation to make any contribution or disbursement including every loan, guarantee of a loan or other obligation or payment for any goods, or for any services which have been performed or are to be performed in the future, incurred by a candidate, committee, individual or group for political purposes.

(12) "Intentionally" has the meaning given under s. 939.23.

(12s) "Legislative campaign committee" means a committee which does not file an oath under s. 11.06 (7) organized in either house of the legislature to support candidates of a political party for legislative office.

NOTE: Sub. (12s) was repealed eff. 7-1-03 by 2001 Wis. Act 109. 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.

(12w) "Mass electronic communication" means the transmission of 50 or more pieces of substantially identical material by means of electronic mail or facsimile transmission.

NOTE: Sub. (12w) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(13) "Mass mailing" means the distribution of 50 or more pieces of substantially identical material.

NOTE: Sub. (13) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(14) "Mass telephoning" means the making of 50 or more telephone calls conveying a substantially identical message.

NOTE: Sub. (14) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(15) "Personal campaign committee" means a committee which is formed or operating for the purpose of influencing the election or reelection of a candidate, which acts with the cooperation of or upon consultation with the candidate or the candidate's agent or which is operating in concert with or pursuant to the authorization, request or suggestion of the candidate or the candidate's agent.

(16) An act is for "political purposes" when it is done for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, for the purpose of payment of expenses

incurred as a result of a recount at an election, or for the purpose of influencing a particular vote at a referendum. In the case of a candidate, or a committee or group which is organized primarily for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, or for the purpose of influencing a particular vote at a referendum, all administrative and overhead expenses for the maintenance of an office or staff which are used principally for any such purpose are deemed to be for a political purpose.

(a) Acts which are for "political purposes" include but are not limited to:

1. The making of a communication which expressly advocates the election, defeat, recall or retention of a clearly identified candidate or a particular vote at a referendum.

2. The conduct of or attempting to influence an endorsement or nomination to be made at a convention of political party members or supporters concerning, in whole or in part, any campaign for state or local office.

3. A communication, other than a communication that is exempt from reporting under s. 11.29, that is made during the period beginning on the 60th day preceding a general, special, or spring election and ending on the date of that election and that includes a reference to or depiction of a clearly identified candidate whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot for election or nomination to an office to be filled at that election.

NOTE: Subd. 3. was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(b) A "political purpose" does not include expenditures made for the purpose of supporting or defending a person who is being investigated for, charged with or convicted of a criminal violation of state or federal law, or an agent or dependent of such a person.

(17g) "Public access channel" means a channel that is required under a franchise granted under s. 66.0419 (3) (b) by a city, village, or town to a cable operator, as defined in s. 66.0419 (2) (b), and that is used for public access purposes, but does not include a channel that is used for governmental or educational purposes.

(17r) "Public access channel operator" means a person designated by a city, village, or town as responsible for the operation of a public access channel.

(18m) "Registrant" means an individual or organization registered under s. 11.05 with a filing officer.

(19) "Salary" means the highest salary to which any candidate for a particular office would, if elected, be entitled during the first year of incumbency.

History: 1973 c. 334; 1975 c. 93, 199; 1977 c. 187, 427; 1979 c. 260, 263; 1979 c. 328 ss. 12 to 28, 146; 1979 c. 355 s. 31; 1983 a. 484, 491; 1985 a. 303; 1987 a. 370, 391; 1989 a. 192; 1993 a. 112; 1999 a. 83; 2001 a. 103, 109.

It may be appropriate to consider context in determining whether a communication "expressly advocates" within the meaning of sub.(16) (a) 1. The Elections Board's attempt to apply a context-based standard of express advocacy was an unfair attempt at retroactive rule-making, without any express statutory grant of authority, and thus, a violation of due process. *Elections Board v. Wisconsin Manufacturers & Commerce*, 227 Wis. 2d 650, 597 N.W.2d 721 (1999), 98-0596.

The term "political purposes" is not restricted to acts of express advocacy, but encompasses many acts undertaken to influence an election, including making contributions to an election campaign. Contributions may be in-kind, as well as in cash, and campaign organizations are required to report the receipt of in-kind contributions. *Wisconsin Coalition for Voter Participation, Inc. v. State Elections Board*, 231 Wis. 2d 670, 605 N.W.2d 654 (Ct. App. 1999), 99-2574.

Subs. (9) and (16), 1975 stats., [now subs. (10) and (16)] are constitutional only if narrowly construed to apply only to acts of express advocacy of the election or defeat of an identified candidate or referendum result. 65 Atty. Gen. 145.

11.02 Determination of filing officer. Except where the filing of duplicate reports or statements is specifically required by

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law, each person, committee or group subject to s. 11.05 shall have one filing officer. Such officer shall be determined as follows:

(1) The "filing officer" for each candidate for state office and for each committee which or individual who is acting in support of or in opposition to any candidate for state office is the board.

(2) The "filing officer" for each committee which or individual who is acting in support of or in opposition to any candidates for state and local offices is the board.

(3) Except as provided in sub. (3e), the "filing officer" for each candidate for local office and for each committee which or individual who is acting in support of or in opposition to any candidate for local office, but not any candidate for state office, is the clerk of the most populous jurisdiction for which any candidate who is supported or opposed seeks office.

(3e) The "filing officer" for each candidate for municipal judge elected under s. 755.01 (4) and for each committee which or individual who is acting in support of or in opposition to such a candidate, but not any candidate for state office, is the county clerk or board of election commissioners of the county having the largest portion of the population in the jurisdiction served by the judge.

(3m) The "filing officer" for an individual who or committee which supports or opposes an effort to circulate and file a petition to recall an individual who holds an office is the filing officer for candidates for that office.

(4) The "filing officer" for each group which or individual who is acting in support of or in opposition to any statewide referendum is the board.

(5) The "filing officer" for each group which or individual who is acting in support of or in opposition to any statewide and local referenda is the board.

(6) The "filing officer" for each group which or individual who is acting in support of or in opposition to any local referendum, but not any statewide referendum, is the clerk of the most populous jurisdiction in which any referendum being supported or opposed is conducted.

(7) If the jurisdiction under sub. (3) or (6) is a school district, the appropriate clerk is the school district clerk.

History: 1975 c. 93; 1983 a. 491; 1985 a. 225, 303; 1999 a. 182.

11.03 Nonapplicability. (1) Elections for the positions of presidential elector and convention delegate are not subject to ss. 11.05 to 11.23 and 11.26 to 11.29.

(2) Except as otherwise expressly provided, this chapter does not apply to any candidate for national office acting exclusively in support of the candidate's own campaign, with respect to such activities only.

(3) Except as otherwise expressly provided, this chapter does not apply to any individual or committee acting exclusively in support of or in opposition to any of the following:

(a) Candidates for national office.

(b) Other individuals and committees exclusively supporting or opposing candidates for national office.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328; 1983 a. 27; 1993 a. 184; 1995 a. 225; 1999 a. 182.

11.04 Registration and voting drives. Except as provided in s. 11.25 (2) (b), ss. 11.05 to 11.23 and 11.26 do not apply to non-partisan campaigns to increase voter registration or participation at any election that are not directed at supporting or opposing any specific candidate, political party, or referendum.

History: 1973 c. 334; 1979 c. 328.

11.05 Registration of political committees, groups and individuals. (1) COMMITTEES AND GROUPS. Except as provided in s. 9.10 (2) (d), every committee other than a personal campaign committee, and every political group subject to registration under s. 11.23 which makes or accepts contributions, incurs obligations or makes disbursements in a calendar year in an aggregate amount in excess of \$25 shall file a statement with the appropriate filing

officer giving the information required by sub. (3). In the case of any committee other than a personal campaign committee, the statement shall be filed by the treasurer. A personal campaign committee shall register under sub. (2g) or (2r).

NOTE: Sub. (1) was renumbered (1) (a) and 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.

(1) (a) Except as provided in s. 9.10 (2) (d), every committee, other than a personal campaign committee, that makes or accepts contributions, incurs obligations or makes disbursements in a calendar year in an aggregate amount in excess of \$25 shall file a statement with the appropriate filing officer giving the information required by sub. (3). In the case of any committee other than a personal campaign committee, the statement shall be filed by the treasurer. A personal campaign committee shall register under sub. (2g).

(b) Every political group subject to registration under s. 11.23 that makes or accepts contributions, incurs obligations, or makes disbursements in a calendar year in an aggregate amount in excess of \$100 shall file a statement with the appropriate filing officer giving the information required by sub. (3).

NOTE: Par. (b) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(2) INDIVIDUALS. Except as provided in s. 9.10 (2) (d), every individual, other than a candidate or agent of a candidate, who accepts contributions, incurs obligations, or makes disbursements in a calendar year in an aggregate amount in excess of \$25 shall file a statement with the appropriate filing officer giving the information required by sub. (3). An individual who guarantees a loan on which an individual, committee or group subject to a registration requirement defaults is not subject to registration under this subsection solely as a result of such default.

NOTE: Sub. (2) was renumbered (2) (a) and 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.

(a) Except as provided in s. 9.10 (2) (d), every individual, other than a candidate or agent of a candidate, who accepts contributions, incurs obligations, or makes disbursements with respect to one or more elections for state or local office in a calendar year in an aggregate amount in excess of \$25 shall file a statement with the appropriate filing officer giving the information required by sub. (3). An individual who guarantees a loan on which an individual, committee or group subject to a registration requirement defaults is not subject to registration under this subsection solely as a result of such default.

(b) Every individual who accepts contributions, incurs obligations, or makes disbursements with respect to one or more referenda in a calendar year in an aggregate amount in excess of \$100 shall file a statement with the appropriate filing officer giving the information required by sub. (3).

NOTE: Par. (b) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(2g) CANDIDATES AND PERSONAL CAMPAIGN COMMITTEES. Every candidate as defined in s. 11.01 (1) shall file a registration statement with the appropriate filing officer giving the information required by sub. (3). If a candidate appoints another person as campaign treasurer the candidate's registration statement shall be cosigned by the candidate and the candidate's appointed treasurer. A candidate who receives no contributions and makes no disbursements shall file such statement as provided in s. 11.10 (1) but need not appoint a campaign treasurer or designate a campaign

depository account until the first contribution is received or disbursement made.

(2r) GENERAL REPORTING EXEMPTIONS. Any person, committee or group, other than a committee or individual required to file an oath under s. 11.06 (7), who or which does not anticipate accepting contributions, making disbursements or incurring obligations in an aggregate amount in excess of \$1,000 in a calendar year and does not anticipate accepting any contribution or contributions from a single source, other than contributions made by a candidate to his or her own campaign, exceeding \$100 in that year may indicate on its registration statement that the person, committee or group will not accept contributions, incur obligations or make disbursements in the aggregate in excess of \$1,000 in any calendar year and will not accept any contribution or contributions from a single source, other than contributions made by a candidate to his or her own campaign, exceeding \$100 in such year. Any registrant making such an indication is not subject to any filing requirement if the statement is true. The registrant need not file a termination report. A registrant not making such an indication on a registration statement is subject to a filing requirement. The indication may be revoked and the registrant is then subject to a filing requirement as of the date of revocation, or the date that aggregate contributions, disbursements or obligations for the calendar year exceed \$1,000, or the date on which the registrant accepts any contribution or contributions exceeding \$100 from a single source, other than contributions made by a candidate to his or her own campaign, during that year, whichever is earlier. If the revocation is not timely, the registrant violates s. 11.27 (1).

NOTE: Sub. (2r) is renumbered s. 11.06 (2m) (a) and amended eff. 7-1-03 by 2001 Wis. 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.

(3) REQUIRED INFORMATION. The statement of registration shall include, where applicable:

(a) The name and mailing address of the committee, group or individual.

(c) In the case of a committee, a statement as to whether the committee is a personal campaign committee, a political party committee, a legislative campaign committee, a support committee or a special interest committee.

NOTE: Par. (c) was amended eff. 7-1-03 by 2001 Wis. Act 109 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.

(c) In the case of a committee, a statement as to whether the committee is a personal campaign committee, a political party committee, a support committee or a special interest committee.

(e) The name and mailing address of the campaign treasurer and any other custodian of books and accounts. Unless otherwise directed by the registrant on the registration form and except as otherwise provided in this chapter or any rule of the board, all mailings which are required by law or by rule of the board shall be sent to the treasurer at the treasurer's address indicated upon the form.

(f) The name, mailing address, and position of other principal officers, including officers and members of the finance committee, if any.

(h) The nature of any referendum which is supported or opposed.

