2007 ASSEMBLY BILL 704


AN ACT to repeal 11.31 (3m), 11.50 (4) (a), 11.50 (4) (c) and 11.50 (4) (cm); to 
renumber and amend 11.12 (6); to amend 5.02 (18), 5.62 (5), 7.08 (2) (c) and 
(cm), 7.70 (3) (e) 1., 8.16 (1), 8.16 (5), 8.35 (4) (a) 1. a. and b., 8.35 (4) (b), 8.50 
(1) (d), 8.50 (3) (b), 10.02 (3) (b) 2m., 10.06 (1) (e), 10.06 (1) (i), 11.06 (1) (a), 11.06 
(1) (g), 11.06 (1) (jm), 11.06 (2), 11.26 (2) (a), 11.26 (9) (a), 11.26 (9) (b), 11.31 (1) 
(intro.), 11.31 (2m), 11.31 (4), 11.38 (6), 11.50 (1) (a) 1., 11.50 (1) (a) 2., 11.50 (2) 
(b) 5., 11.50 (3) (a) 1., 11.50 (3) (a) 2., 11.50 (3) (b), 11.50 (4) (intro.) and chapter 
77 (title); to repeal and recreate 14.58 (20); and to create 11.01 (4m), 11.01 
(16) (a) 3., 11.05 (3) (s), 11.12 (6) (b), 11.31 (9), 11.51, 20.511 (1) (r), 20.855 (4) 
(ba), 20.855 (4) (bb), 25.17 (1) (aw), 25.421 and subchapter XIV of chapter 77 
[precedes 77.998] of the statutes; relating to: the scope of regulated activity 
under the campaign finance law, public financing of elections for certain state 
offices, imposition of a lobbying expenditure tax, providing an exemption from
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1 emergency rule procedures, granting rule-making authority, providing a
2 penalty, and making appropriations.

Analysis by the Legislative Reference Bureau

Scope of regulated activity

Currently, individuals who accept contributions, organizations that make or accept contributions, and individuals who or organizations that incur obligations or make disbursements for the purpose of influencing an election for state or local office are generally required to register with the appropriate filing officer and to file financial reports with that officer, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed.

With certain exceptions, this bill imposes registration and reporting requirements, in addition, upon any individual who and organization that, within 60 days of an election and by means of communications media, makes any communication that includes a reference to a candidate for state office, other than court of appeals judge, circuit judge, or district attorney, at that election, a state office, other than court of appeals judge, circuit judge, or district attorney, to be filled at that election, or a political party. The bill also requires an individual who or organization that becomes subject to a registration requirement by making such a communication to report, upon registration, the information that would have been required to be reported if the individual or organization had been registered with respect to any obligation incurred or disbursement made for the purpose of making such a communication prior to registration. The bill, however, does not require registration and reporting if the communication is made by a corporation, cooperative, or nonpolitical voluntary association and is limited to the corporation’s, cooperative’s, or association’s members, shareholders, or subscribers.

The change in the scope of reportable activity under the bill also applies to contribution and disbursement (spending) limitations and restrictions by causing reportable “contributions,” “obligations,” and “disbursements” to include the cost of all reportable communications.

Public financing of elections for certain state offices

Currently, a candidate for state office other than court of appeals judge, circuit judge, or district attorney may qualify to receive a grant from the Wisconsin election campaign fund for use in an election campaign. No funding is provided for primary campaigns. To qualify for a grant, a candidate must qualify to have his or her name appear on the general or spring election ballot and must have an opponent who qualifies to have his or her name appear on that ballot. In addition, a candidate for a partisan office at the general election must receive at least 6 percent of the total vote cast on all ballots at the September primary election, and a candidate for a partisan office at a special election must either represent a political party whose candidate for the office that the candidate seeks received at least 6 percent of the total vote cast for that office at the most recent general election at which the office
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was contested or must receive at least 6 percent of the total vote cast for that office
at the special election.

Currently, the maximum amount of a grant that a candidate may receive is 45
percent of the disbursement (spending) level or limit for the office that the candidate
seeks. This amount is not subject to any cost–of–living adjustment. In addition, this
amount is reduced by the total amount of contributions received by a candidate from
committees other than political party or legislative campaign committees, and it is
also possible that this amount may be reduced in a particular year if there are not
sufficient moneys in the Wisconsin election campaign fund to provide full funding for
all qualifying candidates. Grants may be used only to purchase services from a
communications medium, printing, graphic arts, or advertising services, office
supplies, or postage. A candidate must agree to abide by disbursement and
self–contribution limits to receive a grant, but this agreement does not apply if the
candidate has an opponent who could have qualified for a grant but declines to do so
and declines to file an affidavit of voluntary compliance with disbursement and
self–contribution limits. A candidate must return to the state grant moneys that are
not spent by the candidate after the date of an election.

