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1 **SECTION 45.** 11.50 of the statutes is repealed.

2 **SECTION 46.** 11.51 of the statutes is created to read:

3 **11.51 Clean elections fund grants. (1)** Any candidate for a state office, other
4 than the office of court of appeals judge, circuit judge, or district attorney, whose
5 name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at an
6 election may qualify to receive a grant from the clean elections fund by fulfilling the
7 requirements of this section.

8 **(2) (a)** To qualify to receive a grant from the clean elections fund, a candidate
9 shall obtain and deposit with the state treasurer the number of qualifying
10 contributions specified in this subsection, in the amount of \$5 each, each of which
11 shall be received from an elector of this state and, in the case of a candidate for
12 legislative office, an elector of the district in which the candidate seeks office. The
13 name and address of each elector making a qualifying contribution shall be identified
14 in a report filed with the board as provided in s. 11.06 (1) (a). The number of required
15 qualifying contributions for a candidate for each office is:

- 16 1. Governor, 3,000.
- 17 2. Lieutenant governor, 750.
- 18 3. Attorney general, 1,050.
- 19 4. State treasurer, 375.
- 20 5. Secretary of state, 375.
- 21 6. State superintendent, 375.
- 22 7. Justice, 450.
- 23 8. State senator, 150.
- 24 9. Representative to the assembly, 100.

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1 (b) In addition to the requirements imposed under par. (a), a candidate for a
2 state office does not qualify to receive a grant for a general or partisan special election
3 unless the candidate is the nominee of a recognized political party for that office or
4 the candidate receives at least 1 percent of the total vote cast for all candidates on
5 all ballots for the same office at the September primary, or at a special primary if a
6 special primary is held.

7 (3) Prior to notification that a candidate has qualified to receive a grant from
8 the clean elections fund under sub. (7), a candidate may accept seed money
9 contributions from individuals. The total seed money contributions accepted by a
10 candidate from one contributor, including any seed money contributions made by a
11 candidate to his or her own campaign, may not exceed \$100. The total seed money
12 contributions accepted by a candidate during the candidate's campaign, as defined
13 in s. 11.26 (17), may not exceed, in the aggregate, the following amount for the office
14 sought by candidate:

15 (a) Governor, \$50,000.

16 (b) Lieutenant governor, \$12,500.

17 (c) Attorney general, \$17,500.

18 (d) State treasurer, \$6,250.

19 (e) Secretary of state, \$6,250.

20 (f) State superintendent, \$6,250.

21 (g) Justice, \$7,500.

22 (h) State senator, \$2,500.

23 (i) Representative to the assembly, \$1,500.

24 (4) A contributor who makes a qualifying contribution may also make a seed
25 money contribution in the full amount authorized under sub. (3).

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1 (5) A candidate shall remit to the state treasurer all seed money contributions
2 received by the candidate that are unencumbered on the day the candidate receives
3 notification of qualification for a grant under sub. (7). The state treasurer shall
4 deposit all seed money contributions received under this subsection into the clean
5 elections fund.

6 (6) No candidate who accepts a grant from the clean elections fund may accept
7 any seed money contribution under sub. (3) after receiving notification of
8 qualification for a grant under sub. (7).

9 (7) To qualify to receive a grant from the clean elections fund, a candidate shall
10 file an application with the board, no later than a time specified by the board by rule,
11 in which the candidate shall affirm that he or she has not accepted and agrees not
12 to accept a contribution from any source other than a contribution required under
13 sub. (2), a contribution authorized under sub. (3), and the candidate's grant from the
14 clean elections fund during the campaign of the candidate, as defined in s. 11.31 (7).
15 If the candidate desires to receive grant payments by electronic transfer, the
16 candidate shall include in his or her application sufficient information and
17 authorization for the state treasurer to transfer payments to his or her campaign
18 depository account. The board shall notify each candidate who qualifies to receive
19 a grant from the clean elections fund as promptly as possible following qualification.

20 (8) (a) The board shall distribute primary election grants from the clean
21 elections fund to each candidate who qualifies to receive a grant under this section
22 as soon as possible preceding the date on which the primary election is held for the
23 office that the candidate seeks or the date on which the primary election would be
24 held if a primary election were required to be held.

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1 (b) The board shall distribute grants for the spring, general, and any special
 2 election from the clean elections fund to each candidate who qualifies to receive a
 3 grant under this section as soon as possible after the date of the primary election for
 4 the office sought by the candidate, or the date on which the primary election would
 5 be held if a primary election were required to be held.

6 (9) A candidate who receives a grant from the clean elections fund shall file
 7 with the board reports of all disbursements made in the manner provided under s.
 8 11.06 (1) (g), without regard to the amounts thereof.