(L) The name and address of the campaign depository account and of any other institution where funds are kept and the account number of the depository account and of each additional account and safety deposit box used.

(m) In the case of a personal campaign committee, the name of the candidate on whose behalf the committee was formed or intends to operate and the office or offices that the candidate seeks.

NOTE: Par. (m) was created eff. 7-1-03 by 2001 Wis. 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.

(n) In the case of a labor organization, separate segregated fund under s. 11.38 (1) (a) 2. or conduit established by a labor organization, a statement as to whether the organization is incorporated, and if so, the date of incorporation and whether or not such incorporation is under ch. 181.

(o) In the case of a legislative campaign committee, a statement signed by the leader of the party in the house for which the committee is established attesting to the fact that the committee is the only authorized legislative campaign committee for that party in that house.

NOTE: Par. (o) was repealed eff. 7-1-03 by 2001 Wis. 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.

(p) In the case of a support committee, a statement signed by the individual on whose behalf the committee intends to operate affirming that the committee is the only committee authorized to operate on his or her behalf, unless the committee files a statement under s. 11.06 (7).

(r) In the case of a candidate or personal campaign committee of a candidate, the telephone number or numbers and a facsimile transmission number or electronic mail address, if any, at which the candidate may be contacted.

NOTE: Par. (r) was created eff. 7-1-03 by 2001 Wis. 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.

(3m) VACANCIES IN NOMINATION. Any personal campaign committee of an independent candidate for partisan office or a candidate for nonpartisan county or municipal office may file with its registration statement a list of the members of the committee, in addition to those specified in sub. (3) (e) and (f), who shall be recognized by the official or agency with whom the candidate's nomination papers are filed for the purpose of filling a vacancy in nomination in the event of the candidate's death. The board shall provide a place on the statement for such designations.

(4) REFERENDUM REGISTRATION. Every committee under this chapter which in addition operates as a political group must register under this section as a group. Every group which in addition operates as a political committee must register under this section as a committee. Except in the case of a personal campaign committee, an organization which operates as both a committee and a group and which has the same filing officer for both operations may file a single registration statement under this section.

(5) CHANGE OF INFORMATION. Any change in information previously submitted in a statement of registration shall be reported by the registrant to the appropriate filing officer within 10 days following the change. This period does not apply in case of change of an indication made under sub. (2r), which shall be reported no later than the date that a registrant is subject to a filing requirement under sub. (2r). Any such change may be reported only by the individual or by the officer who has succeeded to the position of an individual who signed the original statement; but in the case of a personal campaign committee, a candidate or campaign treasurer may report a change in the statement except as provided in s. 11.10 (2), and in the case of any other committee or group, the chief executive officer or treasurer indicated on the statement may report a change. If a preexisting support committee is adopted by a candidate as his or her personal campaign committee, the candidate shall file an amendment to the committee's

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statement under this subsection indicating that all information contained in the statement is true, correct and complete.

NOTE: Sub. (5) 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.

(5) CHANGE OF INFORMATION. Any change in information previously submitted in a statement of registration shall be reported by the registrant to the appropriate filing officer within 10 days following the change. This period does not apply in case of change of an indication made under s. 11.06 (2m), which shall be reported no later than the date that a registrant is subject to a filing requirement under s. 11.06 (2m). Any such change may be reported only by the individual or by the officer who has succeeded to the position of an individual who signed the original statement; but in the case of a personal campaign committee, a candidate or campaign treasurer may report a change in the statement except as provided in s. 11.10 (2), and in the case of any other committee or group, the chief executive officer or treasurer indicated on the statement may report a change. If a preexisting support committee is adopted by a candidate as his or her personal campaign committee, the candidate shall file an amendment to the committee's statement under this subsection indicating that all information contained in the statement is true, correct and complete.

(5m) CERTIFICATION. Every statement and every change made in a statement filed under this section shall contain a certification signed by the individual filing the statement that all information contained in the statement is true, correct and complete.

(6) CONTRIBUTION OR DISBURSEMENT PROHIBITED. Except as provided in subs. (7) and (13), no person, committee or group subject to a registration requirement may make any contribution or disbursement from property or funds received prior to the date of registration under this section.

(7) CHANGE IN STATUS OF NEW REGISTRANT. Notwithstanding sub. (6), any individual or organization who or which has received property or funds which were not intended for political purposes in connection with an election for state or local office at the time of receipt may make contributions or disbursements from such property or funds in connection with an election for state or local office if the individual or organization complies with applicable provisions of sub. (1), (2) or (2g) as soon as such intent changes. For purposes of s. 11.06 (1), all property or funds which are in a registrant's possession on the date of registration under this section shall be treated as received on the date that such intent changes so that the property or funds are to be used for political purposes in connection with an election for state or local office.

(8) CERTAIN INTRA-REGISTRANT TRANSFERS EXEMPT. If an organization which is not organized exclusively for political purposes makes a contribution from its own property or funds to a committee or group, affiliated with the organization, which is organized exclusively for political purposes, and the contributing organization receives no contribution from a single source in excess of \$20 in the aggregate during any calendar year, and it makes no contributions or disbursements and incurs no obligations other than to make the transactions specified in this subsection, then no registration requirement applies to the contributing organization.

(9) CONDUITS. (a) For purposes of this chapter, every individual who and every committee or group which deposits a contribution in an account at a financial institution as defined in s. 705.01 (3) is considered to receive and accept the contribution.

NOTE: Sub. (9) (title) is repealed and recreated 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: DEPOSIT OF CONTRIBUTIONS; CONDUITS.

(b) An individual who or a committee or group which receives a contribution of money and transfers the contribution to another individual, committee or group while acting as a conduit is not subject to registration under this section unless the individual, committee or group transfers the contribution to a candidate or a

personal campaign, legislative campaign, political party or support committee.

NOTE: Par. (b) 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.

(b) An individual who or a committee or group which receives a contribution of money and transfers the contribution to another individual, committee, or group while acting as a conduit is not subject to registration under this section unless the individual, committee, or group transfers the contribution to a candidate or a personal campaign, political party, or support committee.

(10) CERTAIN ACTIVITY BY SPOUSES EXEMPT. For purposes of compliance with the registration requirements of this section a husband and wife acting jointly for political purposes shall be considered an "individual" rather than a "committee".

(11) EXEMPTION FOR INDIRECT POLITICAL ACTIVITY. If any individual makes only those disbursements and incurs only those obligations which are exempted from reporting under s. 11.06 (2), or if any committee or group makes no contributions, and makes only those disbursements and incurs only those obligations which are exempted from reporting under s. 11.06 (2), then no registration requirement under this section applies to that individual, committee or group.

(12) TIME OF REGISTRATION; ACCEPTANCE OF UNLAWFUL CONTRIBUTIONS. (a) Except as authorized under sub. (13), a candidate shall comply with sub. (2g) no later than the time that he or she becomes a candidate as defined in s. 11.01. Except as authorized in sub. (13), no candidate or agent of a candidate may accept any contribution or contributions at any time when the candidate is not registered under this section.

(b) Except as authorized under sub. (13), a committee, group or individual other than a candidate or agent of a candidate shall comply with sub. (1) or (2) no later than the 5th business day commencing after receipt of the first contribution by such committee, group or individual, and before making any disbursement. No committee, group or individual, other than a candidate or agent of a candidate, may accept any contribution or contributions exceeding \$25 in the aggregate during a calendar year at any time when the committee, group or individual is not registered under this section except within the initial 5-day period authorized by this paragraph.

NOTE: Par. (b) 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.

(b) Except as authorized under sub. (13), a committee, group or individual other than a candidate or agent of a candidate shall comply with sub. (1) or (2) no later than the 5th business day commencing after receipt of the first contribution by such committee, group or individual, and before making any disbursement. No committee, group or individual, other than a candidate or agent of a candidate, may accept any contribution or contributions exceeding the amount specified in sub. (1) or (2) during a calendar year at any time when the committee, group or individual is not registered under this section except within the initial 5-day period authorized by this paragraph.

(13) BANK ACCOUNT AND POSTAL BOX; EXEMPTION. An individual, committee or group does not violate this section by accepting a contribution and making a disbursement in the amount required to rent a postal box, or in the minimum amount required by a bank or trust company to open a checking account, prior to the time of registration, if the disbursement is properly reported on the first report submitted under s. 11.20 after the date that the individual, committee or group is registered, whenever a reporting requirement applies to the registrant.

NOTE: Sub. (13) 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.

(13) **BANK ACCOUNT AND POSTAL BOX; EXEMPTION.** An individual, committee or group does not violate this section by accepting a contribution and making a disbursement in the amount required to rent a postal box, or in the minimum amount required by a bank or trust company to open a checking account, prior to the time of registration, if the disbursement is properly reported on the first report submitted under s. 11.20 or 11.21 (16) after the date that the individual, committee or group is registered, whenever a reporting requirement applies to the registrant.

History: 1973 c. 334; 1975 c. 93, 199, 200; 1977 c. 427; 1979 c. 328; 1979 c. 355 s. 241; 1981 c. 314 s. 146; 1983 a. 484; 1985 a. 303 ss. 7 to 15r, 86; 1987 a. 370, 391, 403; 1989 a. 192; 2001 a. 109; 2003 a. 321.

Cross Reference: See also ss. EIBd 6.02 and 6.04, Wis. adm. code.

11.055 Filing fees. (1) Except as provided in sub. (3), each individual who, or committee, group or corporation that, is required to register with the board under s. 11.05 or 11.38 (1) shall annually pay a filing fee of \$100 to the board.

(2) Except as provided in s. 11.19 (1), an individual who, or committee, group or corporation that, is subject to sub. (1) shall pay the fee specified in sub. (1) together with the continuing report filed under s. 11.20 (4) in January of each year. If an individual, committee, group or corporation registers under s. 11.05 or changes status so that sub. (1) becomes applicable to the individual, committee, group or corporation during a calendar year, the individual, committee, group or corporation shall pay the fee for that year with the filing of the individual's, committee's, group's or corporation's registration statement under s. 11.05 or at any time before the change in status becomes effective.

(3) Subsection (1) does not apply to a candidate or personal campaign committee. Subsection (1) does not apply to any registrant under s. 11.05 for any year during which the registrant does not make disbursements exceeding a total of \$2,500.

History: 1997 a. 27.

11.06 Financial report information; application; funding procedure. (1) **CONTENTS OF REPORT.** Except as provided in subs. (2), (3) and (3m) and ss. 11.05 (2r) and 11.19 (2), each registrant under s. 11.05 shall make full reports, upon a form prescribed by the board and signed by the appropriate individual under sub. (5), of all contributions received, contributions or disbursements made, and obligations incurred. Each report shall contain the following information, covering the period since the last date covered on the previous report, unless otherwise provided:

NOTE: Sub. (1)(intro.) 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.

(1) **CONTENTS OF REPORT.** Except as provided in subs. (2), (2m), and (3m) and s. 11.19 (2), each registrant under s. 11.05 shall make full reports, upon a form prescribed by the board and signed by the appropriate individual under sub. (5), of all contributions received, contributions or disbursements made, and obligations incurred. Each report shall contain the following information, covering the period since the last date covered on the previous report, unless otherwise provided:

(a) An itemized statement giving the date, full name and street address of each contributor who has made a contribution in excess of \$20, or whose contribution if \$20 or less aggregates more than \$20 for the calendar year, together with the amount of the contribution and the cumulative total contributions made by that contributor for the calendar year.

(b) The occupation and name and address of the principal place of employment, if any, of each individual contributor whose cumulative contributions for the calendar year are in excess of \$100.

(c) The name and address of each registrant from which a transfer of funds was received or to which a transfer of funds was made, together with the date and amount of such transfer, and the cumulative total for the calendar year.

(cm) If a candidate wishes to make disbursements using contributions that are not subject to the restriction under s. 11.24 (1w) and that are exempt from the limitations under s. 11.26 (9), as pro-

vided under s. 11.26 (9m), a separate schedule itemizing those contributions that the candidate intends to use to make disbursements that are exempt from those limitations. The separate schedule may include contributions previously reported by the candidate and, if so, shall indicate the amounts and dates on which those contributions were reported as received.

NOTE: Par. (cm) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(d) An itemized statement of other income in excess of \$20, including interest, returns on investments, rebates and refunds received.

(dm) A separate schedule itemizing those contributions that were transferred to the registrant by a conduit, together with the name and address of the conduit, the date and amount of each transfer, and the cumulative total amount transferred to the registrant by the conduit for the calendar year.

NOTE: Par. (dm) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(e) An itemized statement of contributions over \$20 from a single source donated to a charitable organization or to the common school fund, with the full name and mailing address of the donee.

