

2009 DRAFTING REQUEST

Senate Amendment (SA-SB40)

Received: 11/05/2009

Received By: **jkuesel**

Wanted: **Today**

Identical to LRB:

For: **Michael Ellis (608) 266-0718**

By/Representing: **Mike Boerger**

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

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Elections - campaign finance**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Ellis@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

SA to SB-40

Instructions:

Insert SECTION 16 from SB-221 concerning mass communications in judicial races.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

<END>

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Instructions:

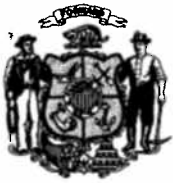
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12/11	jkuesel 11/5/09	11/11/09 11/5	11/5/09	K... 11/5			

FE Sent For:

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State of Wisconsin
2009 - 2010 LEGISLATURE

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~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SENATE AMENDMENT,
TO 2009 SENATE BILL 40

1 At the locations indicated, amend the bill as follows:

- 1. Page 4, line 15: after that line insert:
- 2. Page 7, line 9: after that line insert:

INS 2
1-2 3

INS 4
1-3

(END)

SENATE BILL 221

8.35 (4) (c) The transfer to the replacement candidate under par. (b) shall be made and reported to the appropriate filing officer in a special report submitted in a special report submitted by the former candidate's campaign treasurer. If the former candidate is deceased and was serving as his or her own campaign treasurer, the former candidate's petitioner or personal representative shall file the report and make the transfer required by par. (b), if any and file the report. The report shall be made at the appropriate interval under s. 11.20 (2) or (4) or in the manner required under s. 11.21 (16), if applicable, and shall include a complete statement of all contributions, disbursements and incurred obligations pursuant to s. 11.06 (1) covering the period from the day after the last date covered on the former candidate's most recent report to the date of disposition.

(d) The newly appointed candidate shall file his or her report at the next appropriate interval under s. 11.20 (2) or (4) after his or her appointment or in the manner required under s. 11.21 (16), if applicable. The appointed candidate shall include any transferred funds moneys in his or her first report.

↓ SECTION 8. 11.001 (1m) of the statutes is created to read:

11.001 (1m) The legislature finds and declares that the function of judges and justices, who must independently apply the law, is fundamentally distinct from that of elective legislative and executive branch officials who take positions on issues that are influenced by, and represent the will of, their constituencies. ✓ The legislature therefore finds that because it is improper for a mass communication to seek to persuade a judge or justice to take a position on an issue, any such communication should be deemed to have been made for a political purpose. ✓

~~SECTION 9. 11.001 (2m) of the statutes is created to read:~~

SECTION 15. 11.01 (16) (a) 3. of the statutes is created to read:

11.01 (16) (a) 3. Except for purposes of s. 11.38 (1m), a mass 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 an election and ending on the date of that election, and that includes a reference to a candidate 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 an office to be filled at that election, or a reference to a political party.~~

SECTION 16. 11.01 (16) (a) 4. of the statutes is created to read:

11.01 (16) (a) 4. A mass communication that refers to ^{Stet.} ~~a~~ ^{off} office and either focuses on and takes a position for or against a judicial candidate's position on an issue or takes a position on that judicial candidate's character, qualifications, or fitness for office. ^{judicial}

SECTION 17. 11.01 (16) (b) of the statutes is renumbered 11.01 (16) (b) (intro.)

and amended to read:

11.01 (16) (b) (intro.) A "political purpose" does not include expenditures any of the following:

1. An expenditure 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.

SECTION 18. 11.01 (16) (b) 2. of the statutes is created to read:

11.01 (16) (b) 2. Unless the communication is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate whose name is certified to appear on a ballot at an election, a mass communication that either focuses on and takes a position on a legislative or executive issue and urges the public

PWS 1-3
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SENATE BILL 221

SEC DON 13M ✓
CR; 11.38(1m)

11.38 (1m) (a) No corporation or association specified in sub. (1) (a) 1. may make a disbursement for the purpose of making a mass 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, and that

1. 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 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 an office to be filled at that election, or a reference to a political party; or

2. Refers to a judicial office and either focuses on and takes a position for or against a judicial candidate's position on an issue or takes a position on that judicial candidate's character, qualifications, or fitness for office.

(b) Paragraph (a) does not apply to a mass communication that either focuses on and takes a position on a legislative or executive issue and urges the public to adopt the position and to contact one or more public officials about the issue or proposes a commercial transaction and does not 1) support or oppose a candidate's record on an issue, 2) mention an election, a candidacy, an opposing candidate, a political party, or voting by the general public, or 3) take a position on a candidate's character, qualifications, or fitness for office, unless the communication is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate whose name is certified to appear on the ballot at an election.

SECTION 116. 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, or transfer the funds

NO