This bill creates a new fund called the clean elections fund to provide campaign
grants to qualifying candidates for state legislative offices only. The bill retains the
Wisconsin election campaign fund to finance the campaigns of qualifying candidates
for other state offices. Under the bill, the amounts of grants that are payable to
qualifying candidates for nonlegislative offices are potentially increased. The bill
provides that a candidate for the office of state senator or representative to the
assembly may qualify to receive a grant from the clean elections fund. Separate
grants are provided for primary and election campaigns. To qualify for a grant, a
candidate must qualify to have his or her name appear on the ballot at a September
or special primary or a general or special election for which the grant money will be
used. To qualify for a grant at a general or partisan special election, a candidate must
be the nominee of a political party that currently qualifies to have its candidates
appear on a separate ballot, or in a separate column or row on the ballot, or must
receive at least 1 percent of the total vote cast on all ballots for the office that the
candidate seeks at the September primary, or at the special primary, if a special
primary is held. In addition, a candidate must raise and deposit with the state
treasurer a specified number of qualifying contributions in the amount of $5 each.
Each qualifying contribution must be received from an elector of this state and from
an elector of the district in which the candidate seeks office, and the name and
address of the contributor must be reported to the Government Accountability
Board. The number of qualifying contributions is 150 for candidates seeking the
office of state senator and 100 for candidates seeking the office of representative to
the assembly.

The bill provides that the maximum amount of a grant that a candidate may
receive is $50,000 in the primary and $100,000 in the election for a candidate seeking
the office of state senator and $25,000 in the primary and $50,000 in the election for
a candidate seeking the office of representative to the assembly, except if a candidate
has no opponent whose name is certified to appear on the ballot and except that a
candidate may receive additional grants under certain conditions. Under the bill, an unopposed candidate at a primary election receives a grant equal to the average total disbursements made per candidate in primary elections for the office that the candidate seeks during the four-year period preceding the date of the primary election. The bill also provides that an unopposed candidate at a general or special election receives a grant equal to the average total disbursements made per candidate in general and special elections for the office that the candidate seeks during the four-year period preceding the date of the general or special election. If a candidate who receives a grant is opposed by one or more candidates who could qualify for a grant but who do not file an application or otherwise fail to meet the requirements for obtaining a grant, the bill provides that the candidate who receives a grant shall receive an additional grant equal to the total maximum grant that would have been payable to that opponent or those opponents, subject to the maximum limitation on total grant amounts (see below). Grant amounts are subject to a biennial cost-of-living adjustment.

To receive a grant, a candidate must affirm that he or she has not accepted and agrees not to accept a contribution from any source other than qualifying contributions or seed money contributions, which may be accepted by a candidate before the candidate qualifies to receive a grant. The total seed money contributions accepted by a candidate from one contributor, including contributions by a candidate to his or her own campaign, may not exceed $100. The total seed money contributions accepted by a candidate from all contributors may not exceed $2,500 for a candidate seeking the office of state senator and $1,500 for a candidate seeking the office of representative to the assembly. A candidate must deposit with the Government Accountability Board any unencumbered seed money contributions held by the candidate on the day the candidate receives notification of qualification for a grant. If any person makes a disbursement (expenditure) for a communication that is reportable under the bill (see “scope of regulated activity,” above) independently of a candidate or incurs an obligation to make such a disbursement, each candidate who accepts a grant qualifies to receive an additional grant equal to the amount of the disbursements and outstanding obligations made in opposition to that candidate or in support of his or her opponent. If a candidate who accepts a grant is opposed by a candidate who does not accept a grant or who violates his or her agreement, any candidate for the same office who accepts a grant qualifies to receive an additional grant equal to the amount by which disbursements made by the other candidate exceed the original amount of the grant received by that candidate. The sum of all additional grants made to a single candidate may not exceed 2.5 times the original amount of a candidate’s grant. The bill permits grants to be spent for any lawful purpose. To facilitate matching of independent expenditures made and obligations incurred in opposition to a candidate or in support of a candidate’s opponent, the bill revises current special reporting requirements for individuals and committees making independent disbursements: instead of requiring the reporting of disbursements exceeding $20 cumulatively if they are made within 15 days of an election, the bill requires reporting of all independent disbursements made and
obligations to make independent disbursements incurred for reportable communications in support of or in opposition to a candidate.

The bill deletes the disbursement and self-contribution limitations that are currently applicable to candidates for state legislative offices who accept grants from the Wisconsin election campaign fund, as well as the provision that permits submission of an affidavit of voluntary compliance with those limitations. Under the bill, a candidate who receives a grant from the clean elections fund must return to the state any grant moneys that are not spent by the candidate after an election.

