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Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Elections, and Urban Affairs (SC-LEUA)

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
2009 - 2010 LEGISLATURE

LRB-1133/2
JTK&MES/bjk/rs

2009 SENATE BILL 221

May 26, 2009 - Introduced by Senators ERPENBACH, ELLIS, CARPENTER, LEHMAN, HOLPERIN, SCHULTZ, RISSER, HARSDORF, VINEHOUT and SULLIVAN, cosponsored by Representatives POPE-ROBERTS, BERCEAU, BLACK, HIXSON and HEBL. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 AN ACT *to repeal* 11.01 (12s), 11.01 (17g) and (17r), 11.05 (3) (o), 11.06 (3r), 11.06
2 (3w), 11.21 (17), 11.265, 11.31 (2m), 11.50 (2) (i), 11.50 (3) and 11.50 (4); *to*
3 *renumber* 11.24 (2), 11.50 (1) (a) 1. and 11.50 (1) (a) 2.; *to renumber and*
4 *amend* 11.01 (16) (b), 11.05 (1), 11.05 (2), 11.05 (2r), 11.12 (6), 11.26 (10), 11.50
5 (5) and 11.50 (9); *to amend* 5.02 (13), 7.08 (2) (c) and (cm), 8.30 (2), 8.35 (4) (a)
6 1. a. and b., 8.35 (4) (b), 8.35 (4) (c) and (d), 11.05 (3) (c), 11.05 (5), 11.05 (9) (b),
7 11.05 (12) (title), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e), 11.06
8 (2), 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b),
9 11.06 (7m) (c), 11.07 (1), 11.07 (5), 11.09 (3), 11.10 (1), 11.12 (2), 11.12 (2), 11.12
10 (4), 11.12 (5), 11.14 (3), 11.16 (2), 11.16 (2), 11.16 (3), 11.16 (5), 11.19 (title), 11.19
11 (1), 11.20 (1), 11.20 (7), 11.20 (9), 11.20 (10) (a), 11.20 (12), 11.21 (2), 11.21 (15),
12 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26 (1) (a), 11.26 (2)
13 (intro.), 11.26 (2) (a), 11.26 (4), 11.26 (8), 11.26 (9) (a), 11.26 (9) (a), 11.26 (9) (b),
14 11.26 (9) (b), 11.26 (13), 11.30 (4), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1)

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1 (d), 11.31 (1) (e) and (f), 11.31 (2), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8)
2 (b), 11.50 (1) (a) 1. a., 11.50 (2) (a), 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50
3 (2) (g), 11.50 (5) (title), 11.50 (6), 11.50 (9) (title), 11.50 (11) (e), 11.50 (13), 11.60
4 (4), 11.61 (1) (a), 11.61 (2), 20.511 (1) (q), 20.855 (4) (b), 25.42, 71.10 (3) (a), 71.10
5 (3) (a) and 71.10 (3) (b): *to repeal and recreate* 11.05 (9) (title) and 11.26 (2)
6 (an); and *to create* 7.08 (2) (cs), 11.001 (1m), 11.001 (2m), 11.01 (12v), 11.01
7 (12w), 11.01 (13), 11.01 (14), 11.01 (16) (a) 3., 11.01 (16) (a) 4., 11.01 (16) (b) 2.,
8 11.05 (1) (b), 11.05 (2) (b), 11.05 (3) (m), 11.05 (3) (r), 11.05 (3) (s), 11.05 (5r), 11.06
9 (2m) (title), 11.06 (2m) (b) to (d), 11.12 (2m), 11.12 (6) (c) and (d), 11.12 (8) and
10 (9), 11.24 (4), 11.26 (1) (am), 11.26 (2) (ad), 11.26 (2) (am)*11.26 (2) (an), 11.26
11 (2) (au), 11.26 (9) (ba), 11.26 (10) (b), 11.31 (3p), 11.31 (9), 11.38 (1m), 11.50 (1)
12 (a) 1. (intro.), 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm), 11.50 (1)
13 (e), 11.50 (2) (bm), 11.50 (2s), 11.50 (2w), 11.50 (4e), 11.50 (5) (b) and (c), 11.50
14 (9) (ba) and (bb), 11.50 (14), 11.501 to 11.522, 11.60 (3s) and (3u), 20.511 (1) (r),
15 20.585 (1) (q), 20.585 (1) (r), 20.855 (4) (ba), 20.855 (4) (bb), 20.855 (4) (bc), 25.17
16 (1) (cm), 25.421, 71.07 (6n), 71.10 (4) (ds) and 806.041 of the statutes; **relating**
17 **to:** campaign financing, designations for the Wisconsin election campaign fund
18 by individuals filing state income tax returns, creating a nonrefundable
19 individual income tax credit for contributions to the Public Integrity
20 Endowment, candidate time on public broadcasting television stations and
21 public access channels, staffing of the Government Accountability Board.