9 (10) (a) Except as provided in par. (b) and subs. (11) to (13), a candidate who
 10 qualifies to receive a grant from the clean elections fund under this section shall
 11 receive a grant in the following amount for the office sought by the candidate and for
 12 the election specified, less the aggregate amount of contributions accepted by the
 13 candidate under sub. (3):

	<i>Office</i>	<i>Primary Election</i>	<i>Spring, General, or Special Election</i>
16	1. Governor	\$1,000,000	\$2,000,000
17	2. Lieutenant governor	250,000	500,000
18	3. Attorney general	350,000	700,000
19	4. State treasurer	125,000	250,000
20	5. Secretary of state	125,000	250,000
21	6. State superintendent	125,000	250,000
22	7. Justice	150,000	300,000
23	8. State senator	50,000	100,000
24	9. Representative to the assembly	25,000	50,000

25 (b) If a candidate does not have an opponent who has qualified to have his or
 26 her name appear on the ballot at the election for which a grant is to be applied, the
 27 candidate shall receive a grant for a primary election equal to the average total

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1 disbursements made per candidate in primary election campaign periods, as
2 determined by the board from reports filed by or on behalf of those candidates in
3 accordance with s. 11.31 (5), for the office that the candidate seeks during the 4-year
4 period preceding the date of the primary election, or a grant for a spring, general, or
5 special election equal to the average total disbursements made per candidate in
6 general and special election campaign periods, as determined by the board from
7 reports filed by or on behalf of those candidates in accordance with s. 11.31 (5), for
8 the office that the candidate seeks during the 4-year period preceding the date of the
9 spring, general, or special election, except that a candidate for the office of governor
10 shall receive a grant of \$100,000 for a primary election and a grant of \$200,000 for
11 a general election.

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

15 (b) The dollar amounts of the grants specified in sub. (10) (a) and the grants
16 specified for the office of governor in sub. (10) (b) are subject to a biennial
17 cost-of-living adjustment to be determined by rule of the board in accordance with
18 this paragraph. To determine the adjustment, the board shall, as soon as possible
19 after the end of each odd-numbered year, calculate the percentage difference
20 between the consumer price index for the 12-month period ending on December 31
21 of the preceding year and the consumer price index for calendar year 2009. For each
22 biennium, the board shall multiply the amount of each grant specified in sub. (10)
23 by the percentage difference in the consumer price indexes. The board shall then add
24 that product to the applicable grant amount under sub. (10), round each sum to the
25 nearest multiple of \$5, and adjust the amount of each grant to substitute the

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1 resulting amount. The amount so determined shall then be in effect until a
2 subsequent rule is promulgated under this paragraph. Notwithstanding s. 227.24
3 (1) (a), (2) (b), and (3), determinations under this paragraph may be promulgated as
4 an emergency rule under s. 227.24 without providing evidence that the emergency
5 rule is necessary for the public peace, health, safety, or welfare, and without a finding
6 of emergency.

7 **(12)** If any disbursement is made or any obligation to make a disbursement is
8 incurred to make a communication identified in s. 11.01 (16) (a) 3. by any person in
9 opposition to a candidate who receives a grant from the clean elections fund or in
10 support of an opponent of such a candidate whose name is certified to appear on the
11 same ballot, then the candidate who receives a grant shall receive an additional
12 grant in the total amount of the obligations incurred and the disbursements made
13 that were not previously reported as obligations, as reported to the appropriate filing
14 officer under s. 11.12 (6) (b), but not to exceed, in combination with any additional
15 grant payable to that candidate under sub. (13), 2.5 times the amount payable to the
16 candidate under sub. (10), as adjusted under sub. (11).

17 **(13)** If a candidate who receives a grant from the clean elections fund is opposed
18 on a primary or election ballot by another candidate who does not receive a grant or
19 by another candidate who the board determines has violated his or her agreement
20 under sub. (7), the candidate who receives a grant shall receive an additional grant
21 in the amount by which the disbursements made by the other candidate exceed the
22 amount of the grant payable for the office sought by the candidate in that election
23 under sub. (10), as adjusted under sub. (11), but not to exceed, in combination with
24 any additional grant payable to that candidate under sub. (12), 2.5 times the amount
25 payable to the candidate under sub. (10), as adjusted under sub. (11). If a candidate

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1 who receives a grant from the clean elections fund is opposed on a primary or election
2 ballot by more than one candidate who does not receive a grant or who the board
3 determines has violated his or her agreement under sub. (7), the amount of the grant
4 payable under this subsection is the largest amount that would be payable by reason
5 of any candidate's opposition.

6 (14) If a candidate who makes an agreement under sub. (7) does not adhere to
7 the agreement, the candidate shall forfeit an amount equivalent to any grant from
8 the clean elections fund that is provided to the candidate and the candidate may be
9 fined not more than 3 times the amount of any contributions received by the
10 candidate in his or her campaign, as defined in s. 11.26 (17), exclusive of the amount
11 of any grant or any contributions deposited under sub. (2) or received under sub. (3).