NOTE: Par. (e) 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.

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

(f) An itemized statement of each loan of money made to the registrant for a political purpose in an aggregate amount or value in excess of \$20, together with the full name and mailing address of the lender; a statement of whether the lender is a commercial lending institution; the date and amount of the loan; the full name and mailing address of each guarantor, if any; the original amount guaranteed by each guarantor; and the balance of the amount guaranteed by each guarantor at the end of the reporting period.

(g) An itemized statement of every disbursement exceeding \$20 in amount or value, together with the name and address of the person to whom the disbursement was made, and the date and specific purpose for which the disbursement was made.

(h) An itemized statement of every obligation exceeding \$20 in amount or value, together with the name of the person or business with whom the obligation was incurred, and the date and the specific purpose for which each such obligation was incurred.

(i) A statement of totals during the reporting period of contributions received and disbursements made, including transfers made to and received from other registrants, other income, loans, and contributions donated as provided in par. (e).

(j) In the case of a committee or individual filing an oath under sub. (7), a separate schedule showing for each disbursement which is made independently of a candidate, other than a contribution made to that candidate, the name of the candidate or candidates on whose behalf or in opposition to whom the disbursement is made, indicating whether the purpose is support or opposition.

(jm) A copy of any separate schedule prepared or received pursuant to an escrow agreement under s. 11.16 (5). A candidate or personal campaign committee receiving contributions under such an agreement and attaching a separate schedule under this para-

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graph may indicate the percentage of the total contributions received, disbursements made and exclusions claimed under s. 11.31 (6) without itemization, except that amounts received from any contributor pursuant to the agreement who makes any separate contribution to the candidate or personal campaign committee during the calendar year of receipt as indicated in the schedule shall be aggregated and itemized if required under par. (a) or (b).

(k) A statement of the balance of obligations incurred as of the end of the reporting period.

(L) A statement of cumulative totals for the calendar year of contributions made, contributions received, and disbursements made, including transfers of funds made to or received from other registrants.

(m) A statement of the cash balance on hand at the beginning and end of the reporting period.

(1m) SURPLUS CAMPAIGN MATERIALS. Notwithstanding sub. (1) (a) and (g), a registrant need not provide an itemized statement of a contribution or disbursement of surplus materials acquired in connection with a previous campaign of the registrant for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if the materials were previously reported as a contribution or disbursement by that registrant.

(2) DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS. Notwithstanding sub. (1), if a disbursement is made or obligation incurred by an individual other than a candidate or by a committee or group which is not primarily organized for political purposes, and the disbursement does not constitute a contribution to any candidate or other individual, committee or group, the disbursement or obligation is required to be reported only if the purpose is to expressly advocate the election or defeat of a clearly identified candidate or the adoption or rejection of a referendum. The exemption provided by this subsection shall in no case be construed to apply to a political party, legislative campaign, personal campaign or support committee.

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.

(2) DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS. Notwithstanding sub. (1), if a disbursement is made or obligation incurred by an individual other than a candidate, or by a committee or group which is not primarily organized for political purposes, for a purpose other than to make a communication described in s. 11.01 (16) (a) 3., and the disbursement does not constitute a contribution to any candidate or other individual, committee or group, the disbursement or obligation is required to be reported only if the purpose is to expressly advocate the election or defeat of a clearly identified candidate or the adoption or rejection of a referendum. The exemption provided by this subsection shall in no case be construed to apply to a political party, personal campaign or support committee.

(2m) GENERAL REPORTING EXEMPTIONS. (a) Any person, committee or group, other than an individual or committee required to file an oath under sub. (7), who or which does not anticipate accepting contributions, making disbursements or incurring obligations in an aggregate amount in excess of \$1,000 in a calendar year and does not anticipate accepting any contribution or contributions from a single source, other than contributions made by a candidate to his or her own campaign, exceeding \$100 in that year may indicate on its registration statement that the person, committee or group will not accept contributions, incur obligations or make disbursements in the aggregate in excess of \$1,000 in any calendar year and will not accept any contribution or contributions from a single source, other than contributions made by a candidate to his or her own campaign, exceeding \$100 in any calendar year. Any registrant making such an indication is not subject to any filing requirement if the statement is true. The registrant need not file a termination report. A registrant not making such an indication on a registration statement is subject to a filing requirement. The indication may be revoked and the registrant is then subject to a filing requirement as of the date of revocation, or the date that aggregate contributions, disbursements or obliga-

tions for the calendar year exceed \$1,000, or the date on which the registrant accepts any contribution or contributions exceeding \$100 from a single source, other than contributions made by a candidate to his or her own campaign, during any calendar year, whichever is earlier.

NOTE: Sub. (2m) (title) and (a) are shown as renumbered from s. 11.05 (2r) and amended eff. 7-1-03 by 2001 Wis. Act 109. 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.

(b) Any individual or committee who or which is required to file an oath under sub. (7), who or which accepts contributions, makes disbursements, or incurs obligations for the purpose of supporting or opposing one or more candidates for state office, and who or which does not anticipate accepting contributions, making disbursements, or incurring obligations in an aggregate amount in excess of \$1,000 in a calendar year and does not anticipate accepting any contribution or contributions from a single source exceeding \$100 in that year may indicate on its registration statement that the individual or committee will not accept contributions, incur obligations, or make disbursements in the aggregate in excess of \$1,000 in any calendar year and will not accept any contribution or contributions from a single source exceeding \$100 in any calendar year. Any registrant making such an indication is not subject to any filing requirement if the statement is true. The registrant need not file a termination report. A registrant not making such an indication on a registration statement is subject to a filing requirement. The indication may be revoked and the registrant is then subject to a filing requirement as of the date of revocation, or the date on which aggregate contributions, disbursements, or obligations for the calendar year exceed \$1,000, or the date on which the registrant accepts any contribution or contributions exceeding \$100 from a single source during any calendar year, whichever is earlier.

NOTE: Par. (b) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(c) Any individual or committee who or which is required to file an oath under sub. (7), who or which accepts contributions, makes disbursements, or incurs obligations for the purpose of supporting or opposing one or more candidates for local office but not for the purpose of supporting or opposing any candidate for state office, and who or which does not anticipate accepting contributions, making disbursements, or incurring obligations in an aggregate amount in excess of \$100 in a calendar year may indicate on its registration statement that the individual or committee will not accept contributions, incur obligations, or make disbursements in the aggregate in excess of \$100 in any calendar year and will not accept any contribution or contributions from a single source, other than contributions made by a candidate to his or her own campaign, exceeding \$100 in any calendar year. Any registrant making such an indication is not subject to any filing requirement if the statement is true. The registrant need not file a termination report. A registrant not making such an indication on a registration statement is subject to a filing requirement. The indication may be revoked and the registrant is then subject to a filing requirement as of the date of revocation, or the date that aggregate contributions, disbursements, or obligations for the calendar year exceed \$100, whichever is earlier.

NOTE: Par. (c) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(d) If a revocation by a registrant under this subsection is not timely, the registrant violates s. 11.27 (1).

NOTE: Par. (d) was created eff. 7-1-03 by 2001 Wis. Act 109. However, the treatment by 2002 Wis. Act 109 was held to be unconstitutional and void by the United States District Court for the Western District of Wisconsin in *Wisconsin Realtors Assoc. v. Ponto*, Case # 02-C-424-C.

(3) NONRESIDENT REPORTING. (a) In this subsection, "nonresident registrant" means a registrant who or which does not maintain an office or street address within this state.

(b) Notwithstanding sub. (1), a nonresident registrant shall report on a form prescribed by the board the applicable information under sub. (1) concerning:

NOTE: Par. (b) (intro.) 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.

(b) A nonresident registrant that makes a report under sub. (1) shall ensure that the report separately states information under sub. (1) concerning all of the following, in a manner prescribed by the board:

1. Contributions, including transfers and loans, and other income received from sources in this state.

2. Disbursements made and obligations incurred with respect to an election for state or local office in this state.

(c) If a nonresident registrant is registered for campaign finance reporting purposes with the federal elections commission or with the filing officer or agency of another state, the registrant shall indicate on the report the name and address of each filing officer or agency with which a copy of its campaign finance reports is filed.

(3m) FEDERAL CANDIDATE COMMITTEE REPORTING. (a) In this subsection, "federal candidate committee" means an authorized committee of a candidate for the U.S. senate or house of representatives from this state designated by the candidate under 2 USC 432 (e).

(b) As provided in s. 11.05 (1) and (2g), a federal candidate committee shall file a registration statement with the appropriate filing officer if required by s. 11.05 (1) or (2g).

(c) Notwithstanding sub. (1), a federal candidate committee need not file any reports with the appropriate filing officer under s. 11.20 for any period covered in a report filed with the federal election commission if the board receives a copy of that report.

(3r) STATE-FEDERAL POLITICAL PARTY REPORTING. (a) In this subsection, "federal account committee" means a committee of a state political party organization which makes contributions to candidates for national office and is registered with the federal election commission.

(b) As provided in s. 11.05 (1), a federal account committee shall file a registration statement with the appropriate filing officer if required by s. 11.05 (1).

(c) Notwithstanding sub. (1), a federal account committee which makes contributions to a state political party committee need not file reports with the appropriate filing officer under s. 11.20 for any period covered in a report filed with the federal election commission if the board receives a copy of that report and the federal account committee makes no contributions to any other committee which or individual who is required to register under s. 11.05 (1), (2) or (2g).

(3w) NATIONAL POLITICAL PARTY REPORTING. (a) In this subsection, "national political party committee" means a national committee as defined in 2 USC 431 (14).

(b) As provided in s. 11.05 (1), a national political party committee shall file a registration statement with the appropriate filing officer if required by s. 11.05 (1).

(c) Notwithstanding sub. (1), a national political party committee need not file reports with the appropriate filing officer under s. 11.20 for any period covered in a report filed with the federal election commission.

(4) WHEN TRANSACTIONS REPORTABLE. (a) A contribution is received by a candidate for purposes of this chapter when it is under the control of the candidate or campaign treasurer, or such person accepts the benefit thereof. A contribution is received by an individual, group or committee, other than a personal campaign committee, when it is under the control of the individual or the committee or group treasurer, or such person accepts the benefit thereof.

(b) Unless it is returned or donated within 15 days of receipt, a contribution must be reported as received and accepted on the date received. This subsection applies notwithstanding the fact that the contribution is not deposited in the campaign depository account by the closing date for the reporting period as provided in s. 11.20 (8).

NOTE: Par. (b) 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.

(b) Unless it is returned or donated within 15 days of receipt, a contribution must be reported as received and accepted on the date received. This paragraph applies notwithstanding the fact that the contribution is not deposited in a campaign depository account by the closing date for a reporting period as provided in s. 11.20 (8) or the reporting deadline provided in s. 11.21 (16).

(c) All contributions received by any person acting as an agent of a candidate or treasurer shall be reported by such person to the candidate or treasurer within 15 days of receipt. In the case of a contribution of money, the agent shall transmit the contribution to the candidate or treasurer within 15 days of receipt.

(d) A contribution, disbursement or obligation made or incurred to or for the benefit of a candidate is reportable by the candidate or the candidate's personal campaign committee if it is made or incurred with the authorization, direction or control of or otherwise by prearrangement with the candidate or the candidate's agent.

(e) Notwithstanding pars. (a) to (e), receipt of contributions by registrants under s. 11.05 (7) shall be treated as received in accordance with that subsection.

(5) REPORT MUST BE COMPLETE. A registered individual or treasurer of a group or committee shall make a good faith effort to obtain all required information. The first report shall commence no later than the date that the first contribution is received and accepted or the first disbursement is made. Each report shall be filed with the appropriate filing officer on the dates designated in s. 11.20. The individual or the treasurer of the group or committee shall certify to the correctness of each report. In the case of a candidate, the candidate or treasurer shall certify to the correctness of each report. If a treasurer is unavailable, any person designated as a custodian under s. 11.05 (3) (e) may certify to the correctness of a report.

NOTE: Sub. (5) 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.

(5) REPORT MUST BE COMPLETE. A registered individual or treasurer of a group or committee shall make a good faith effort to obtain all required information. The first report shall commence no later than the date that the first contribution is received and accepted or the first disbursement is made. Each report shall be filed with the appropriate filing officer on the dates designated in s. 11.20 and, if the registrant files reports under s. 11.21 (16), at the times specified in s. 11.21 (16). The individual or the treasurer of the group or committee shall certify to the correctness of each report. In the case of a candidate, the candidate or treasurer shall certify to the correctness of each report. If a treasurer is unavailable, any person designated as a custodian under s. 11.05 (3) (e) may certify to the correctness of a report.