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SENATE BILL 221

- 1 providing exemptions from emergency rule procedures; granting rule-making
2 authority; making appropriations, and providing penalties.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes in the campaign financing law. The bill also makes changes to the income tax laws, the lobbying regulation law, and the staffing of the Government Accountability Board.

FILING OF CAMPAIGN FINANCE REPORTS

Exemptions from registration and reporting

Currently, with certain limited exceptions, any individual who accepts contributions, makes disbursements, or incurs obligations, and any committee or group that makes or accepts contributions, makes or transfers disbursements (expenditures), or incurs obligations, in connection with one or more elections for state or local office or one or more state or local referenda exceeding \$25 cumulatively within a calendar year must register and file reports with the appropriate filing officer or agency identifying contributions received and disbursements made and providing certain other information.

Currently, a new registrant is generally prohibited from making a contribution or disbursement from property or funds received prior to the date of registration, except that, if a registrant holds property or funds at the time of registration that were not intended for political purposes in connection with an election for state or local office at the time that they were received, the registrant may report the property or funds as received on the date of registration and may then use the property or funds to make a contribution or disbursement.

This bill provides that no individual who or organization which is subject to a registration requirement may make any contribution prior to the date of registration. In addition, the bill provides that no registrant may accept any contribution from any individual who or organization which is subject to a registration requirement prior to the date of registration of that individual or organization.

Currently, a nonresident registrant need report only contributions and other income received from sources in this state and disbursements made and obligations incurred with respect to an election for state or local office in this state. This bill deletes this exception to reporting requirements. The bill also requires nonresident registrants to include in their reports a separate statement of contributions, transfers, loans, and other income received from sources in this state and disbursements and obligations incurred with respect to elections for state and local office in this state. The change does not affect reporting by authorized committees of candidates for the office of U.S. senator or representative in Congress.

Currently, a national political party committee need not file reports for any period covered in a report filed by the committee with the Federal Election Commission. In addition, a state political party committee which is registered with the Federal Election Commission and which makes contributions to candidates for

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national office, as well as contributions to other state political party committees, need not file reports for any period covered by a report filed by the committee with the Federal Election Commission if the Government Accountability Board receives a copy of that report and the committee makes no contributions to any individual who or organization which is required to register with a filing officer under Wisconsin law. This bill deletes these exceptions to state reporting requirements.

Reporting thresholds

This bill provides that an individual who accepts contributions, makes disbursements, or incurs obligations or a group that makes or accepts contributions, makes disbursements, or incurs obligations in connection with one or more referenda is not subject to registration and reporting requirements until the individual or group engages in activity exceeding \$100 cumulatively within a calendar year.

The bill also permits an individual or committee to claim an exemption from reporting requirements if the individual or committee does not accept contributions, make disbursements, or incur obligations exceeding \$1,000 cumulatively within a calendar year with respect to an election for state office, and does not accept contributions, other than contributions made by a candidate to his or her own campaign, exceeding \$100 from a single source cumulatively within a calendar year. If an individual or committee does not accept contributions, make disbursements, or incur obligations with respect to an election for any state office but accepts contributions, makes disbursements, or incurs obligations independently of any candidate with respect to an election for local office, the bill permits the individual or committee to claim an exemption from reporting requirements if the individual or committee does not accept contributions, make disbursements, or incur obligations exceeding \$100 cumulatively within a calendar year.

Mass media activities

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, makes any mass communication, including an electronic communication, a mass distribution, or a mass telephoning, that includes a reference to a candidate at that election, an office to be filled at that election, or a political party. The bill imposes registration and reporting requirements upon any individual who or organization that, at any time, makes any mass communication that refers to a candidate for 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. 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

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

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.