The bill provides that if a candidate does not adhere to the agreement required to obtain a grant from the clean elections fund, the candidate is subject to a forfeiture (civil penalty) equivalent to the amount of the grant that the candidate received, and may be fined an amount equal to not more than three times the amount of any contributions received by the candidate excluding the amount of any grant and any qualifying or seed money contributions that are permitted to be received under the bill.

**Lobbying expenditure tax**

This bill imposes a tax on lobbying principals (persons who employ lobbyists) at the rate of 10 percent on lobbying expenditures that are reportable to the Government Accountability Board. The tax is payable to the department of revenue semiannually. All revenues derived from the tax are deposited into the clean elections fund.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

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

1. **SECTION 1.** 5.02 (18) of the statutes is amended to read:

2. **5.02 (18)** “September primary” means the primary held the 2nd Tuesday in September to nominate candidates to be voted for at the general election, and to determine which candidates for state offices other than district attorney may participate in the Wisconsin election campaign fund and the clean elections fund.

3. **SECTION 2.** 5.62 (5) of the statutes is amended to read:
5.62 (5) At the September primary, an elector may vote for the candidates of only one party, or the elector may vote for any of the independent candidates for state office listed; but the elector may not vote for more than one candidate for a single office. A space shall be provided on the ballot for an elector to write in the name of his or her choice as a party candidate for any office, including a party candidate of a recognized political party whose name appears on the ballot, column or row designated for independent candidates, as provided in sub. (1) (b) 2, or (2) (b), but no space shall be provided to write in the names of independent candidates.

SECTION 3. 7.08 (2) (c) and (cm) of the statutes are amended to read:

7.08 (2) (c) As soon as possible after the canvass of the spring and September primary votes, but no later than the first Tuesday in March and the 4th Tuesday in September, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. 11.50 (2) or 11.51 (7) and whom the board determines to be eligible to receive payments grants from the Wisconsin election campaign fund or the clean elections fund. The list shall contain each candidate’s name, the mailing address indicated upon the candidate’s registration form, the office for which the individual is a candidate and the party or principle which he or she represents, if any.

(cm) As soon as possible after the canvass of a special primary, or the date that the primary would be held, if required, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. 11.50 (2) or 11.51 (7) and whom the board determines to be eligible to receive a grant from the Wisconsin election campaign fund or the clean elections fund prior to the election. The board shall also transmit a similar list of candidates, if any, who have filed applications under s. 11.50 (2) and whom the board determines to be eligible to
receive a grant under s. 11.50 (1) (a) 2. after the special election. The list shall contain each candidate’s name, the mailing address indicated upon the candidate’s registration form, the office for which the individual is a candidate and the party or principle which he or she represents, if any.

**SECTION 4.** 7.70 (3) (e) 1. of the statutes is amended to read:

7.70 (3) (e) 1. After each September primary and special primary for a partisan state office other than the office of district attorney, the name of each candidate not defeated in the primary who receives at least 6% of the total vote cast for all candidates on all ballots at the primary for each separate state office except district attorney each state office other than the office of state senator, representative to the assembly, and district attorney, and the name of each candidate not defeated in the primary who receives at least 1 percent of the total vote cast for all candidates on all ballots at the primary for the office of state senator or representative to the assembly, and the percentage of the total vote received by that each such candidate. Such percentage shall be calculated within each district in the case of legislative candidates.

**SECTION 5.** 8.16 (1) of the statutes is amended to read:

8.16 (1) Except as provided in sub. (2), the person who receives the greatest number of votes for an office on a party ballot at any partisan primary, regardless of whether the person’s name appears on the ballot, shall be the party’s candidate for the office, and the person’s name shall so appear on the official ballot at the next election. All The names of all independent candidates for any state office other than state senator, representative to the assembly, or district attorney shall appear on the general election ballot and the names of all independent candidates for the office of state senator or representative to the assembly shall appear on any special election
ballot regardless of the number of votes received by such candidates at the
September or at any special primary.

SECTION 6. 8.16 (5) of the statutes is amended to read:

8.16 (5) Any candidate for a partisan state office except district attorney may
also qualify for payments a grant under s. 11.50 or 11.51 if the candidate meets the
requirements specified in s. 11.50 or 11.51; however, a candidate who qualifies under
this section for placement on the official ballot at the general election or a special
election shall appear on such ballot regardless of whether he or she qualifies for
payments a grant under s. 11.50 or 11.51.

