2021 ASSEMBLY BILL 474

July 26, 2021 - Introduced by Representatives Steffen, Dallman, Brandtjen, Kitchens, Knodl, Kuglitsch, Kurtz, Magnafici, Mursau, Rozar and Subeck. Referred to Committee on State Affairs.

AN ACT to amend 11.1205 (1) (a) (intro.); and to create 11.1205 (1) (am), 11.1205 (1) (ar), 11.1205 (1) (c) and 11.1205 (1) (d) of the statutes; relating to: public funds for substantially identical materials distributed by state senators and representatives to the assembly prior to a general election and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, no person elected to state or local office who becomes a candidate for national, state, or local office may use public funds for the cost of materials or distribution for 50 or more pieces of substantially identical material distributed after the following:

1. In the case of a candidate who is nominated by nomination papers, the first day authorized by law for circulation of nomination papers as a candidate.
2. In the case of a candidate who is nominated at a primary election by write-in votes, the day the board of canvassers issues its determination that the person is nominated.
3. In the case of a candidate who is nominated at a caucus, the date of the caucus.
4. In the case of any other candidate who is nominated solely by filing a declaration of candidacy, the first day of the month preceding the month that includes the last day for filing the declaration.

Under this bill, that 50-piece limitation applies to a representative to the assembly who becomes a candidate at an election for partisan office only after the last
day authorized by law for filing nomination papers for that election. Additionally, under the bill, with respect to any election for partisan office, a state senator, regardless of whether the senator becomes a candidate at that election, may not use public funds for the cost of materials or distribution for 150 or more pieces of substantially identical material distributed after the last day authorized by law for filing nomination papers for that election.

The bill establishes penalties for violation of all of the above requirements, whether under current law or under the bill.

The bill also provides that all of the above requirements, whether under current law or under the bill, do not apply during a state of emergency declared by the federal government, the governor, or a local government with respect to any elective office representing any part of the territory that is subject to the emergency declaration if the materials distributed are substantially related to the emergency or a government order issued in connection with the emergency.

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

SECTION 1. 11.1205 (1) (a) (intro.) of the statutes is amended to read:

11.1205 (1) (a) (intro.) Except as provided in pars. (am) and (ar) and sub. (2), no person elected to state or local office who becomes a candidate for national, state, or local office may use public funds for the cost of materials or distribution for 50 or more pieces of substantially identical material distributed after:

SECTION 2. 11.1205 (1) (am) of the statutes is created to read:

11.1205 (1) (am) 1. The 50-piece limitation under par. (a) applies to a representative to the assembly who becomes a candidate at an election for partisan office only after the last day authorized by law for filing nomination papers for that election.

2. With respect to any election for partisan office, a state senator, regardless of whether the senator becomes a candidate at that election, may not use public funds for the cost of materials or distribution for 150 or more pieces of substantially
identical material distributed after the last day authorized by law for filing nomination papers for that election.

Section 3. 11.1205 (1) (ar) of the statutes is created to read:

11.1205 (1) (ar) This subsection does not apply during a state of emergency declared by the federal government, by the governor under s. 323.10, or by a local government under s. 323.11 with respect to any elective office representing any part of the territory that is subject to the emergency declaration if the materials distributed are substantially related to the emergency or a government order issued in connection with the emergency.

Section 4. 11.1205 (1) (c) of the statutes is created to read:

11.1205 (1) (c) No legislative rule may impose limits on the use of public funds by members of the legislature for the cost of materials or distribution of pieces of substantially identical material that are more restrictive than the limits imposed under pars. (a) and (am).

Section 5. 11.1205 (1) (d) of the statutes is created to read:

11.1205 (1) (d) Notwithstanding s. 11.1401 (1) (a), violations of this section shall be punished as follows:

1. A violation that occurs on or before the 7th business day after the applicable deadline is punishable by a formal warning of the commission, which the commission shall publish on its Internet site.

2. A violation that occurs after the 7th business day and on or before the 14th business day after the applicable deadline is punishable by a $100 forfeiture. A forfeiture under this subdivision may not be paid from a candidate’s campaign account.
3. A violation that occurs after the 14th business day after the applicable deadline is punishable by a $500 forfeiture. A forfeiture under this subdivision may not be paid from a candidate’s campaign account.

SECTION 6. Initial applicability.

(1) This act first applies to the 2022 general election.