(6) PURPOSE OF DISBURSEMENTS. An individual, group or committee which is registered under s. 11.05 may make disbursements for any lawful political purpose.

(7) OATH FOR INDEPENDENT DISBURSEMENTS. (a) Every committee, other than a personal campaign committee, which and

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every individual, other than a candidate who desires to make disbursements during any calendar year, which are to be used to advocate the election or defeat of any clearly identified candidate or candidates in any election shall before making any disbursement, except within the amount authorized under s. 11.05 (1) or (2), file with the registration statement under s. 11.05 a statement under oath affirming that the committee or individual does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported, that the committee or individual does not act in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported, that the committee or individual does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who benefits from a disbursement made in opposition to a candidate, and that the committee or individual does not act in concert with, or at the request or suggestion of, any candidate or agent or authorized committee of a candidate who benefits from a disbursement made in opposition to a candidate. A committee which or individual who acts independently of one or more candidates or agents or authorized committees of candidates and also in cooperation or upon consultation with, in concert with, or at the request or suggestion of one or more candidates or agents or authorized committees of candidates shall indicate in the oath the names of the candidate or candidates to which it applies.

(b) A committee or individual required to file an oath under this subsection shall file the oath at the time of registration under s. 11.05 or the time the committee or individual becomes subject to this subsection, whichever is later. The committee or individual shall file an amendment to the oath whenever there is a change in the candidate or candidates to whom it applies. A committee or individual shall refile the oath for each calendar year in which the committee or individual proposes to make disbursements specified in this subsection, no later than January 31 of that calendar year.

(c) Any individual who or committee which falsely makes an oath under par. (a), or any individual, committee or agent of an individual or committee who or which carries on any activities with intent to violate an oath under par. (a) is guilty of a violation of this chapter.

(7m) INDEPENDENT DISBURSEMENTS; CHANGE IN STATUS. (a) If a committee which was registered under s. 11.05 as a political party committee or legislative campaign committee supporting candidates of a political party files an oath under sub. (7) affirming that it does not act in cooperation or consultation with any candidate who is nominated to appear on the party ballot of the party at a general or special election, that the committee does not act in concert with, or at the request or suggestion of, such a candidate, that the committee does not act in cooperation or consultation with such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, and that the committee does not act in concert with, or at the request or suggestion of, such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, the committee filing the oath may not make any contributions in support of any candidate of the party at the general or special election or in opposition to any such candidate's opponents exceeding the amounts specified in s. 11.26 (2), except as authorized in par. (c).

NOTE: Par. (a) 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.

(a) If a committee which was registered under s. 11.05 as a political party committee supporting candidates of a political party files an oath under sub. (7) affirming that it does not act in cooperation or consultation with any candidate who is nominated to appear on the party ballot of the party at a general or special election, that the committee does not act in concert with, or at the request or suggestion of, such a candidate, that the committee does not act in cooperation

or consultation with such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, and that the committee does not act in concert with, or at the request or suggestion of, such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, the committee filing the oath may not make any contributions in support of any candidate of the party at the general or special election or in opposition to any such candidate's opponents exceeding the applicable amounts specified in s. 11.26 (2) and (2m), except as authorized in par. (c).

(b) If the committee has already made contributions in excess of the amounts specified in s. 11.26 (2) at the time it files an oath under sub. (7), each candidate to whom contributions are made shall promptly return a sufficient amount of contributions to bring the committee in compliance with this subsection and the committee may not make any additional contributions in violation of this subsection.

NOTE: Par. (b) 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.

(b) If the committee has already made contributions in excess of the applicable amounts specified in s. 11.26 (2) or (2m) at the time it files an oath under sub. (7), each candidate to whom contributions are made shall promptly return a sufficient amount of contributions to bring the committee in compliance with this subsection and the committee may not make any additional contributions in violation of this subsection.

(c) A committee filing an oath under sub. (7) which desires to change its status to a political party committee or legislative campaign committee may do so as of December 31 of any even-numbered year. Section 11.26 does not apply to contributions received by such a committee prior to the date of the change. Such a committee may change its status at other times only by filing a termination statement under s. 11.19 (1) and reregistering as a newly organized committee under s. 11.05.

NOTE: Par. (c) 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.

(c) A committee filing an oath under sub. (7) which desires to change its status to a political party committee may do so as of December 31 of any even-numbered year. Section 11.26 does not apply to contributions received by such a committee prior to the date of the change. Such a committee may change its status at other times only by filing a termination statement under s. 11.19 (1) and reregistering as a newly organized committee under s. 11.05.

(8) RETURN OF CONTRIBUTIONS. A registrant may return a contribution at any time, before or after acceptance. If a contribution is accepted contrary to law, the subsequent return does not constitute a defense to a violation.

(9) SHORT FORM. The board shall prescribe a simplified, short form for compliance with this section by a registrant who has not engaged in any financial transaction since the last date included on the registrant's preceding financial report.

(10) REFERENDUM REPORTING SEPARATED. If a committee which operates as a political group has filed a single registration statement, any report of that committee which concerns activities being carried on as a political group under this chapter shall contain separate itemization of such activities, whenever itemization is required.

(11) REPORTING OF CONDUIT CONTRIBUTIONS. (a) A conduit transferring a contribution of money shall, in writing, identify itself to the transferee as a conduit and report to the transferee of each contribution transferred by it the information about the original contributor required for reporting purposes under sub. (1) (a) and (b) at the time the contribution is transferred. The conduit shall include the information in its report under s. 11.12 (5) or 11.20 for the date on which the contribution is received and transferred.

(b) Each filing officer shall place a copy of any report received under par. (a) in the file of the conduit and the file of the transferee.

(bm) The board shall prescribe a separate schedule for reporting under sub. (1) by transferees of contributions transferred by conduits.

NOTE: Par. (bm) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(c) A contribution of money received from a conduit, accompanied by the information required under par. (a), is considered to be a contribution from the original contributor.

(12) VALUATION OF OPINION POLL OR VOTER SURVEY RESULTS.

(a) In this subsection:

1. "Election period" means the period between December 1 and the date of the spring election, the period between June 1 and the day of the general election in any even-numbered year or the period between the first day for circulation of nomination papers and the day of a special election for any state office.

2. "Initial recipient" means the individual who or committee which commissions a public opinion poll or voter survey.

3. "Results" means computer output or a written or verbal analysis of polling or survey data.

4. "Voter survey" includes the acquisition of information which identifies voter attitudes concerning candidates or issues.

(b) If a candidate or committee receives a contribution consisting of the results of an opinion poll or voter survey during the first 15 days after the results are received by the initial recipient, or if a candidate or committee receives a contribution consisting of the results of an opinion poll or voter survey for which the initial recipient received the results during an election period, the contribution shall be valued for purposes of sub. (1) at the full share of the overall cost of the poll or survey which is allocable to each candidate, including a candidate for national office, receiving the results.

(c) If the results are received 16 to 60 days following receipt by the initial recipient, and if the initial recipient did not receive the results during an election period, the contribution shall be valued at 50% of the amount allocated to an initial recipient of the same results.

(d) If the results are received 61 to 180 days after receipt by the initial recipient, and if the initial recipient did not receive the results during an election period, the contribution shall be valued at 5% of the amount allocated to an initial recipient of the same results.

(e) If the results are received more than 180 days after receipt by the initial recipient, and if the initial recipient did not receive the results during an election period, no amount need be allocated.

(f) If the results of an opinion poll or voter survey are contributed to more than one recipient, the value of the poll or survey, as adjusted under pars. (c) to (e), shall be apportioned to each recipient receiving the results by one of the methods specified in this paragraph selected by the contributor. Each recipient shall report one of the following, in accordance with instructions received from the contributor:

1. That share of the overall cost of the poll or survey which is allocable to the recipient, based upon the cost allocation formula of the polling or survey firm from which the results are purchased. Under this method the size of the sample, the population of the area in which the recipient conducts political activities, the number of computer column codes, the extent of computer tabulations, and the extent of written analysis and verbal consultation, if applicable, may be used to determine the shares.

2. An amount computed by dividing the overall cost of the poll or survey equally among recipients receiving the results.

3. A proportion of the overall cost of the poll or survey equal to the proportion that the number of question results received by the recipient bears to the total number of question results received by all recipients.

(g) If the contributor makes a subsequent contribution of the results of an opinion poll or voter survey after initial apportionment of the value under par. (f), the contributor shall report to the recipient a value for the contribution determined in good faith, considering the value to other recipients, as adjusted under pars. (c) to (e). In such case, the total value of the contributor's aggregate contributions may exceed the original cost of the poll or survey.

(h) A contributor of opinion poll or voter survey results shall maintain records sufficient to support the valuation of the contribution and shall inform the recipient of the value of the contribution.

History: 1973 c. 334; 1975 c. 93 ss. 47 to 53, 119 (2); 1975 c. 199; 1979 c. 263, 328; 1985 a. 303; 1987 a. 370; 1989 a. 192; 1995 a. 16 s. 2; 2001 a. 109.

Cross Reference: See also ss. EIBd 6.04 and 6.05, Wis. adm. code. The term "political purposes" is not restricted to acts of express advocacy, but encompasses many acts undertaken to influence an election, including making contributions to an election campaign. Contributions may be in-kind, as well as in cash, and campaign organizations are required to report the receipt of in-kind contributions. Wisconsin Coalition for Voter Participation, Inc. v. State Elections Board, 231 Wis. 2d 670, 605 N.W.2d 654 (Ct. App. 1999), 99-2574.

The board should not exercise the power of administrative review of minor party exemptions based on a reasonable probability of the minor parties' contributors being subjected to threats, harassment, or reprisals. 65 Atty. Gen. 145.

A minor political party that historically has been the object of harassment by government officials and private parties cannot be required to disclose the identities of contributors and recipients of campaign disbursements. *Brown v. Socialist Workers '74 Campaign Comm.* 459 U.S. 87 (1982).

The reporting requirements of sub. (1) may not constitutionally be applied to Socialist Workers' Party contributors. *Wisconsin Socialist Workers. 1976 Campaign Committee v. McCann*, 433 F. Supp. 540.

11.07 Designation of agent by nonresident individuals, committees and groups.

(1) Every nonresident committee or group making contributions and every nonresident individual, committee or group making disbursements exceeding \$25 cumulatively in a calendar year within this state shall file name, mailing and street address and the name and the mailing and street address of a designated agent within the state with the office of the secretary of state. An agent may be any adult individual who is a resident of this state. After any change in the name or address of such agent the new address or name of the successor agent shall be filed within 30 days. Service of process in any proceeding under this chapter or ch. 12, or service of any other notice or demand may be made upon such agent.

NOTE: Sub. (1) 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.

(1) Every nonresident committee or group making contributions and every nonresident individual, committee or group making disbursements exceeding the amount specified in s. 11.05 (1) or (2) in a calendar year within this state shall file the name, mailing and street address and the name and the mailing and street address of a designated agent within the state with the office of the secretary of state. An agent may be any adult individual who is a resident of this state. After any change in the name or address of such agent the new address or name of the successor agent shall be filed within 30 days. Service of process in any proceeding under this chapter or ch. 12, or service of any other notice or demand may be made upon such agent.

(2) During any period within which any individual or organization under sub. (1) fails to appoint or maintain in this state a registered agent, or whenever any such registered agent cannot with reasonable diligence be found at the street address listed on the registration, the secretary of state shall be an agent and representative of such individual or organization upon whom any process, notice or demand may be served. Service on the secretary of state of any such process, notice or demand against any such individual or organization shall be made by delivering to and leaving with the secretary of state, or with any clerk having charge of the secretary's office, duplicate copies of such process, notice or demand. If any process, notice or demand is served on the secretary of state, he or she shall immediately cause one of such copies to be forwarded by registered mail, addressed to such individual, committee or group at its mailing address as the same appears in the records of the secretary of state. The time within which the

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defendant may demur or answer does not start to run until 10 days after the date of such mailing.

(3) The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section that shows the date and hour of service and the date of mailing. The certificate of the secretary of state that a summons and complaint, notice of object of action, or any notice or demand required or permitted by law was served upon the secretary of state and that the same was mailed by the secretary of state as required by law, shall be evidence of service upon the secretary of state. If the address of the individual, committee, or group is not known or readily ascertainable, mailing is dispensed with, and a copy of the process shall be published as a class 1 notice, under ch. 985, in the county in which the last-known registered agent was located or, if unknown, in Dane County.