SECTION 7. 8.35 (4) (a) 1. a. and b. of the statutes are amended to read:

8.35 (4) (a) 1. a. Donated If the former candidate was a partisan candidate,
donated to the former candidate's local or state political party if the former candidate
was a partisan candidate, or donated to the a charitable organization of, as
instructed by the former candidate's choice candidate or, if the charitable
organization chosen by the former candidate is deceased and left no instruction, as
instructed by the former candidate's next of kin if the former candidate is deceased,
or if no choice is made returned to the donors on a proportional basis; or

b. If the former candidate was a nonpartisan candidate, donated to the a
charitable organization of the former candidate's choice or the charitable
organization chosen, as instructed by the former candidate or, if the former candidate
is deceased and left no instruction, as instructed by the former candidate's next of
kin if the former candidate is deceased; or

SECTION 8. 8.35 (4) (b) of the statutes is amended to read:

8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys
received by a candidate from the Wisconsin election campaign fund or the clean
elections fund shall be immediately transferred to any candidate who is appointed
to replace such candidate, upon filing of a proper application therefor under s. 11.50
(2) or 11.51 (7). If there is no candidate appointed or if no proper application is filed
within 7 days of the date on which the vacancy occurs, such moneys shall revert to
the state as provided in s. 11.50 (8).

SECTION 9. 8.50 (1) (d) of the statutes is amended to read:

8.50 (1) (d) When the election concerns a national or state office, the board shall
transmit to each county clerk at least 22 days before the special primary a certified
list of all persons for whom nomination papers have been filed in its office. If no
primary is required, the list shall be transmitted at least 42 days prior to the day of
the election. If a special primary for the office of state senator or representative to
the assembly is held, the board shall send a certified list of candidates who are
eligible to receive grants under s. 11.51 to the state treasurer pursuant to s. 7.08 (2)
(cm). Immediately upon receipt of the certified list of candidates from the board, the
county clerk shall prepare his or her ballots. For a county special election, the county
clerk shall certify the candidates and prepare the ballots. If there is a primary, the
county clerk shall publish one type B notice in a newspaper under ch. 10. When a
primary is held, as soon as possible after the primary, the county clerk shall certify
the candidates and prepare the ballots for the following special election. The clerk
shall publish one type B notice in a newspaper under ch. 10 for the election.

SECTION 10. 8.50 (3) (b) of the statutes is amended to read:

8.50 (3) (b) Except as otherwise provided in this section, the provisions for
September primaries under s. 8.15 are applicable to all partisan primaries held
under this section, and the provisions for spring primaries under s. 8.10 are
applicable to all nonpartisan primaries held under this section. In a special partisan
primary or election, the order of the parties on the ballot shall be the same as
 provided under s. 5.62 (1) or 5.64 (1) (b). Independent The names of independent
candidates for state office at a special partisan election shall not appear on the
primary ballot, except that the names of independent candidates for the office of state
senator or representative to the assembly shall appear on the primary ballot. No
primary is required for a nonpartisan election in which not more than 2 candidates
for an office appear on the ballot or for a partisan election in which not more than one
candidate for an office appears on the ballot of each recognized political party. In
every special election except a special election for nonpartisan state office where no
candidate is certified to appear on the ballot, a space for write-in votes shall be
provided on the ballot, regardless of whether a special primary is held.

SECTION 11. 10.02 (3) (b) 2m. of the statutes is amended to read:

10.02 (3) (b) 2m. At the September primary, the elector shall select the party
ballot of his or her choice or the ballot containing the names of the independent
candidates for state office, and make a cross (X) next to or depress the lever or button
next to the candidate’s name for each office for whom the elector intends to vote or
insert or write in the name of the elector’s choice for a party candidate, if any. In order
to qualify for participation in the Wisconsin election campaign fund, a candidate for
a state office, other than the office of state senator, representative to the assembly,
or district attorney, at the September primary, other than a candidate for district
attorney, must receive at least 6% of all votes cast on all ballots for the office for which
he or she is a candidate, in addition to other requirements. In order to qualify for a
grant from the clean elections fund, a candidate for the office of state senator or
representative to the assembly at the September primary or a special primary, if a
SECTION 11. 10.06 (1) (e) of the statutes is amended to read:

10.06 (1) (e) As soon as possible following the state canvass of the spring primary vote, but no later than the first Tuesday in March, the board shall send a type B notice certifying to each county clerk the list of candidates for the spring election. When no state spring primary is held or when the only primary held is the presidential preference primary, this notice shall be sent under par. (c). The board shall also in any case send a certified list of candidates under s. 11.50 and 11.51 to the state treasurer pursuant to s. 7.08 (2) (c). When there is a referendum, the board shall send type A and C notices certifying each question to the county clerks as soon as possible, but no later than the first Tuesday in March.

SECTION 13. 10.06 (1) (i) of the statutes is amended to read:

10.06 (1) (i) As soon as possible after the state canvass, but no later than the 4th Tuesday in September, the board shall send a type B notice certifying the list of candidates and type A and C notices certifying each question for any referendum to each county clerk for the general election and a certified list of candidates under s. 11.50 and 11.51 to the state treasurer pursuant to s. 7.08 (2) (c).

