2015 SENATE BILL 201

June 26, 2015 – Introduced by Senators ERPENBACH, C. LARSON, CARPENTER, WIRCH, MILLER, VINEHOUT, RINGHAND and HARRIS DODD, cosponsored by Representatives SUBECK, DOYLE, MILROY, MASON, HEBL, KOLSTE, BERCÉAU, OHNSTAD, WACHS, KESSLER, CONSIDINE, JOHNSON, C. TAYLOR, KAHL, POPE, HESSELBEIN, BILLINGS and ZAMARRIPA. Referred to Committee on Elections and Local Government.

AN ACT to amend 11.06 (2); and to create 11.01 (12v), 11.01 (12w), 11.01 (13), 11.01 (14), 11.01 (16) (a) 3., 11.05 (3) (s) and 11.12 (7) of the statutes; relating to: political disbursements and obligations by corporations, cooperative associations, and labor organizations and the scope of regulated activity and reporting of certain activity under the campaign finance law.

Analysis by the Legislative Reference Bureau

Under current law, 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 additional registration and reporting requirements on any person who, 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 clearly identified candidate at that election. In addition, the bill requires a person who 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 person 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,
SENATE BILL 201

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.

The bill also requires a special report by any campaign finance registrant who
makes or incurs an obligation to make a mass communication that becomes
reportable under the bill within 60 days of a primary or other election in an amount
greater than $500 cumulatively since the date of the registrant’s last report. The
special report must be made within 24 hours after the date that disbursements or
obligations that exceed $500 cumulatively are made or incurred and must include
the information that would otherwise be reported on the registrant’s next regular
report in the form prescribed by Government Accountability Board.

Under current law, violators of registration and reporting requirements are
subject to a forfeiture (civil penalty) 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 and persons who intentionally
file false reports or statements may be fined not more than $1,000 or imprisoned for
not more than six months, or both, if the violation involves less than $100 in amount
or value, and may be fined not more than $10,000 or imprisoned for not more than
three years and six months, or both, if the violation involves more than $100 in
amount or value.

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

SECTION 1. 11.01 (12v) of the statutes is created to read:

SECTION 2. 11.01 (12w) of the statutes is created to read:
11.01 (12w) “Mass distribution” means the distribution of 500 or more pieces of substantially identical material.

SECTION 3. 11.01 (13) of the statutes is created to read:

11.01 (13) “Mass electronic communication” means the transmission of 500 or more pieces of substantially identical material by means of electronic mail or facsimile transmission.

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

11.01 (14) “Mass telephoning” means the making of 500 or more telephone calls conveying a substantially identical message.

SECTION 5. 11.01 (16) (a) 3. of the statutes is created to read:

11.01 (16) (a) 3. 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 clearly identified candidate whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at that election.

SECTION 6. 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 mass 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 7. 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 mass 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 8. 11.12 (7) of the statutes is created to read:

11.12 (7) If any registrant makes or incurs an obligation to make a disbursement of more than $500 cumulatively for the purpose of making a communication specified in s. 11.01 (16) (a) 3. later than 60 days prior to a primary or other election without cooperation or consultation with any candidate or agent or authorized committee of any candidate who is supported or opposed, and not in concert with or at the request or suggestion of any such candidate, agent, or committee, the registrant shall, within 24 hours after making the disbursement or incurring the obligation to make 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 registrant shall also include the information in the next regular report of the registrant under s. 11.20. For purposes of this subsection, disbursements and obligations cumulate beginning with the day after the last date covered on the registrant’s immediately preceding report and ending with the day before the election. If a registrant has not filed a previous report, disbursements and obligations cumulate beginning on the date of the registrant’s registration. A disbursement that was previously reported in a report under this subsection as
obligated to be made shall not be included in the cumulative total. Upon receipt of a report under this subsection, the filing officer shall, within 24 hours of receipt, transmit 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 or obligated to be made.

SECTION 9. Initial applicability.

(1) The treatment of sections 11.01 (12v), (12w), (13), (14), and (16) (a) 3. and 11.06 (2) of the statutes first applies with respect to contributions received, disbursements made, and obligations incurred on or after the effective date of this subsection.