Special reporting by certain registrants

Currently, a committee making contributions or a candidate or other individual or committee accepting contributions, making disbursements, or incurring obligations in support of or opposition to a candidate is generally required to file a report no later than the eighth day before a primary or election at which the candidate seeks nomination or election to office. The report must disclose contributions made or accepted, disbursements made, and obligations incurred through the 14th day prior to the primary or election. Currently, if a candidate for state office receives one or more contributions from a single contributor aggregating \$500 or more during the 14-day period preceding an election, the candidate must report to the Government Accountability Board the information currently required to be disclosed pertaining to contributions received by the candidate no later than 24 hours following receipt of any such contribution or contributions.

This bill requires each candidate at the general or a special election for a major state office (the office of governor, lieutenant governor, attorney general, secretary of state, state treasurer, superintendent of public instruction, justice of the supreme court, state senator, or representative to the assembly) who does not accept a public grant (see below) and who makes any disbursement after the candidate has accumulated cash in his or her campaign depository or has made disbursements in his or her campaign exceeding a combined total of 75 percent of the amount of the disbursement limitation for the office that the candidate seeks, to file daily reports, by electronic mail or facsimile transmission, with the Government Accountability Board and with each candidate whose name appears on the ballot for the office in connection with which the disbursement is made. The daily reports may be filed no later than 24 hours after each disbursement is made, and must include the

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SECTION 15

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

2 11.01 (16) (a) 3. Except for purposes of s. 11.38 (1m), a mass communication,
3 other than a communication that is exempt from reporting under s. 11.29, that is
4 made during the period beginning on the 60th day preceding an election and ending
5 on the date of that election, and that includes a reference to a candidate whose name
6 is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at that election,
7 a reference to an office to be filled at that election, or a reference to a political party.

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

9 11.01 (16) (a) 4. A mass communication that refers to a judicial office and either
10 focuses on and takes a position for or against a judicial candidate's position on an
11 issue or takes a position on that judicial candidate's character, qualifications, or
12 fitness for office.

13 SECTION 17. 11.01 (16) (b) of the statutes is renumbered 11.01 (16) (b) (intro.)
14 and amended to read:

15 11.01 (16) (b) (intro.) A "political purpose" does not include ~~expenditures~~ any
16 of the following:

17 I. An expenditure made for the purpose of supporting or defending a person
18 who is being investigated for, charged with or convicted of a criminal violation of state
19 or federal law, or an agent or dependent of such a person.

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

21 11.01 (16) (b) 2. Unless the communication is susceptible of no reasonable
22 interpretation other than as an appeal to vote for or against a candidate whose name
23 is certified to appear on a ballot at an election, a mass communication that either
24 focuses on and takes a position on a legislative or executive issue and urges the public

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SECTION 18

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1 to adopt the position and to contact one or more public officials about the issue or
2 proposes a commercial transaction and does not do any of the following:

- 3 a. Support or oppose a candidate's record on an issue.
4 b. Mention an election, a candidacy, an opposing candidate, a political party,
5 or voting by the general public.
6 c. Take a position on a candidate's character, qualifications, or fitness for office.

7 SECTION 19. 11.01 (17g) and (17r) of the statutes are repealed.

8 SECTION 20. 11.05 (1) of the statutes is renumbered 11.05 (1) (a) and amended
9 to read:

10 11.05 (1) (a) Except as provided in s. 9.10 (2) (d), every committee, other than
11 a personal campaign committee, and ~~every political group subject to registration~~
12 ~~under s. 11.23 which~~ that makes or accepts contributions, incurs obligations, or
13 makes disbursements in a calendar year in an aggregate amount in excess of \$25
14 shall file a statement with the appropriate filing officer giving the information
15 required by sub. (3). ~~In the case of any committee other than a personal campaign~~
16 ~~committee,~~ The statement shall be filed by the treasurer. A personal campaign
17 committee shall register under sub. (2g) ~~or (2e)~~.

18 SECTION 21. 11.05 (1) (b) of the statutes is created to read:

19 11.05 (1) (b) Every political group subject to registration under s. 11.23 that
20 makes or accepts contributions, incurs obligations, or makes disbursements in a
21 calendar year in an aggregate amount in excess of \$100 shall file a statement with
22 the appropriate filing officer giving the information required by sub. (3).