SECTION 14. 11.01 (4m) of the statutes is created to read:

11.01 (4m) “Communication” means a message transmitted by means of a printed advertisement, billboard, handbill, sample ballot, radio or television advertisement, telephone call, 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.
SECTION 15. 11.01 (16) (a) 3. of the statutes is created to read:

11.01 (16) (a) 3. A communication that is made by means of one or more communications media, 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 an election and ending on the date of that election, and that includes a reference to a candidate for state office, other than court of appeals judge, circuit judge, or district attorney, whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at that election, a reference to a state office, other than court of appeals judge, circuit judge, or district attorney, to be filled at that election, or a reference to a political party.

SECTION 16. 11.05 (3) (s) of the statutes is created to read:

11.05 (3) (s) In the case of a registrant that has made a communication identified in s. 11.01 (16) (a) 3., a report containing the information specified in s. 11.06 (1) with respect to any obligation to make a disbursement incurred or any disbursement made for the purpose of making such a communication prior to registration.

SECTION 17. 11.06 (1) (a) of the statutes is amended to read:

11.06 (1) (a) Except as required under s. 11.51 (2), 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.

SECTION 18. 11.06 (1) (g) of the statutes is amended to read:

11.06 (1) (g) Except as required under s. 11.51 (9), 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.

**SECTION 19.** 11.06 (1) (jm) of the statutes is amended to read:

11.06 (1) (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 of a candidate for an office other than state senator or representative to
the assembly receiving contributions under such an agreement and attaching a
separate schedule under this paragraph 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).

**SECTION 20.** 11.06 (2) of the statutes is amended to read:

11.06 (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, and the disbursement is not made or the
obligation is not incurred for the purpose of making a communication specified in s.
11.01 (16) (a) 3., 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.
**SECTION 21.** 11.12 (6) of the statutes is renumbered 11.12 (6) (a) and amended to read:

11.12 (6) (a) 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 paragraph, 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 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 a disbursement identified in the report is made. This paragraph does not apply to any disbursement that is required to be reported under par. (b).

**SECTION 22.** 11.12 (6) (b) of the statutes is created to read:

11.12 (6) (b) 1. If any person makes a communication identified in s. 11.01 (16) (a) 3., or incurs an obligation to make such a communication, the person shall, within 24 hours of making the communication or incurring the obligation to make the
communication, report to the board the information required under this paragraph in such manner as the board may prescribe.

2. Each report under this paragraph shall contain the following information:
   
a. The name of each candidate who is identified in each communication or obligation to make a communication.
   
b. A statement as to whether the communication is intended to support or oppose that candidate.
   
c. The total amount or value of the disbursement made or obligation incurred to make the communication and the cumulative disbursements made and obligations incurred by the person with respect to that election.

3. The person shall also include the information reported under subd. 2. in the next regular report of the person under s. 11.20. Upon receipt of a report under this paragraph, the board 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 communication identified in the report is made.

SECTION 23. 11.26 (2) (a) of the statutes is amended to read:

   11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent or justice, 4 percent of the value of the disbursement level specified in the schedule under s. 11.31 (1), as adjusted under s. 11.31 (9).

SECTION 24. 11.26 (9) (a) of the statutes is amended to read:

   11.26 (9) (a) No individual who is a candidate for state or local office may receive and accept more than 65 percent of the value of the total disbursement level determined under s. 11.31 (1), adjusted as provided in s. 11.31 (9), for the office for which he or she is a candidate during any primary and election campaign combined
SECTION 24. from all committees subject to a filing requirement, including political party and legislative campaign committees.

SECTION 25. 11.26 (9) (b) of the statutes is amended to read:

11.26 (9) (b) No individual who is a candidate for state or local office may receive and accept more than 45 percent of the value of the total disbursement level determined under s. 11.31 (1), adjusted as provided in s. 11.31 (9), for the office for which he or she is a candidate during any primary and election campaign combined from all committees other than political party and legislative campaign committees subject to a filing requirement.

SECTION 26. 11.31 (1) (intro.) of the statutes is amended to read:

11.31 (1) SCHEDULE. (intro.) The following levels of disbursements are established with reference to the candidates listed below. Except as provided in sub. (2), 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. The levels are subject to adjustment under sub. (9).

SECTION 27. 11.31 (2m) of the statutes is amended to read:

11.31 (2m) VOLUNTARY LIMITATION. Any candidate for an office other than state senator or representative to the assembly to whom sub. (2) and s. 11.26 (10) do not apply may file an affidavit with his or her filing officer affirming that he or she has adhered and will adhere to the limitations imposed under sub. (2) and s. 11.26 during the entire campaign. These limitations apply to that candidate unless the candidate withdraws the affidavit by notifying his or her filing officer in writing no later than the 7th day after the date of the primary in which the person filing the affidavit is a candidate, or the 7th day after the date that the primary would be held, if no primary is required.
**SECTION 28.** 11.31 (3m) of the statutes is repealed.