(4) Nothing in this section limits or affects the right to serve any process, notice or demand required or permitted by law to be served upon a nonresident individual or organization in any other manner permitted by law.

(5) Any campaign treasurer or individual who knowingly receives a contribution made by an unregistered nonresident in violation of this section may not use or expend such contribution but shall immediately return it to the source or at the option of the campaign treasurer or individual, donate the contribution to a charitable organization or to the common school fund.

NOTE: Sub. (5) 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.

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

(6) For purposes of this section, a nonresident individual or organization is one who or which does not maintain an office or street address within the state.

History: 1973 c. 334; 1975 c. 93, 199; 1991 a. 316; 2001 a. 103, 109.

11.08 Reports by party committees. Every committee of a political party which is required to file statements and reports under this chapter shall file all statements and reports with the board. A state committee of a political party may be designated by a congressional, legislative, county or local party committee as its reporting agent for purposes of this chapter, but such designation does not permit combination of reports. If any committee is so designated, the treasurer of the state committee shall so inform the board.

History: 1973 c. 334; 1975 c. 93; 1979 c. 328.

Cross Reference: See also s. EIBd 6.04, Wis. adm. code.

11.09 Duplicate reports required in certain cases.

(3) Each registrant whose filing officer is the board, who or which makes disbursements in connection with elections for offices which serve or referenda which affect only one county or portion thereof, except a candidate, personal campaign committee, political party committee or other committee making disbursements in support of or in opposition to a candidate for state senator, representative to the assembly, court of appeals judge or circuit judge, shall file a duplicate original of each financial report filed with the board with the county clerk or board of election commissioners of the county in which the elections in which the registrant participates are held. Such reports shall be filed no later than the dates specified under s. 11.20 (2) and (4) for the filing of each report with the board.

NOTE: Sub. (3) 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.

(3) Each registrant whose filing officer is the board, who or which makes disbursements in connection with elections for offices which serve or referenda which affect only one county or portion thereof, except a candidate, personal campaign committee, political party committee or other committee making disbursements in support of or in opposition to a candidate for state senator, representative to the assembly, court of appeals judge or circuit judge, shall file a duplicate original of each financial report filed with the board with the county clerk or board of election commissioners of the county in which the elections in which the registrant participates are held. Such reports shall be filed no later than the dates specified under s. 11.20 (2) and (4) for the filing of each report with the board. This subsection does not apply to a registrant who or which files reports under s. 11.21 (16).

(4) In every case where a duplicate report is filed by the board or by any person under sub. (3), the board shall transmit a certified duplicate copy of the registration statement to each county clerk or board of election commissioners with whom a duplicate report is filed.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 32, 328; 1983 a. 27; 1985 a. 303; 2001 a. 109.

11.10 Campaign treasurers and campaign depositories.

(1) Each candidate in an election shall appoint one campaign treasurer. Except as provided in s. 11.14 (3), each candidate shall designate one campaign depository account within 5 business days after the candidate receives his or her first contribution and before the candidate makes or authorizes any disbursement in behalf of his or her candidacy. If a candidate adopts a preexisting support committee as his or her personal campaign committee, the candidate shall make such designation within 5 business days of adoption. The person designated as campaign treasurer shall be the treasurer of the candidate's personal campaign committee, if any. The candidate may appoint himself or herself or any other elector as campaign treasurer. A registration statement under s. 11.05 (2g) or (2r) must be filed jointly by every candidate and his or her campaign treasurer. The candidate does not qualify for ballot placement until this requirement is met. Except as authorized under s. 11.06 (5), the campaign treasurer or candidate shall certify as to the correctness of each report required to be filed, and the candidate bears the responsibility for the accuracy of each report for purposes of civil liability under this chapter, whether or not the candidate certifies it personally.

NOTE: Sub. (1) 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.

(1) Each candidate in an election shall appoint one campaign treasurer. Except as provided in s. 11.14 (3), each candidate shall designate one campaign depository account within 5 business days after the candidate receives his or her first contribution and before the candidate makes or authorizes any disbursement in behalf of his or her candidacy. If a candidate adopts a preexisting support committee as his or her personal campaign committee, the candidate shall make such designation within 5 business days of adoption. The person designated as campaign treasurer shall be the treasurer of the candidate's personal campaign committee, if any. The candidate may appoint himself or herself or any other elector as campaign treasurer. A registration statement under s. 11.05 (2g) must be filed jointly by every candidate and his or her campaign treasurer. The candidate does not qualify for ballot placement until this requirement is met. Except as authorized under s. 11.06 (5), the campaign treasurer or candidate shall certify as to the correctness of each report required to be filed, and the candidate bears the responsibility for the accuracy of each report for purposes of civil liability under this chapter, whether or not the candidate certifies it personally.

(2) A candidate may remove a campaign treasurer at any time. In case of the death, resignation or removal of a campaign treasurer, the candidate shall designate a successor and shall file the successor's name and address with the appropriate filing officer as provided in s. 11.05 (5). Until the successor's name and address is filed, the candidate shall be deemed his or her own campaign treasurer.

(3) Every committee shall appoint a treasurer. Every individual under s. 11.06 (7) shall be deemed his or her own treasurer. No disbursement may be made or obligation incurred by or on behalf of a committee without the authorization of the treasurer or desig-

nated agents. No contribution may be accepted and no disbursement may be made or obligation incurred by any committee at a time when there is a vacancy in the office of treasurer.

(4) No candidate may establish more than one personal campaign committee. Such committee may have subcommittees provided that all subcommittees have the same treasurer, who shall be the candidate's campaign treasurer. The treasurer shall deposit all funds received in the campaign depository account. Any committee which is organized or acts with the cooperation of or upon consultation with a candidate or agent or authorized committee of a candidate, or which acts in concert with or at the request or suggestion of a candidate or agent or authorized committee of a candidate is deemed a subcommittee of the candidate's personal campaign committee.

(5) Candidates for governor and lieutenant governor of the same political party may receive contributions and make disbursements for both candidates from either depository.

History: 1973 c. 334; 1975 c. 93, 199, 200; 1979 c. 328; 1985 a. 303 ss. 22, 86; 2001 a. 109.

11.12 Campaign contributions and disbursements; reports. (1) (a) No contribution may be made or received and no disbursement may be made or obligation incurred by a person or committee, except within the amount authorized under s. 11.05 (1) and (2), in support of or in opposition to any specific candidate or candidates in an election, other than through the campaign treasurer of the candidate or the candidate's opponent, or by or through an individual or committee registered under s. 11.05 and filing a statement under s. 11.06 (7).

(b) The requirement of par. (a) may not be construed to apply to a contribution which is made to a continuing political party or ongoing committee, other than a personal campaign committee, provided that the contribution is not made in contravention of s. 11.16 (4) or 11.24.

(c) Where a disbursement is made in support of more than one candidate, the disbursement shall be apportioned reasonably among the candidates.

(d) Paragraph (a) does not apply to disbursements and obligations which are exempted from reporting under s. 11.06 (2).

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

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.

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

(3) All contributions, disbursements and incurred obligations exceeding \$10 shall be recorded by the campaign or committee treasurer or the individual under s. 11.06 (7). He or she shall maintain such records in an organized and legible manner, for not less than 3 years after the date of an election in which the registrant participates. If a report is submitted under s. 11.19 (1), the records may be transferred to a continuing committee or to the appropriate filing officer for retention. Records shall include the information required under s. 11.06 (1).

(4) Each registrant shall report contributions, disbursements and incurred obligations in accordance with s. 11.20. Except as permitted under s. 11.06 (2), (3) and (3m), each report shall contain the information which is required under s. 11.06 (1).

NOTE: Sub. (4) 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 Dis-

trict 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.

(4) Each registrant shall report contributions, disbursements and incurred obligations in accordance with s. 11.20 and, if the registrant files reports under s. 11.21 (16), in accordance with s. 11.21 (16). Except as permitted under s. 11.06 (2) and (3m), each report shall contain the information which is required under s. 11.06 (1).

(5) If any contribution or contributions of \$500 or more cumulatively are received by a candidate for state office or by a committee or individual from a single contributor later than 15 days prior to a primary or election such that it is not included in the preprimary or preelection report submitted under s. 11.20 (3), the treasurer of the committee or the individual receiving the contribution shall within 24 hours of receipt inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the treasurer's or individual's next regular report. For purposes of the reporting requirement under this subsection, only contributions received during the period beginning with the day after the last date covered on the preprimary or preelection report, and ending with the day before the primary or election need be reported.

NOTE: Sub. (5) 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.

(5) If any contribution or contributions of \$500 or more cumulatively are received by a candidate for state office or by a committee or individual from a single contributor later than 15 days prior to a primary or election such that it is not included in the preprimary or preelection report submitted under s. 11.20 (3), the treasurer of the committee or the individual receiving the contribution shall within 24 hours of receipt inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the treasurer's or individual's next regular report. For purposes of the reporting requirement under this subsection, only contributions received during the period beginning with the day after the last date covered on the preprimary or preelection report, and ending with the day before the primary or election need be reported. This subsection does not apply to a registrant who or which is required to file daily reports under s. 11.21 (16).

(6) If any disbursement of more than \$20 cumulatively is made to advocate the election or defeat of a clearly identified candidate by an individual or committee later than 15 days prior to a primary or election in which the candidate's name appears on the ballot without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or opposed, and not in concert with or at the request or suggestion of such a candidate, agent or committee, the individual or treasurer of the committee shall, within 24 hours of making the disbursement, inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the next regular report of the individual or committee under s. 11.20. For purposes of this subsection, disbursements cumulate beginning with the day after the last date covered on the preprimary or preelection report and ending with the day before the primary or election. Upon receipt of a report under this subsection, the filing officer shall, within 24 hours of receipt, mail a copy of the report to all candidates for any office in support of or opposition to one of whom a disbursement identified in the report is made.

NOTE: Sub. (6) is renumbered (6) (a) and 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.

(6) (a) Except as otherwise provided in this paragraph, if any individual or committee incurs one or more obligations or makes one or more disbursements in an amount exceeding \$250 cumulatively to advocate the election or defeat of a clearly identified candidate later than 15 days prior to a primary or election in which the candidate's name appears on the ballot without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or opposed, and not in concert with or at the request or suggestion

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of such a candidate, agent or committee, the individual or treasurer of the committee shall, within 24 hours after incurring the obligation or making the disbursement, inform the appropriate filing officer. The report shall include the information required under s. 11.06 (1) and shall be made in such manner as the board may prescribe. For purposes of this paragraph, obligations and disbursements cumulate beginning with the day after the last date covered on the preprimary or preelection report and ending with the day before the primary or election and disbursements made for the purpose of payment of obligations that were previously reported are not included in determining the cumulative amount of obligations and disbursements. Upon receipt of a report identifying any obligation or disbursement under this paragraph, the filing officer shall, within 24 hours of receipt, mail a copy of the report to all candidates for any office in support of or opposition to one of whom an obligation is incurred or a disbursement is made. This paragraph does not apply to disbursements or obligations required to be reported under par. (am) or to an individual or committee that is required to file daily reports under s. 11.21 (16).

(am) If any committee identified under s. 11.05 (3) (c) as a special interest committee, other than a conduit, incurs one or more obligations or makes one or more disbursements in an amount exceeding \$250 cumulatively for the purpose of making a communication advocating the election or defeat of a clearly identified candidate for a state office specified in s. 11.31 (1) (a) to (de), (e), or (f) at a general, special, or spring election, or any such candidate who seeks a nomination for such an office at a primary election, or for the purpose of making a communication described in s. 11.01 (16) (a) 3., during the period beginning on the 60th day preceding the applicable general, special, or spring election and ending on the date of that election, without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or whose opponent is opposed, and not in concert with or at the request or suggestion of such a candidate, agent, or committee, the committee shall, within 24 hours after incurring the obligation or making the disbursement, file a report with the board, with each candidate whose name is certified to appear on the ballot for the office in connection with which the obligation is incurred or disbursement is made, and the political party under whose name each such candidate appears on the ballot, if any, on a form prescribed by the board for this purpose. The form shall provide a place for reporting obligations separately from disbursements. The report shall be filed by electronic mail or facsimile transmission. The report shall include the information required under s. 11.06 (1) and shall be made in such manner as the board may prescribe. For purposes of this paragraph, obligations and disbursements cumulate beginning with the 60th day preceding the applicable general, special, or spring election and ending with the day before that election and disbursements made for the purpose of payment of obligations that were previously reported are not included in determining the cumulative amount of disbursements. Within 24 hours after receiving a report under this paragraph, the board shall notify each candidate whose name is certified to appear on the ballot for the office in connection with which the reported disbursement is made. The board shall provide this notification by electronic mail, facsimile transmission, telephone, or posting on the Internet.