23 SECTION 22. 11.05 (2) of the statutes is renumbered 11.05 (2) (a) and amended
24 to read:



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JTK&MES:bjk:md

2009 ASSEMBLY BILL 388

August 18, 2009 - Introduced by Representatives POPE-ROBERTS, BERCEAU, BLACK, HIXSON, HEBL, ZIGMUNT, CLARK, KESSLER, MOLEPSKE JR., PARISI and KAUFERT, cosponsored by Senators ERPENBACH, ELLIS, CARPENTER, LEHMAN, HÖLPERIN, SCHULTZ, RISSER, HARSDORF, VINEHOUT, SULLIVAN and KAPANKE. Referred to Committee on Elections and Campaign Reform.

1 AN ACT *to repeal* 11.01 (12s), 11.01 (17g) and (17r), 11.05 (3) (o), 11.06 (3r), 11.06
2 (3w), 11.21 (17), 11.265, 11.31 (2m), 11.50 (2) (i), 11.50 (3) and 11.50 (4); *to*
3 *renumber* 11.24 (2), 11.50 (1) (a) 1. and 11.50 (1) (a) 2.; *to renumber and*
4 *amend* 11.01 (16) (b), 11.05 (1), 11.05 (2), 11.05 (2r), 11.12 (6), 11.26 (10), 11.50
5 (5) and 11.50 (9); *to amend* 5.02 (13), 7.08 (2) (c) and (cm), 8.30 (2), 8.35 (4) (a)
6 1. a. and b., 8.35 (4) (b), 8.35 (4) (c) and (d), 11.05 (3) (c), 11.05 (5), 11.05 (9) (b),
7 11.05 (12) (title), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e), 11.06
8 (2), 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b),
9 11.06 (7m) (c), 11.07 (1), 11.07 (5), 11.09 (3), 11.10 (1), 11.12 (2), 11.12 (2), 11.12
10 (4), 11.12 (5), 11.14 (3), 11.16 (2), 11.16 (2), 11.16 (3), 11.16 (5), 11.19 (title), 11.19
11 (1), 11.20 (1), 11.20 (7), 11.20 (9), 11.20 (10) (a), 11.20 (12), 11.21 (2), 11.21 (15),
12 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26 (1) (a), 11.26 (2)
13 (intro.), 11.26 (2) (a), 11.26 (4), 11.26 (8), 11.26 (9) (a), 11.26 (9) (a), 11.26 (9) (b),
14 11.26 (9) (b), 11.26 (13), 11.30 (4), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1)

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ASSEMBLY BILL 388

1 (d), 11.31 (1) (e) and (f), 11.31 (2), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8)
2 (b), 11.50 (1) (a) 1. a., 11.50 (2) (a), 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50
3 (2) (g), 11.50 (5) (title), 11.50 (6), 11.50 (9) (title), 11.50 (11) (e), 11.50 (13), 11.60
4 (4), 11.61 (1) (a), 11.61 (2), 20.511 (1) (q), 20.855 (4) (b), 25.42, 71.10 (3) (a), 71.10
5 (3) (a) and 71.10 (3) (b); *to repeal and recreate* 11.05 (9) (title) and 11.26 (2)
6 (an); and *to create* 7.08 (2) (cs), 11.001 (1m), 11.001 (2m), 11.01 (12v), 11.01
7 (12w), 11.01 (13), 11.01 (14), 11.01 (16) (a) 3., 11.01 (16) (a) 4., 11.01 (16) (b) 2.,
8 11.05 (1) (b), 11.05 (2) (b), 11.05 (3) (m), 11.05 (3) (r), 11.05 (3) (s), 11.05 (5r), 11.06
9 (2m) (title), 11.06 (2m) (b) to (d), 11.12 (2m), 11.12 (6) (c) and (d), 11.12 (8) and
10 (9), 11.24 (4), 11.26 (1) (am), 11.26 (2) (ad), 11.26 (2) (am), 11.26 (2) (an), 11.26
11 (2) (au), 11.26 (9) (ba), 11.26 (10) (b), 11.31 (3p), 11.31 (9), 11.38 (1m), 11.50 (1)
12 (a) 1. (intro.), 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm), 11.50 (1)
13 (e), 11.50 (2) (bm), 11.50 (2s), 11.50 (2w), 11.50 (4e), 11.50 (5) (b) and (c), 11.50
14 (9) (ba) and (bb), 11.50 (14), 11.501 to 11.522, 11.60 (3s) and (3u), 20.511 (1) (r),
15 20.585 (1) (q), 20.585 (1) (r), 20.855 (4) (ba), 20.855 (4) (bb), 20.855 (4) (bc), 25.17
16 (1) (cm), 25.421, 71.07 (6n), 71.10 (4) (ds) and 806.041 of the statutes; **relating**
17 **to:** campaign financing, designations for the Wisconsin election campaign fund
18 by individuals filing state income tax returns, creating a nonrefundable
19 individual income tax credit for contributions to the Public Integrity
20 Endowment, candidate time on public broadcasting television stations and
21 public access channels, staffing of the Government Accountability Board;