**SECTION 29.** 11.31 (4) of the statutes is amended to read:

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

**SECTION 30.** 11.31 (9) of the statutes is created to read:

11.31 (9) **Adjustment of disbursement levels.** (a) In this subsection, “consumer price index” means the average of the consumer price index over each 12-month period, all items, U.S. city average, as determined by the bureau of labor statistics of the U.S. department of labor.

(b) The dollar amounts of the levels specified in sub. (1) (e) and (f) are subject to a biennial adjustment to be determined by rule of the board in accordance with this paragraph. To determine the adjustment, the board shall, in each year that the adjustment is made, calculate the percentage difference between the consumer price index for the 12-month period ending on December 31 of the preceding year and the consumer price index for calendar year 2009. For each biennium, the board shall multiply the amount of each level specified under sub. (1) (e) and (f) by the percentage difference in the consumer price indexes. The board shall then add that product to the applicable level under sub. (1) (e) or (f), round each sum to the nearest multiple
of $5, and adjust the amount of each level to substitute the resulting amount. The amount so determined shall then be in effect until a subsequent rule is promulgated under this paragraph. Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), determinations under this paragraph may be promulgated as an emergency rule under s. 227.24 without providing evidence that the emergency rule is necessary for the public peace, health, safety, or welfare and without a finding of emergency.

**SECTION 31.** 11.38 (6) of the statutes is amended to read:

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

**SECTION 32.** 11.50 (1) (a) 1. of the statutes is amended to read:

11.50 (1) (a) 1. With respect to a spring or general election, any individual who is certified under s. 7.08 (2) (a) as a candidate in the spring election for justice or state superintendent, or an individual who receives at least 6% of the vote cast for all candidates on all ballots for any state office, except the office of state senator, representative to the assembly, or district attorney, for which the individual is a candidate at the September primary and who is certified under s. 7.08 (2) (a) as a candidate for that office in the general election, or an individual who has been lawfully appointed and certified to replace either such individual on the ballot at the spring or general election; and who has qualified for a grant under sub. (2).

**SECTION 33.** 11.50 (1) (a) 2. of the statutes is amended to read:

11.50 (1) (a) 2. With respect to a special election, an individual who is certified under s. 8.50 (1) (d) as a candidate in a special election for state superintendent, or an individual who is certified under s. 8.50 (1) (d) as a candidate in a special election
for any state office, except the office of state senator, representative to the assembly, or district attorney, on the ballot or column of a party whose candidate for the same office at the preceding general election received at least 6 percent of the vote cast for all candidates on all ballots for the office, or an individual who has been lawfully appointed and certified to replace either such individual on the ballot at a special election, or an individual who receives at least 6 percent of the vote cast for all candidates on all ballots for any state office, except the office of state senator, representative to the assembly, or district attorney, at a partisan special election; and who qualifies for a grant under sub. (2). Where the boundaries of a district in which an individual seeks office have been changed since the preceding general election such that it is not possible to calculate the exact number of votes that are needed by that individual to qualify as an eligible candidate prior to an election under this subdivision, the number of votes cast for all candidates for the office at the preceding general election in each ward, combination of wards or municipality which is wholly contained within the boundaries of the newly formed district shall be calculated. If the candidate of the political party on whose ballot or column the individual appears in the newly formed district obtained at least 6 percent of the number of votes calculated, the individual is deemed to qualify as an eligible candidate prior to the election under this subdivision.

**SECTION 34.** 11.50 (2) (b) 5. of the statutes is amended to read:

11.50 (2) (b) 5. The financial reports filed by or on behalf of the candidate as of the date of the spring or September primary, or the date that the special primary is or would be held, if required, indicate that the candidate has received an amount equal to at least the amount provided in this subdivision, 10 percent of the candidate’s authorized disbursement limitation under s. 11.31 (2) from contributions
of money, other than loans, made by individuals, which have been received during
the period ending on the date of the spring primary and July 1 preceding such date
in the case of candidates at the spring election, or the date of the September primary
and January 1 preceding such date in the case of candidates at the general election,
or the date that a special primary will or would be held, if required, and 90 days
preceding such date or the date a special election is ordered, whichever is earlier, in
the case of special election candidates, which contributions are in the aggregate
amount of $100 or less, and which are fully identified and itemized as to the exact
source thereof. A contribution received from a conduit which is identified by the
conduit as originating from an individual shall be considered a contribution made by
the individual. Only the first $100 of an aggregate contribution of more than $100
may be counted toward the required percentage. For a candidate at the spring or
general election for an office identified in s. 11.26 (1) (a) or a candidate at a special
election, the required amount to qualify for a grant is 5 percent of the candidate's
authorized disbursement limitation under s. 11.31. For any other candidate at the
general election, the required amount to qualify for a grant is 10 percent of the
candidate's authorized disbursement limitation under s. 11.31.