NOTE: Par. (am) was created eff. 7-1-03 by 2001 Wis. Act 109, 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.

(c) No committee identified under s. 11.05 (3) (c) as a special interest committee, other than a conduit, may make any disbursement or incur any obligation to which this paragraph applies unless the committee has filed a report under this paragraph concerning that disbursement or obligation. This paragraph applies only to disbursements made or obligations incurred for the purpose of making a communication during the period beginning on the 30th day preceding a general, special, or spring election and ending on the date of that election advocating the election or defeat of a clearly identified candidate for a state office specified in s. 11.31 (1) (a) to (de), (e), or (f) at that election, or any such candidate who seeks a nomination for such an office at a primary election, or for the purpose of making a communication described in s. 11.01 (16) (a) 3., without cooperation or consultation with a can-

didate or agent or authorized committee of a candidate who is supported or whose opponent is opposed, and not in concert with or at the request or suggestion of such a candidate, agent, or committee. Each report required under this paragraph shall be filed with the board, with each candidate whose name is certified to appear on the ballot for the office in connection with which the communication is to be made, and the political party under whose name each such candidate appears on the ballot, if any, on a form prescribed by the board for this purpose. The report shall be filed by electronic mail or facsimile transmission no later than the 31st day preceding the general, special, or spring election to which the report relates. Each report shall indicate the name of each candidate who will be supported or whose opponent will be opposed and the total disbursements to be made and obligations incurred for such a purpose with regard to that candidate during the period covered by the report. Within 24 hours after receiving a report, the board shall notify each candidate whose name is certified to appear on the ballot for the office in connection with which the communication is to be made of the report. The board shall provide this notification by electronic mail, facsimile transmission, telephone, or posting on the Internet.

NOTE: Par. (c) was created eff. 7-1-03 by 2001 Wis. Act 109, 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.

(d) All information reported by a registrant under this subsection shall also be included in the next regular report of the registrant under s. 11.20.

NOTE: Par. (d) was created eff. 7-1-03 by 2001 Wis. Act 109, 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.

(8) If a candidate for a state office specified in s. 11.31 (1) (a) to (de), (e), or (f) who does not accept a grant under s. 11.50 incurs any obligation or makes any disbursement after that candidate has accumulated cash in his or her campaign depository account or has incurred obligations or made disbursements during his or her campaign, as defined in s. 11.31 (7), exceeding a combined total of 75% of the amount specified in s. 11.31 (1) (a) to (de), (e), or (f), as adjusted under s. 11.31 (9), for the office that the candidate seeks, that candidate or the candidate's personal campaign committee shall file special weekly or daily reports with the board, with each candidate whose name is certified to appear on the ballot for the office in connection with which the disbursement is made or incurred, and with the political party under whose name each such candidate appears on the ballot, if any, by electronic mail or facsimile transmission. The reports shall cover the period beginning with that date or the day after the primary election or the date that a primary would be held, if required, whichever is later, and ending on the date of the election at which the candidate seeks office. The candidate or committee shall file weekly reports for each week, if any, beginning on the day after the primary or, if no primary is held, the day that the primary would be held if a primary were required to be held, and shall file daily reports for each day beginning on the 30th day before the election through the day before the election at which the candidate seeks office. Each report shall contain information pertaining to each disbursement made and obligation incurred by the candidate or committee. Each report shall include the same information concerning each disbursement and obligation that is required to be reported for other disbursements and obligations under s. 11.06 (1). Each report shall list obligations separately from disbursements. The information shall be included also in the next regular report of the candidate or committee under s. 11.20. Within 24 hours after receiving a report under this subsection, the board shall notify each candidate whose name is certified to appear on the ballot for the office in connection with which the reported disbursement is

made or obligation is incurred of the report. The board shall provide this notification by telephone, electronic mail, facsimile transmission, or posting on the Internet.

NOTE: Sub. (8) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(9) Whenever a report or notice is required to be filed with a political party or candidate by electronic mail or facsimile transmission under this section, the report shall be filed at the address or number of the political party committee or candidate or personal campaign committee, respectively, as shown on the registration statement of the political party committee, candidate, or committee. If no electronic mail address or facsimile transmission number is shown, the report shall be filed at the mailing address shown on the statement.

NOTE: Sub. (9) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

History: 1973 c. 334; 1975 c. 93 ss. 59, 60, 119 (2); 1975 c. 199; 1979 c. 328 ss. 53, 69 to 71, 146; 1985 a. 303; 1987 a. 370; 2001 a. 109.

Cross Reference: See also s. EIBd 6.05, Wis. adm. code.

11.14 Deposit of contributions. (1) Except as authorized in sub. (3) and as required by s. 11.16 (5), all funds received by a campaign or committee treasurer, group treasurer, candidate or other individual shall be deposited in a single separate campaign depository account designated in accordance with s. 11.16 (3). Except as authorized in sub. (3), the depository account shall be established by every candidate no later than the time prescribed in s. 11.10 (1), and by every other individual or treasurer no later than the 5th business day after becoming subject to a registration requirement under s. 11.05 and before making any disbursement. The depository account may be established with any financial institution as defined in s. 705.01 (3) which is authorized to transact business in this state. The individual or treasurer shall deposit all funds received in the campaign depository account no later than the 5th business day commencing after receipt. This subsection does not apply to a contributor committee or group which is exempt from registration under s. 11.05 (8).

(2) After deposit in the campaign depository account, funds may be transferred by the individual or treasurer to any other account which is identified under s. 11.05 (3) (L). Funds deposited in other accounts may not be directly disbursed but shall be returned to the depository account for purposes of disbursement. Disbursements shall be made only in accordance with s. 11.16 (3).

(3) Notwithstanding sub. (1), any candidate who serves as his or her own campaign treasurer and who is authorized to make and makes an indication on his or her registration statement under s. 11.05 (2r) that he or she will not accept contributions, make disbursements or incur obligations in an aggregate amount exceeding \$1,000 in a calendar year, and will not accept any contribution or contributions from a single source, other than contributions made by the candidate to his or her own campaign, exceeding \$100 in a calendar year, may designate a single personal account as his or her campaign depository account, and may intermingle personal and other funds with campaign funds. If a separate depository account is later established by the candidate, the candidate shall transfer all campaign funds in the personal account to the new depository account. Disbursements made from such personal account need not be identified in accordance with s. 11.16 (3).

NOTE: Sub. (3) 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.

(3) Notwithstanding sub. (1), any candidate who serves as his or her own campaign treasurer and who is authorized to make and makes an indication on his or her registration statement under s. 11.06 (2m) that he or she will not accept contributions, make disbursements or incur obligations in an aggregate amount exceeding \$1,000 in a calendar year, and will not accept any contribution or contributions from a single source, other than contributions made by the candidate to his or her own campaign, exceeding \$100 in a calendar year, may designate a single personal account as his or her campaign depository account, and may intermingle personal and other funds with campaign funds. If a separate depository account is later established by the candidate, the candidate shall transfer all campaign funds in the personal account to the new depository account. Disbursements made from such personal account need not be identified in accordance with s. 11.16 (3).

History: 1973 c. 334; 1975 c. 93; 1979 c. 328; 1985 a. 303; 2001 a. 109.

11.16 Campaign contributions and disbursements; restrictions. (1) AUTHORIZATION; LIABILITY. (a) No disbursement may be made or obligation incurred by a candidate, or by any other person or committee to advocate the election or defeat of a clearly identified candidate, other than an individual who, or a committee which, has registered under s. 11.05 and filed an oath under s. 11.06 (7), except by the campaign treasurer of the candidate or other agent designated by the candidate and acting under his or her authority.

(b) The treasurer of each committee and each individual who proposes to make a disbursement to advocate the election or defeat of a clearly identified candidate shall notify the treasurer or other agent designated under par. (a) of the candidate who is supported or whose opponent is opposed and obtain the authorization of the treasurer prior to making the disbursement. This paragraph does not apply to an individual or committee filing an oath under s. 11.06 (7) with respect to the candidate who is supported or opposed.

(c) In the event that an obligation is incurred or disbursement made by the campaign treasurer or other authorized agent of the candidate, the action is imputable to the candidate for purposes of civil liability under this chapter.

(d) This subsection does not apply to disbursements and obligations which are exempted from reporting under s. 11.06 (2).

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

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.

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

(3) FORM OF DISBURSEMENTS. Every disbursement which is made by a registered individual or treasurer from the campaign depository account shall be made by negotiable instrument. Such instrument shall bear on the face the full name of the candidate, committee, individual or group as it appears on the registration statement filed under s. 11.05 and where necessary, such additional words as are sufficient to clearly indicate the political nature of the registrant or account of the registrant. The name of a political party shall include the word "party". The instrument of each committee registered with the board and designated under s. 11.05

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(3) (c) as a special interest committee shall bear the identification number assigned under s. 11.21 (12) on the face of the instrument.

(4) **EARMARKING.** (a) The treasurer of a personal campaign committee may agree with a prospective contributor that a contribution is received to be utilized for a specific purpose not prohibited by law. Such purpose may not include a disbursement in support of or in opposition to another candidate or the transfer to an individual or committee acting in support of or in opposition to another candidate, except as authorized in an escrow agreement under s. 11.16 (5).

(b) When a contribution is made to a political party or to an individual or committee other than a candidate or the candidate's personal campaign committee, the purpose may not be specified, except that if a contribution is received pursuant to an escrow agreement for transfer to a candidate in accordance with sub. (5), the contributor may specify the recipient of the contribution and if a contribution is received by a support committee established for adoption by a candidate in accordance with ss. 11.10 (1) and 11.18, the contributor may specify that the contribution shall be utilized for support of the candidate being supported by the committee.

(c) Except for transfers of membership-related moneys between committees of the same political party and transfers made pursuant to escrow agreements authorized under sub. (5), no committee may act as a conduit for the earmarked contributions of others. Transfers of membership-related moneys between political party committees shall be treated in the same manner as other transfers.

(5) **ESCROW AGREEMENTS.** Any personal campaign committee, political party committee or legislative campaign committee may, pursuant to a written escrow agreement with more than one candidate, solicit contributions for and conduct a joint fund raising effort or program on behalf of more than one named candidate. The agreement shall specify the percentage of the proceeds to be distributed to each candidate by the committee conducting the effort or program. The committee shall include this information in all solicitations for the effort or program. All contributions received and disbursements made by the committee in connection with the effort or program shall be received and disbursed through a separate depository account under s. 11.14 (1) that is identified in the agreement. For purposes of s. 11.06 (1), the committee conducting the effort or program shall prepare a schedule in the form prescribed by the board supplying all required information under s. 11.06 (1) and items qualifying for exclusion under s. 11.31 (6) for the effort or program, and shall transmit a copy of the schedule to each candidate who receives any of the proceeds within the period prescribed in s. 11.06 (4) (c).

NOTE: Sub. (5) 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.

(5) **ESCROW AGREEMENTS.** Any personal campaign committee or political party committee may, pursuant to a written escrow agreement with more than one candidate, solicit contributions for and conduct a joint fund raising effort or program on behalf of more than one named candidate. The agreement shall specify the percentage of the proceeds to be distributed to each candidate by the committee conducting the effort or program. The committee shall include this information in all solicitations for the effort or program. All contributions received and disbursements made by the committee in connection with the effort or program shall be received and disbursed through a separate depository account under s. 11.14 (1) that is identified in the agreement. For purposes of s. 11.06 (1), the committee conducting the effort or program shall prepare a schedule in the form prescribed by the board supplying all required information under s. 11.06 (1) and items qualifying for exclusion under s. 11.31 (6) for the effort or program, and shall transmit a copy of the schedule to each candidate who receives any of the proceeds within the period prescribed in s. 11.06 (4) (c).

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328; 1985 a. 303; 2001 a. 109.
Cross Reference: See also s. EIBd 6.04, Wis. adm. code.

11.17 Treatment of loan guarantees. (1) If any person guarantees a loan to a registrant made for a political purpose, the person makes a contribution to the registrant and the registrant

incurs an obligation to the guarantor. If more than one person guarantees the same loan, the guarantors make contributions to the registrant and the registrant incurs obligations to the guarantors in equal shares, in the proportion that the number of guarantors bears to the total amount guaranteed, unless a different share is specified in the loan instrument.