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ASSEMBLY BILL 388

1 providing exemptions from emergency rule procedures, granting rule-making
2 authority, making appropriations, and providing penalties.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes in the campaign financing law. The bill also makes changes to the income tax laws, the lobbying regulation law, and the staffing of the Government Accountability Board.

FILING OF CAMPAIGN FINANCE REPORTS

Exemptions from registration and reporting

Currently, with certain limited exceptions, any individual who accepts contributions, makes disbursements, or incurs obligations, and any committee or group that makes or accepts contributions, makes or transfers disbursements (expenditures), or incurs obligations, in connection with one or more elections for state or local office or one or more state or local referenda exceeding \$25 cumulatively within a calendar year must register and file reports with the appropriate filing officer or agency identifying contributions received and disbursements made and providing certain other information.

Currently, a new registrant is generally prohibited from making a contribution or disbursement from property or funds received prior to the date of registration, except that, if a registrant holds property or funds at the time of registration that were not intended for political purposes in connection with an election for state or local office at the time that they were received, the registrant may report the property or funds as received on the date of registration and may then use the property or funds to make a contribution or disbursement.

This bill provides that no individual who or organization which is subject to a registration requirement may make any contribution prior to the date of registration. In addition, the bill provides that no registrant may accept any contribution from any individual who or organization which is subject to a registration requirement prior to the date of registration of that individual or organization.

Currently, a nonresident registrant need report only contributions and other income received from sources in this state and disbursements made and obligations incurred with respect to an election for state or local office in this state. This bill deletes this exception to reporting requirements. The bill also requires nonresident registrants to include in their reports a separate statement of contributions, transfers, loans, and other income received from sources in this state and disbursements and obligations incurred with respect to elections for state and local office in this state. The change does not affect reporting by authorized committees of candidates for the office of U.S. senator or representative in Congress.

Currently, a national political party committee need not file reports for any period covered in a report filed by the committee with the Federal Election Commission. In addition, a state political party committee which is registered with the Federal Election Commission and which makes contributions to candidates for

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ASSEMBLY BILL 388

national office, as well as contributions to other state political party committees, need not file reports for any period covered by a report filed by the committee with the Federal Election Commission if the Government Accountability Board receives a copy of that report and the committee makes no contributions to any individual who or organization which is required to register with a filing officer under Wisconsin law. This bill deletes these exceptions to state reporting requirements.

Reporting thresholds

This bill provides that an individual who accepts contributions, makes disbursements, or incurs obligations or a group that makes or accepts contributions, makes disbursements, or incurs obligations in connection with one or more referenda is not subject to registration and reporting requirements until the individual or group engages in activity exceeding \$100 cumulatively within a calendar year.

The bill also permits an individual or committee to claim an exemption from reporting requirements if the individual or committee does not accept contributions, make disbursements, or incur obligations exceeding \$1,000 cumulatively within a calendar year with respect to an election for state office, and does not accept contributions, other than contributions made by a candidate to his or her own campaign, exceeding \$100 from a single source cumulatively within a calendar year. If an individual or committee does not accept contributions, make disbursements, or incur obligations with respect to an election for any state office but accepts contributions, makes disbursements, or incurs obligations independently of any candidate with respect to an election for local office, the bill permits the individual or committee to claim an exemption from reporting requirements if the individual or committee does not accept contributions, make disbursements, or incur obligations exceeding \$100 cumulatively within a calendar year.

Mass media activities

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, makes any mass communication, including an electronic communication, a mass distribution, or a mass telephoning, that includes a reference to a candidate at that election, an office to be filled at that election, or a political party. The bill imposes registration and reporting requirements upon any individual who or organization that, at any time, makes any mass communication that refers to a candidate for 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. 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

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

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.