**SECTION 35.** 11.50 (3) (a) 1. of the statutes is amended to read:

11.50 (3) (a) 1. If an election for state superintendent is scheduled in the
following year, $12 percent of the fund shall be placed in a superintendency account.
From this account, an equal amount shall be disbursed to the campaign depository
account of each eligible candidate by the state treasurer.

**SECTION 36.** 11.50 (3) (a) 2. of the statutes is amended to read:

11.50 (3) (a) 2. If an election for justice is scheduled in the following year, 8-12
percent of the fund shall be placed in a supreme court account. From this account,
an equal amount shall be disbursed to the campaign depository account of each
eligible candidate by the state treasurer.

SECTION 37. 11.50 (3) (b) of the statutes is amended to read:

11.50 (3) (b) If a vacancy occurs in the office of state superintendent or justice
after August 15 in any year and an election is scheduled to fill the vacancy at the
spring election in the following year, the state treasurer shall transfer an amount not
exceeding $12 percent of the moneys transferred to the fund on the preceding August
15 to the account for the office in which the vacancy occurs, such moneys to be drawn
from any the account within the accounts created under sub. (4) in the amount or
amounts specified by the board.

SECTION 38. 11.50 (4) (intro.) of the statutes is amended to read:

11.50 (4) PARTISAN AND SPECIAL ELECTION CANDIDATES FOR EXECUTIVE OFFICES
(intro.) After apportionment under sub. (3), the remaining moneys shall constitute
the partisan executive campaign account.

SECTION 39. 11.50 (4) (a) of the statutes is repealed.

SECTION 40. 11.50 (4) (c) of the statutes is repealed.

SECTION 41. 11.50 (4) (cm) of the statutes is repealed.

SECTION 42. 11.51 of the statutes is created to read:

11.51 Clean elections fund grants. (1) Any candidate for the office of state
senator or representative to the assembly whose name is certified under s. 7.08 (2)
(a) or 8.50 (1) (d) to appear on the ballot at an election may qualify to receive a grant
from the clean elections fund by fulfilling the requirements of this section.

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

1. State senator, 150.
2. Representative to the assembly, 100.

(b) In addition to the requirements imposed under par. (a), a candidate does not qualify to receive a grant for a general or partisan special election unless the candidate is the nominee of a recognized political party for the office of state senator or representative to the assembly or the candidate receives at least 1 percent of the total vote cast for all candidates on all ballots for the same office within the district in which the candidate seeks office at the September primary, or at a special primary if a special primary is held.

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

(a) State senator, $2,500.
(b) Representative to the assembly, $1,500.

(4) A contributor who makes a qualifying contribution may also make a seed money contribution in the full amount authorized under sub. (3).
(5) A candidate shall remit to the state treasurer all seed money contributions received by the candidate that are unencumbered on the day the candidate receives notification of qualification for a grant under sub. (7). The state treasurer shall deposit all seed money contributions received under this subsection into the clean elections fund.

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

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

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

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

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

<table>
<thead>
<tr>
<th>Office</th>
<th>Primary Election</th>
<th>General or Special Election</th>
</tr>
</thead>
<tbody>
<tr>
<td>State senator</td>
<td>$50,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>Representative to the assembly</td>
<td>25,000</td>
<td>50,000</td>
</tr>
</tbody>
</table>

(b) If a candidate does not have an opponent who has qualified to have his or her name appear on the ballot at the election for which a grant is to be applied, the candidate shall receive a grant for a primary election equal to the average total disbursements made per candidate in primary election campaign periods, as determined by the board from reports filed by or on behalf of those candidates in accordance with s. 11.31 (5), for the office that the candidate seeks during the 4-year period preceding the date of the primary election, or a grant for a general or special election equal to the average total disbursements made per candidate in general and
special election campaign periods, as determined by the board from reports filed by
or on behalf of those candidates in accordance with s. 11.31 (5), for the office that the
candidate seeks during the 4-year period preceding the date of the general or special
election.

  (c) If a candidate who receives a grant under this subsection is opposed by one
or more candidates who could qualify for a grant under sub. (2) (b) but who do not
file an application for a grant under sub. (7) or who fail to meet other requirements
for receipt of a grant, the candidate who receives a grant under this subsection shall
receive an additional grant equal to the total maximum grant that would have been
payable to that opponent or to those opponents, but not to exceed, in combination
with any additional grant payable to that candidate under subs. (12) and (13), 2.5
times the amount payable to that candidate under sub. (10) (a), as adjusted under
sub. (11).