(2) If a registrant reduces the unpaid balance of a loan to the registrant made for a political purpose by making a repayment to the lender or reimburses a guarantor from whom the lender has collected upon a guarantee, the amount of the guarantor's contribution and the amount of the obligation incurred by the registrant are reduced by the amount of the repayment or reimbursement. If more than one guarantor guarantees the same loan, the amounts of the guarantors' contributions and the amounts of the obligations incurred by the registrant are reduced in equal shares, in the proportion that the number of guarantors bears to the amount repaid or reimbursed, unless a different share is specified in the loan instrument.

(3) If a registrant defaults on a loan that is guaranteed, and the lender collects the amount guaranteed from the guarantor, the guarantor makes a contribution to the registrant and the registrant incurs an obligation to the guarantor in an amount equal to the amount collected by the lender from the guarantor. If more than one guarantor guarantees the same loan, the guarantors make contributions to the registrant and the registrant incurs obligations to the guarantors in equal shares, in the proportion that the number of guarantors bears to the total amount of the unpaid balance, unless a different share is specified in the loan instrument. If a registrant reports a contribution or incurred obligation in the form of a guarantee under s. 11.06 (1) at the time the guarantee is made, the registrant need not report the same contribution or incurred obligation at the time of a default and collection upon a guarantee.

(4) If a candidate secures a loan for both a political and a non-political purpose, this chapter applies only to the portion of the loan made for a political purpose.

History: 1979 c. 328; 1987 a. 370.

11.18 Support committee. (1) A committee may be organized to support the prospective candidacy of an individual. No such committee authorized under s. 11.05 (3) (p) may be organized during a period in which the individual on whose behalf the committee is organized is registered as a candidate or has a personal campaign committee registered on his or her behalf.

(2) A committee organized under sub. (1) shall register under s. 11.05 as a support committee.

(3) A support committee authorized under s. 11.05 (3) (p) may not act on behalf of more than one individual but may make a contribution to another committee. No more than one support committee authorized under s. 11.05 (3) (p) may be organized on behalf of the same individual. Any subcommittee of a support committee authorized under s. 11.05 (3) (p) shall be authorized by the individual on whose behalf the subcommittee acts. Any committee which is organized or acts with the cooperation of or upon consultation with a support committee or the individual on whose behalf a support committee is organized or which acts in concert with or at the request or suggestion of a support committee or the individual on whose behalf a support committee is organized is deemed a subcommittee of the support committee.

(4) Notwithstanding s. 11.12 (1), a support committee may make direct disbursements from its campaign depository account to pay for the expenses incurred for a political purpose to support the prospective candidacy of an individual on whose behalf it is organized during a period in which the committee is permitted to operate under sub. (1).

(5) Except as provided in s. 11.25 (2) (b), no support committee authorized under s. 11.05 (3) (p) may utilize a contribution for a purpose not authorized under sub. (1).

(6) If an individual on whose behalf a support committee is authorized to operate under s. 11.05 (3) (p) becomes a candidate, the committee shall be adopted by the candidate as his or her per-

sonal campaign committee. A support committee which files a statement under s. 11.06 (7) may not be adopted by a candidate as a personal campaign committee.

History: 1985 a. 303.

11.19 Dissolution of registrants; termination reports.

(1) Whenever any registrant disbands or determines that obligations will no longer be incurred, and contributions will no longer be received nor disbursements made during a calendar year, and the registrant has no outstanding incurred obligations, the registrant shall file a termination report with the appropriate filing officer. Such report shall indicate a cash balance on hand of zero at the end of the reporting period and shall indicate the disposition of residual funds. Residual funds may be used for any political purpose not prohibited by law, returned to the donors in an amount not exceeding the original contribution, or donated to a charitable organization or the common school fund. The report shall be filed and certified as were previous reports, and shall contain the information required by s. 11.06 (1). A registrant to which s. 11.055 (1) applies shall pay the fee imposed under that subsection with a termination report filed under this subsection. If a termination report or suspension report under sub. (2) is not filed, the registrant shall continue to file periodic reports with the appropriate filing officer, no later than the dates specified in s. 11.20. This subsection does not apply to any registrant making an indication under s. 11.05 (2r).

NOTE: Section 11.19 (title) and (1) are 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.

11.19 Carry-over of surplus funds; dissolution of registrants; termination reports. (1) Whenever any registrant disbands or determines that obligations will no longer be incurred, and contributions will no longer be received nor disbursements made during a calendar year, and the registrant has no outstanding incurred obligations, the registrant shall file a termination report with the appropriate filing officer. Such report shall indicate a cash balance on hand of zero at the end of the reporting period and shall indicate the disposition of residual funds. Residual funds may be used for any political purpose not prohibited by law, returned to the donors in an amount not exceeding the original contribution, transferred to the board for deposit in the Wisconsin election campaign fund or donated to a charitable organization or the common school fund. The report shall be filed and certified as were previous reports, and shall contain the information required by s. 11.06 (1). A registrant to which s. 11.055 (1) applies shall pay the fee imposed under that subsection with a termination report filed under this subsection. If a termination report or suspension report under sub. (2) is not filed, the registrant shall continue to file periodic reports with the appropriate filing officer, no later than the dates specified in s. 11.20 and, if the registrant files reports under s. 11.21 (16), no later than the times specified in s. 11.21 (16). This subsection does not apply to any registrant making an indication under s. 11.06 (2m).

(2) Notwithstanding sub. (1), any registrant who or which determines that obligations will no longer be incurred, contributions will no longer be made or received or disbursements made during a calendar year in an aggregate amount of more than \$1,000 may file a suspension report with the appropriate filing officer. The report shall be filed and certified as were previous reports and shall contain the information required under s. 11.06 (1). Upon receipt of a properly executed report, the registrant shall be granted a suspension of the filing requirement under s. 11.20 (9) by the appropriate filing officer. Such suspension is effective only for the calendar year in which it is granted, unless the registrant alters its status before the end of such year or files a termination report under sub. (1).

(3) In no case may a candidate or personal campaign committee file a termination or suspension report covering any period ending sooner than the date of the election in which the candidate or committee is participating.

(4) If a registrant files a termination report under sub. (1) or (2) and within 60 days thereafter receives and accepts unanticipated contributions, the registrant may file an amended termination report. An amended report supersedes the previous report. The individual who certifies to the accuracy of the report shall also cer-

tify to a statement that the amended report is filed on account of the receipt of unanticipated contributions and the failure to file a correct termination report was not intentional.

History: 1973 c. 334; 1975 c. 93; 1979 c. 328; 1985 a. 303; 1997 a. 27; 2001 a. 109.

11.20 Filing requirements. (1) All reports required by s. 11.06 which relate to activities which promote or oppose candidates for state office or statewide referenda and all reports under s. 11.08 shall be filed with the board. All reports required by s. 11.06 which relate to activities which promote or oppose candidates for local office or local referenda shall be filed with the appropriate filing officer under s. 11.02, except reports filed under s. 11.08.

NOTE: Sub. (1) 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.

(1) All reports required by s. 11.06 which relate to activities which promote or oppose candidates for state office or statewide referenda and all reports under s. 11.08 shall be filed with the board. All reports required by s. 11.06 which relate to activities which promote or oppose candidates for local office or local referenda shall be filed with the appropriate filing officer under s. 11.02, except reports filed under s. 11.08. Each registrant shall file the reports required by this section. If the registrant is subject to a requirement under s. 11.21 (16) to report electronically the same information that is reportable under this section, the registrant shall, in addition, file the reports required by this section recorded on a medium specified by the board.

(2) Preprimary and preelection reports under s. 11.06 (1) shall be received by the appropriate filing officer no earlier than 14 days and no later than 8 days preceding the primary and the election.

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.

(2) In addition to any reports required under s. 11.12 (8), each candidate who seeks office at a primary or other election, or his or her personal campaign committee, shall file a preprimary and preelection report under s. 11.06 (1), which shall be received by the appropriate filing officer no earlier than 14 days and no later than 8 days preceding the primary and the election. Each candidate who is required to file reports under s. 11.12 (8), or his or her personal campaign committee, shall file each weekly report so that the report is received by the appropriate filing officer no earlier than the day after the end of the week to which the report pertains and no later than the day after the end of that week, and shall file each daily report so that the report is received no later than the end of the day following the day to which the report pertains.

(2m) Election reports under s. 11.12 shall be received by the appropriate filing officer no earlier than 23 days and no later than 30 days after each special election, unless a continuing report is required to be filed under sub. (4) on or before the 30th day after the special election.

(2s) A registrant that is required to file reports under s. 11.12 (6) (am) shall file the reports by the date required under s. 11.12 (6) (am).

NOTE: Sub. (2s) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(2t) A registrant that is required to file reports under s. 11.12 (6) (c) shall file the reports by the date required under s. 11.12 (6) (c).

NOTE: Sub. (2t) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(3) (a) A candidate or personal campaign committee of a candidate at a primary shall file a preprimary and preelection report. If a candidate for a nonpartisan state office at an election is not

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required to participate in a primary, the candidate or personal campaign committee of the candidate shall file a preprimary report at the time prescribed in sub. (2) preceding the date specified in s. 5.02 (20) or (22) for the holding of the primary, were it to be required.

NOTE: Par. (a) 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.

(a) In addition to any reports required under s. 11.12 (8), a candidate or personal campaign committee of a candidate at a primary shall file a preprimary and preelection report. If a candidate for a nonpartisan state office at an election is not required to participate in a primary, the candidate or personal campaign committee of the candidate shall file a preprimary report at the time prescribed in sub. (2) preceding the date specified in s. 5.02 (20) or (22) for the holding of the primary, were it to be required.

(b) A candidate or personal campaign committee of a candidate at an election shall file a preelection report.

NOTE: Par. (b) 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.

(b) In addition to any reports required under s. 11.12 (8), a candidate or personal campaign committee of a candidate at an election other than a primary shall file a preelection report.

(bm) A candidate or personal campaign committee of a candidate at a special election shall file a postelection report whenever the report is required to be filed under sub. (2m).

(c) A registered committee or individual other than a candidate or personal campaign committee making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to one or more candidates for office at a primary, or supporting or opposing other committees or individuals who are engaging in such activities, shall file a preprimary and preelection report.

(d) A registered committee or individual other than a candidate or personal campaign committee making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to one or more candidates for office at an election, or supporting or opposing other committees or individuals who are engaging in such activities, shall file a preelection report.

(f) A contribution, disbursement or obligation in support of or in opposition to a candidate at a primary which is made, accepted or incurred during the period covered by the preprimary report is considered to be made, accepted or incurred in support of or in opposition to that candidate at the primary, regardless of whether the candidate is opposed at the primary.

(g) A contribution, disbursement or obligation in support of or in opposition to a candidate at an election which is made, accepted or incurred during the period covered by the preelection report is considered to be made, accepted or incurred in support of or in opposition to that candidate at the election, regardless of whether the candidate is opposed at the election.

(h) A registrant who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candidate at a primary during the period covered by the preprimary report shall file both the preprimary and preelection reports, regardless of whether the registrant engages in such activity during the period covered by the preelection report.

(i) Notwithstanding pars. (c) and (d), a registrant other than a candidate, personal campaign committee or political party committee who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candidate at a primary during the period covered by the preelection report, but does not engage in such activity during the period covered by the preprimary report, is not required to file a preprimary report.

(j) Notwithstanding pars. (c) and (d), a registrant other than a candidate, personal campaign committee or political party committee who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candidate at an election during the period covered by the report which follows the preelection report, but does not engage in such activity during the period covered by the preelection report, is not required to file a preelection report.

(k) A registered group or individual making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to a referendum appearing on a primary ballot shall file a preprimary and preelection report.

(L) A registered group or individual making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to a referendum appearing on an election ballot shall file a preelection report.

(4) Continuing reports under s. 11.06 (1) by committees or individuals supporting or opposing candidates for office, including committees of a political party, and by individuals, groups or corporations supporting or opposing a referendum shall be received by the appropriate filing officer no earlier than January 1 and no later than January 31; and no earlier than July 1 and no later than July 20. Individuals, committees, groups and corporations to which s. 11.055 (1) applies shall pay the fee imposed under that subsection with their continuing reports filed in January of each year.

(4m) An individual who or committee which supports or opposes an effort to circulate and file a petition to recall an officer shall file a report with the appropriate filing officer no later than 30 days after registration of the petitioner for recall of the officer under s. 9.10 (2) (d), if the petition has not been offered for filing within 5 days of that date, and no later than 5 days after a petition is offered for filing demanding the recall of the officer.