Special reporting by certain registrants

Currently, a committee making contributions or a candidate or other individual or committee accepting contributions, making disbursements, or incurring obligations in support of or opposition to a candidate is generally required to file a report no later than the eighth day before a primary or election at which the candidate seeks nomination or election to office. The report must disclose contributions made or accepted, disbursements made, and obligations incurred through the 14th day prior to the primary or election. Currently, if a candidate for state office receives one or more contributions from a single contributor aggregating \$500 or more during the 14-day period preceding an election, the candidate must report to the Government Accountability Board the information currently required to be disclosed pertaining to contributions received by the candidate no later than 24 hours following receipt of any such contribution or contributions.

This bill requires each candidate at the general or a special election for a major state office (the office of governor, lieutenant governor, attorney general, secretary of state, state treasurer, superintendent of public instruction, justice of the supreme court, state senator, or representative to the assembly) who does not accept a public grant (see below) and who makes any disbursement after the candidate has accumulated cash in his or her campaign depository or has made disbursements in his or her campaign exceeding a combined total of 75 percent of the amount of the disbursement limitation for the office that the candidate seeks, to file daily reports, by electronic mail or facsimile transmission, with the Government Accountability Board and with each candidate whose name appears on the ballot for the office in connection with which the disbursement is made. The daily reports may be filed no later than 24 hours after each disbursement is made, and must include the

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

2 11.01 (16) (a) 3. Except for purposes of s. 11.38 (1m), a mass communication,
3 other than a communication that is exempt from reporting under s. 11.29, that is
4 made during the period beginning on the 60th day preceding an election and ending
5 on the date of that election, and that includes a reference to a candidate whose name
6 is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at that election,
7 a reference to an office to be filled at that election, or a reference to a political party.

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

9 11.01 (16) (a) 4. A mass communication that refers to a judicial office and either
10 focuses on and takes a position for or against a judicial candidate's position on an
11 issue or takes a position on that judicial candidate's character, qualifications, or
12 fitness for office.

13 SECTION 17. 11.01 (16) (b) of the statutes is renumbered 11.01 (16) (b) (intro.)
14 and amended to read:

15 11.01 (16) (b) (intro.) A "political purpose" does not include expenditures any
16 of the following:

17 1. An expenditure made for the purpose of supporting or defending a person
18 who is being investigated for, charged with or convicted of a criminal violation of state
19 or federal law, or an agent or dependent of such a person.

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

21 11.01 (16) (b) 2. Unless the communication is susceptible of no reasonable
22 interpretation other than as an appeal to vote for or against a candidate whose name
23 is certified to appear on a ballot at an election, a mass communication that either
24 focuses on and takes a position on a legislative or executive issue and urges the public

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1 to adopt the position and to contact one or more public officials about the issue or
2 proposes a commercial transaction and does not do any of the following:

- 3 a. Support or oppose a candidate's record on an issue.
4 b. Mention an election, a candidacy, an opposing candidate, a political party,
5 or voting by the general public.
6 c. Take a position on a candidate's character, qualifications, or fitness for office.

7 SECTION 19. 11.01 (17g) and (17r) of the statutes are repealed.

8 SECTION 20. 11.05 (1) of the statutes is renumbered 11.05 (1) (a) and amended
9 to read:

10 11.05 (1) (a) Except as provided in s. 9.10 (2) (d), every committee, other than
11 a personal campaign committee, ~~and every political group subject to registration~~
12 ~~under s. 11.23 which that~~ makes or accepts contributions, incurs obligations, or
13 makes disbursements in a calendar year in an aggregate amount in excess of \$25
14 shall file a statement with the appropriate filing officer giving the information
15 required by sub. (3). ~~In the case of any committee other than a personal campaign~~
16 ~~committee, the~~ The statement shall be filed by the treasurer. A personal campaign
17 committee shall register under sub. (2g) ~~or (2r)~~.

18 SECTION 21. 11.05 (1) (b) of the statutes is created to read:

19 11.05 (1) (b) Every political group subject to registration under s. 11.23 that
20 makes or accepts contributions, incurs obligations, or makes disbursements in a
21 calendar year in an aggregate amount in excess of \$100 shall file a statement with
22 the appropriate filing officer giving the information required by sub. (3).

23 SECTION 22. 11.05 (2) of the statutes is renumbered 11.05 (2) (a) and amended
24 to read:



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2009 ASSEMBLY BILL 812

March 5, 2010 – Introduced by Representatives BLACK, BERCEAU, CULLEN, KESSLER, STEINBRINK, POPE-ROBERTS, TURNER and MOLEPSKE JR., cosponsored by Senators WIRCH, LASSA, COGGS, LEHMAN and MILLER. Referred to Committee on Elections and Campaign Reform.