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

  (b) The dollar amounts of the grants specified in sub. (10) (a) are subject to a
biennial cost-of-living adjustment to be determined by rule of the board in
accordance with this paragraph. To determine the adjustment, the board shall, as
soon as possible after the end of each odd-numbered year, calculate the percentage
difference between the consumer price index for the 12-month period ending on
December 31 of the preceding year and the consumer price index for calendar year
2009. For each biennium, the board shall multiply the amount of each grant specified
in sub. (10) (a) by the percentage difference in the consumer price indexes. The board
shall then add that product to the applicable grant amount under sub. (10) (a), round
each sum to the nearest multiple of $5, and adjust the amount of each grant to
substitute the resulting amount. The amount so determined shall then be in effect
until a subsequent rule is promulgated under this paragraph. Notwithstanding s.
227.24 (1) (a), (2) (b), and (3), determinations under this paragraph may be
promulgated as an emergency rule under s. 227.24 without providing evidence that
the emergency rule is necessary for the public peace, health, safety, or welfare, and
without a finding of emergency.

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

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

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

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

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

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

SECTION 43. 14.58 (20) of the statutes, as affected by 2007 Wisconsin Act 1, is repealed and recreated to read:

14.58 (20) GRANTS TO CANDIDATES. Make disbursements to each candidate certified under s. 7.08 (2) (c) or (cm) by the government accountability board as
eligible to receive a grant from the Wisconsin election campaign fund or the clean elections fund.

SECTION 44. 20.511 (1) (r) of the statutes is created to read:

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

SECTION 45. 20.855 (4) (ba) of the statutes is created to read:

20.855 (4) (ba) Lobbying expenditure tax revenue transfer. A sum sufficient equal to the amounts certified by the secretary of revenue under s. 77.9983, to be transferred from the general fund to the clean elections fund annually on September 16.

SECTION 46. 20.855 (4) (bb) of the statutes is created to read:

20.855 (4) (bb) Clean elections fund supplement. A sum sufficient equal to the amounts required to make full payment of the grants to candidates required under s. 11.51 if the transfer under par. (ba) is insufficient to make full payment of those grants, to be transferred from the general fund to the clean elections fund no later than the time required to make payments of grants under s. 11.51 (8).

SECTION 47. 25.17 (1) (aw) of the statutes is created to read:

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

SECTION 48. 25.421 of the statutes is created to read:

25.421 Clean elections fund. All moneys deposited with the state treasurer under s. 11.51 (2) and (5) or returned to the state treasurer under s. 11.51 (15) and all moneys transferred to the clean elections fund under s. 20.855 (4) (ba) and (bb) constitute the clean elections fund.

SECTION 49. Chapter 77 (title) of the statutes is amended to read:

CHAPTER 77
TAXATION OF FOREST CROPLANDS;
REAL ESTATE TRANSFER FEES;
SALES AND USE TAXES; COUNTY
AND SPECIAL DISTRICT SALES
AND USE TAXES; MANAGED FOREST
LAND; RECYCLING SURCHARGE;
LOCAL FOOD AND BEVERAGE TAX;
LOCAL RENTAL CAR TAX; PREMIER
RESORT AREA TAXES; STATE RENTAL
VEHICLE FEE; DRY CLEANING FEES;
REGIONAL TRANSIT AUTHORITY FEE;

LOBBYING EXPENDITURE TAX

SECTION 50. Subchapter XIV of chapter 77 [precedes 77.998] of the statutes is created to read:

CHAPTER 77

SUBCHAPTER XIV

LOBBYING EXPENDITURE TAX

77.998 Definition. In this subchapter, “lobbying expenditure” has the meaning given under s. 13.62 (10r).

77.9981 Imposition. A tax is imposed on every person, except an organization described in section 501 (c) (3) of the Internal Revenue Code, that is exempt from federal income taxation under section 501 (a) of the Internal Revenue Code and a governmental unit, as defined in s. 281.65 (2) (am), at the rate of 10 percent on lobbying expenditures that are reportable under s. 13.68 (1).
77.9982 Administration. (1) The department of revenue shall levy, enforce and collect the tax under this subchapter.

(2) The tax under this subchapter and a completed return prescribed by the department of revenue are due on March 1 and September 1.

(3) Sections 77.59 (1) to (6), (8) and (8m), 77.60 (1) to (7), (9) and (10), 77.61 (5) and (12) to (14) and 77.62, as they apply to the taxes under subch. III, apply to the tax under this subchapter.

77.9983 Certification. Annually no later than September 15, the secretary of revenue shall certify to the secretary of administration the amount of taxes collected under this subchapter for the preceding 12-month period ending on June 30.

SECTION 51. Initial applicability.

(1) The treatment of section 11.01 (16) (a) 3. of the statutes first applies with respect to reporting periods that begin on or after the effective date of this subsection.

(2) The treatment of sections 11.31 (9) and 11.51 (11) of the statutes first applies to adjustments for the biennium beginning on January 1, 2012.

(3) The treatment of subchapter XIV of chapter 77 of the statutes first applies to lobbying expenditures made during the 6-month period ending on December 31, 2008.

(END)