(5g) Notwithstanding sub. (3), a personal campaign committee which is not formed to support or oppose a candidate in a partisan primary or election need only comply with sub. (3) for purposes of a partisan primary and election if it makes a disbursement for the purpose of influencing the outcome of that primary or election in a form other than a contribution which is reported by the recipient.

(5r) Notwithstanding sub. (3), a personal campaign committee which is not formed to support or oppose a candidate in a nonpartisan primary or election need only comply with sub. (3) for the purposes of a nonpartisan primary or election if it makes a disbursement for the purpose of influencing the outcome of that primary or election in a form other than a contribution which is reported by the recipient.

(7) In the event that any report is required to be filed under this section on a nonbusiness day, it may be filed on the next business day thereafter.

NOTE: Sub. (7) 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.

(7) Except as otherwise required under s. 11.21 (16), in the event that any report is required to be filed under this chapter on a nonbusiness day, it may be filed on the next business day thereafter.

(8) Reports filed under subs. (2), (4), and (4m) shall include all contributions received and transactions made as of the end of:

NOTE: Sub. (8) (intro.) 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.

(8) Reports filed under subs. (2), (4), and (4m) and s. 11.12 (8) shall include all contributions received and transactions made as of the end of:

(a) The 15th day preceding the primary or election in the case of the preprimary and preelection report.

NOTE: Par. (a) 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.

(a) The 15th day preceding the primary or election in the case of the preprimary and preelection report under sub. (2).

(am) The Saturday preceding the due date under sub. (2) in the case of a weekly preelection report under s. 11.12 (8).

NOTE: Par. (am) was created eff. 7-1-03 by 2001 Wis. Act 109. 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.

(b) December 31 in the case of the continuing report required by January 31.

(c) June 30 in the case of the continuing report required by July 20.

(d) Five days preceding the deadline for filing of the report in the case of the report required under sub. (4m).

(e) The 22nd day following the special election in the case of the postelection report required under sub. (2m).

(9) Except as provided in ss. 11.05 (2r) and 11.19 (2), the duty to file reports under this section continues until a termination report is filed in accordance with s. 11.19.

NOTE: Sub. (9) 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.

(9) Except as provided in ss. 11.06 (2m) and 11.19 (2), the duty to file reports under this section continues until a termination report is filed in accordance with s. 11.19.

(10) (a) Where a requirement is imposed under this section for the filing of a financial report which is to be received by the appropriate filing officer no later than a certain date, the requirement may be satisfied either by actual receipt of the report by the prescribed time for filing at the office of the filing officer, or by filing a report with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no later than the date provided by law for receipt of such report.

NOTE: Par. (a) 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.

(a) Where a requirement is imposed under this section for the filing of a financial report which is to be received by the appropriate filing officer no later than a certain date, the requirement may be satisfied either by actual receipt of the report by the prescribed time for filing at the office of the filing officer, or by filing a report with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no later than the 3rd day before the date provided by law for receipt of such report.

(b) In any case where the postal service is employed by a person subject to a filing requirement as the agent for transmittal of a report, the burden is upon such person to show that a report has been filed with the postal service.

(c) It is presumed until the contrary is established that the date shown by the postal service cancellation mark on the envelope containing the report is the date that it was deposited in the mail.

(11) All reports required by this chapter shall be open to public inspection.

(12) If a candidate is unopposed in a primary or election, the obligation to file the reports required by this chapter does not cease. Except as provided in ss. 11.05 (2r) and 11.19 (2), a regis-

trant who makes or receives no contributions, makes no disbursements or incurs no obligations shall so report on the dates designated in subs. (2) and (4).

NOTE: Sub. (12) 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.

(12) If a candidate is unopposed in a primary or election, the obligation to file the reports required by this chapter does not cease. Except as provided in ss. 11.06 (2m) and 11.19 (2), a registrant who makes or receives no contributions, makes no disbursements or incurs no obligations shall so report on the dates designated in subs. (2) and (4).

(13) In the event of failure of a candidate or treasurer to file a report or statement required by this chapter by the time prescribed by law, action may be commenced against the candidate, the campaign treasurer, or the candidate's personal campaign committee, if any, or any combination of them.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328 ss. 58, 82 to 92, 146; 1981 c. 314 s. 146; 1983 a. 183, 491, 538; 1985 a. 303 ss. 32m to 37, 88; 1987 a. 370; 1989 a. 192; 1995 a. 16 s. 2; 1997 a. 27; 2001 a. 103, 109; 2003 a. 321.

Cross Reference: See also s. EIBd 6.04, Wis. adm. code.

11.21 Duties of the elections board. The board shall:

(1) Prescribe forms for making the reports, statements and notices required by this chapter. The board shall furnish forms for making reports or statements without charge to all persons who are required to file reports or statements with the board, and shall distribute or arrange for the distribution of all forms for use by other filing officers.

(2) Furnish to each registrant prescribed forms for the making of reports and statements. Forms shall be sent by 1st class mail not earlier than 21 days and not later than 14 days prior to the applicable filing deadline under s. 11.20, and addressed to the attention of the treasurer or other person indicated on the registration statement. Forms need not be sent to a registrant who has made an indication that aggregate contributions, disbursements and obligations will not exceed the amount specified under s. 11.05 (2r) or to a registrant who has been granted a suspension under s. 11.19 (2). Forms for reports shall not be sent by the board to a registrant if the registrant is required to file reports with the board in an electronic format. Whenever any notice of filing requirements under this chapter is sent to a candidate's campaign treasurer, the board shall also send a notice to the candidate if he or she has appointed a separate treasurer. Failure to receive any form or notice does not exempt a registrant from compliance with this chapter.

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.

(2) Furnish to each registrant prescribed forms for the making of reports and statements. Forms shall be sent by 1st class mail not earlier than 21 days and not later than 14 days prior to the applicable filing deadline under s. 11.20, and addressed to the attention of the treasurer or other person indicated on the registration statement. Forms need not be sent to a registrant who has made an indication that aggregate contributions, disbursements and obligations will not exceed the amount specified under s. 11.06 (2m) or to a registrant who has been granted a suspension under s. 11.19 (2). Forms for reports shall not be sent by the board to a registrant if the registrant is required to file reports with the board in an electronic format. Whenever any notice of filing requirements under this chapter is sent to a candidate's campaign treasurer, the board shall also send a notice to the candidate if he or she has appointed a separate treasurer. Failure to receive any form or notice does not exempt a registrant from compliance with this chapter.

(3) Prepare and publish for the use of persons required to file reports and statements under this chapter a manual setting forth simply and concisely recommended uniform methods of book-keeping and reporting.

(4) Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.

(5) Make the reports and statements filed with it available for public inspection and copying, commencing as soon as practica-



CLEARINGHOUSE RULES

General Information

Clearinghouse Rules are received from the state agencies in the offices of the Senate Chief Clerk and Assembly Chief Clerk. The clerk delivers them to the presiding officer of each house, who has 7 working days in which to refer them to the appropriate standing committee.

Senate Rule 46 (2)(b). Within 3 working days after the time of initial referral by the president, a proposed rule may, with consent of the chairperson of the standing committee, be withdrawn from the standing committee to which it is referred and rereferred to another standing committee. Such action does not extend the standing committee review period. Rereferral may be made at any time.

From the date of initial referral each standing committee has 30 days within which to review the proposed rule.

Upon receipt of a proposed rule by committee, the chairperson is required to notify each committee member of the referral in writing.

Each committee to which a proposed rule is referred can extend only its own review period, a request by one committee does not extend the review period for the committee in the other house. A request for a hearing or a meeting with the agency adds an additional 30 days for review from the date of the request. A copy of any such request should be sent to the Chief Clerk's office for proper entries to be made in the bill history.

Section 227.19 (4) (b) (2) states that "if a committee, by majority vote of a quorum of the committee, recommends modifications in a proposed rule, and the agency, in writing, agrees to make modifications, the review period for both committees is extended to the 10th working day following receipt by the committee of the modified proposed rule or to the expiration of the review period under subd. 1., whichever is later". The law provides that there are no limits on the number of modification agreements which may be entered into or the time within which modifications may be made. If a germane modification is made to a proposed rule within the final 10 days of the review period, the review period for both committees is extended 10 working days.

A committee may waive its jurisdiction over a proposed rule by adoption of a motion waiving the committee's jurisdiction. The waiver must be reported to the Joint Committee for Review of Administrative Rules, in writing, within two working days. This should also be reported to the Chief Clerk's office.

When making an objection to a rule, the committee must specifically base its objection on one or more of the following reasons:

- An absence of statutory authority;
- An emergency relating to public health, safety or welfare;
- A failure to comply with legislative intent;
- A conflict with state law,
- A change in circumstances since enactment of the earliest law upon which the proposed rule is based; or

- Arbitrariness and capriciousness, or imposition of an undue hardship.

When a committee in one house votes to object to a proposed rule, the chairperson should immediately notify the chairperson of the committee to which the rule was referred in the other house. Upon receipt of this notice, the review period for the second committee immediately ceases and no further action may be taken, except that the second committee may object to the proposed rule. A committee which objects must report that action to the appropriate house within two working days of taking that action. Upon receipt of that report, the presiding officer has five working days within which to refer the rule to the Joint Committee for Review of Administrative Rules.

Joint Legislative Council Rules Clearinghouse

If you have questions on proposed rules you may contact Ron Sklansky (266-1946) in the Legislative Council.

Rereferral of Clearinghouse Rules

Senate Rule 46 (2) (b) provides: Within 3 working days of the time of initial referral by the president under Senate Rule 4 (10), with consent of the chairperson, a proposed rule may be withdrawn from the standing committee to which it is referred and be rereferred to another standing committee. Such action does not extend the committee review period. Rereferral may be made at any time. A report giving the approval of the chairperson for such rereferral is required.

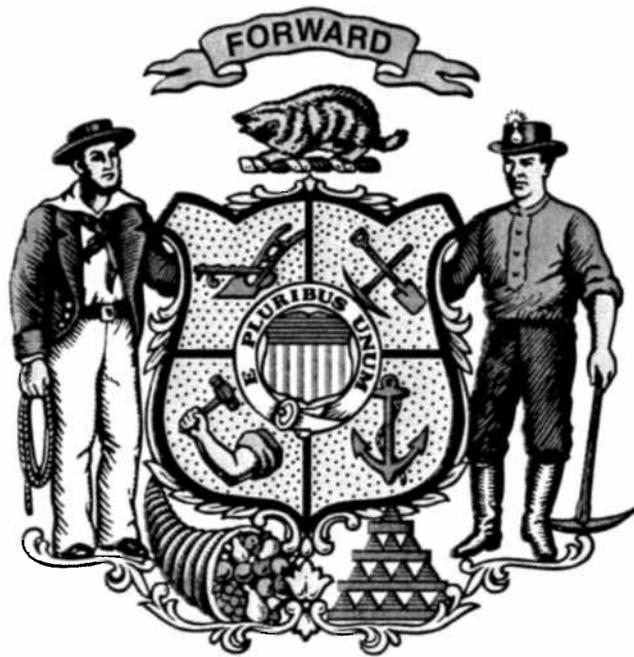
Committee Action

All action taken by a committee on a proposed rule should be reported to the Chief Clerk's office to ensure that the correct entries are being made on the rule histories. Agencies must be notified, in writing, when a committee takes action to extend the review period by either requesting a meeting with the agency or scheduling a public hearing. Copies of these agency notifications should be sent to the Chief Clerk's office.

Senate Rule 27. Committee Reports. (2) Each committee to which a proposed administrative rule is referred under rule 46 (2) (am) shall submit a report within the review period specified in section 227.19 (4) (b) of the statutes in the form specified in this rule, authenticated by the personal signature of the chairperson or cochairpersons. Whenever a committee schedules a public hearing or a meeting with an agency representative concerning a proposed rule, or whenever modifications to a proposed rule are agreed to be made or received, the committee shall submit an interim report. The form of the report shall be in the format specified by the Chief Clerk.

Disposition of Clearinghouse Rules

Clearinghouse Rules pending at the end of session are carried over into the new legislative session. They are collected for referral to the new senate standing committees. After the Legislature adjourns sine die and prior to the creation of standing committees, any time remaining for review of a rule is suspended to allow the new committee to take action on pending rules.



100 + Name & address
(formerly)

100-250 - Employer
250 + Em

Now

20 + - Name & Address

Proposed

under 100 - no name & address

100-250 - Name & address

250 + Employer name & address.

- during campaign period.

Currently

- only required to report if contribs
are over 1K

Proposed

- move it ^{up} to 2500K

Rule is
Cumulative

- Modify &

- send it back

- while legis. related