12 (15) No later than the first day of the first month beginning at least 15 days
13 after an election at which a candidate receives a grant from the clean elections fund,
14 the candidate shall return to the state treasurer any amount of the grant remaining
15 in the candidate's campaign depository account, except that a candidate who receives
16 a grant at a primary election need not return any amount under this subsection if
17 the candidate qualifies to receive a grant at the succeeding spring, general, or special
18 election.

19 (16) The board may promulgate rules required to implement this section.

20 **SECTION 47.** 14.58 (20) of the statutes is amended to read:

21 14.58 (20) ~~ELECTION CAMPAIGN~~ CLEAN ELECTIONS FUND. Make disbursements to
22 each candidate certified under s. 7.08 (2) (c) or (cm) by the elections board as eligible
23 to receive moneys a grant from the Wisconsin election campaign clean elections fund.

24 **SECTION 48.** 14.58 (20) of the statutes, as affected by 2007 Wisconsin Acts 1 and
25 (this act), is amended to read:

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1 14.58 (20) CLEAN ELECTIONS FUND. Make disbursements to each candidate
2 certified under s. 7.08 (2) (c) or (cm) by the ~~elections~~ government accountability board
3 as eligible to receive a grant from the clean elections fund.

4 **SECTION 49.** 20.510 (1) (q) of the statutes is repealed and recreated to read:

5 20.510 (1) (q) *Clean elections fund grants.* From the clean elections fund, a sum
6 sufficient to make the grants to candidates required under s. 11.51.

7 **SECTION 50.** 20.511 (1) (q) of the statutes, as affected by 2007 Wisconsin Act 1,
8 is repealed and recreated to read:

9 20.511 (1) (q) *Clean elections fund grants.* From the clean elections fund, a sum
10 sufficient to make the grants to candidates required under s. 11.51.

11 **SECTION 51.** 20.855 (4) (b) of the statutes is repealed.

12 **SECTION 52.** 20.855 (4) (ba) of the statutes is created to read:

13 20.855 (4) (ba) *Clean elections fund supplement.* A sum sufficient equal to the
14 amounts required to make the grants to candidates required under s. 11.51, to be
15 transferred to the clean elections fund.

16 **SECTION 53.** 25.17 (1) (aw) of the statutes is created to read:

17 25.17 (1) (aw) *Clean elections fund (s. 25.42);*

18 **SECTION 54.** 25.17 (1) (ys) of the statutes is repealed.

19 **SECTION 55.** 25.42 of the statutes is repealed and recreated to read:

20 **25.42 Clean elections fund.** All moneys deposited with the state treasurer
21 under s. 11.51 (2) and (5) or returned to the state treasurer under s. 11.51 (15) and
22 all moneys transferred to the clean elections fund under s. 20.855 (4) (ba) constitute
23 the clean elections fund.

24 **SECTION 56.** 71.10 (3) of the statutes, as affected by 2007 Wisconsin Act 1, is
25 repealed.

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

-2400/1dn
LRB-0901/1dn

JTK:wj:pg

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stays

February 21, 2007

Representative Pocan:

Proposed s. 11.51 (12) provides public grants to qualifying candidates to match certain disbursements made by opposing candidates who do not accept public grants. It could be asserted that this provision burdens the freedom of speech of opposing candidates in violation of the First Amendment. Although relevant case law has developed regarding this issue in the federal courts of appeal, there is no consensus among these courts on this issue. Compare, for example, *Day v. Holahan*, 34 F.3d 1356, 1360-62 (8th Cir., 1994) with *Daggett v. Commission on Governmental Ethics and Election Practices*, 205 F.3d 445, 463-65, 467-69 (1st Cir., 2000). Due to the unsettled nature of the law in this area, it is not possible to predict how a court would rule if proposed s. 11.51 (12) were challenged.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2400/1dn
JTK:wlj&cjs:jf

April 10, 2007

Representative Pocan:

Proposed s. 11.51 (12) provides public grants to qualifying candidates to match certain disbursements made by opposing candidates who do not accept public grants. It could be asserted that this provision burdens the freedom of speech of opposing candidates in violation of the First Amendment. Although relevant case law has developed regarding this issue in the federal courts of appeal, there is no consensus among these courts on this issue. Compare, for example, *Day v. Holahan*, 34 F.3d 1356, 1360-62 (8th Cir., 1994) with *Daggett v. Commission on Governmental Ethics and Election Practices*, 205 F.3d 445, 463-65, 467-69 (1st Cir., 2000). Due to the unsettled nature of the law in this area, it is not possible to predict how a court would rule if proposed s. 11.51 (12) were challenged.

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Duerst, Christina

From: Wavrunek, Glenn
Sent: Tuesday, April 10, 2007 10:00 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-2400/1 Topic: Public financing of campaigns for state office

Please Jacket LRB 07-2400/1 for the SENATE.