1 AN ACT *to amend* 11.06 (2), 11.38 (1) (a) 1. and 11.38 (1) (b); and *to create* 11.01
2 (16) (a) 3., 11.05 (3) (q), 11.05 (3) (s) and 11.38 (3e) of the statutes; relating to:
3 political disbursements by corporations and cooperative associations and the
4 scope of regulated activity under the campaign finance law.

Analysis by the Legislative Reference Bureau

Under current law, corporations and cooperatives are prohibited from making contributions or disbursements (expenditures) in campaigns for state or local office. Violators are subject to a forfeiture (civil penalty) of not more than \$500 for each violation. Intentional violators are guilty of a Class I felony, which is punishable by a fine of not more than \$10,000 or imprisonment for three and one-half years, or both, except that if a violation involves \$100 or less, the violation is punishable as a misdemeanor with a fine of not more than \$1,000 or imprisonment for not more than six months, or both. A recent decision of the U.S. Supreme Court has cast doubt about whether this law is enforceable. See *Citizens United v. F.E.C.*, Case No. 08-205 (2010).

This bill deletes the current prohibition on disbursements by corporations and cooperatives. The bill provides, however, that before a corporation or cooperative may make a disbursement or incur an obligation to make a disbursement for the purpose of influencing an election for state or local office, the corporation or cooperative must file with its registration statement and maintain on file with the appropriate filing officer or agency: 1) a copy of a document that is satisfactory to the Government Accountability Board, reflecting action taken not more than two years

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previous to the time that any disbursement is made or any obligation to make a disbursement is incurred, demonstrating that the corporation or cooperative has received the approval of a majority of its voting shares or members who are entitled to elect the board of directors for the corporation or cooperative to make disbursements and incur obligations to make disbursements for the purpose of influencing an election for state or local office; or 2) a statement that the corporation or cooperative has no shareholders or members.

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 at that election, an office 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 limitations and restrictions by causing reportable "contributions," "obligations," and "disbursements" to include the cost of all reportable communications.

Violators of registration and reporting requirements or the prohibition created by the bill are subject to a forfeiture of not more than \$500 for each violation. In addition, any person who is delinquent in filing a report is subject to a forfeiture of not more than \$50 or 1 percent of the annual salary of the office for which a candidate is being supported or opposed, whichever is greater, for each day of delinquency. Intentional violators of the registration requirements or the prohibition created by the bill are guilty of a Class I felony and may be fined not more than \$10,000 or imprisoned for not more than three years and six months, or both. Persons who intentionally file false reports or statements are guilty of a Class I felony if the violation exceeds \$100 in amount or value and may be fined not more than \$1,000 or imprisoned for not more than six months, or both, if the violation does not exceed \$100 in amount or value.

The bill also provides that no owner, officer, employee, or agent of a corporation or cooperative may cause or authorize the corporation or cooperative to make a disbursement or to incur an obligation that is prohibited under the bill. Under the

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bill, if an owner, officer, employee, or agent causes or authorizes a violation, action must be brought against the owner, officer, employee, or agent personally and the corporation or cooperative is not financially liable for the violation. In addition, no corporation or cooperative is permitted to reimburse an owner, officer, employee, or agent for any financial liability incurred by the owner, officer, employee, or agent.

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

1 SECTION 1. 11.01 (16) (a) 3. of the statutes is created to read:

2 11.01 (16) (a) 3. A communication that is made by means of one or more
3 communications media, other than a communication that is exempt from reporting
4 under s. 11.29, that is made during the period beginning on the 60th day preceding
5 an election and ending on the date of that election, and that includes a reference to
6 a candidate whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on
7 the ballot at that election, a reference to an office to be filled at that election, or a
8 reference to a political party.

9 SECTION 2. 11.05 (3) (q) of the statutes is created to read:

10 11.05 (3) (q) In the case of a corporation or cooperative association organized
11 under ch. 185 or 193 that wishes to make disbursements or to incur obligations to
12 make disbursements for the purpose of influencing an election for state or local office,
13 a statement that the corporation has received the approval of a majority of those
14 shareholders or members who are entitled to vote to elect the board of directors to
15 make disbursements and to incur obligations to make disbursements, together with
16 the attachment required under sub. (3e) or, if there are no shareholders or members,
17 a statement to that effect.

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