

# State of Wisconsin



2003 Assembly Bill 1

Date of enactment: **August 11, 2003**

Date of publication\*: **August 25, 2003**

## 2003 WISCONSIN ACT 39

**AN ACT** to *renumber and amend* 19.58 (1); to *amend* 11.25 (2) (b) and 19.58 (2); to *repeal and recreate* 19.42 (3m), 19.42 (4g) and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (a), 19.49 (5) (b), 19.53 (6), 19.535, 19.59 (1) (br), 19.59 (7) (a), 19.59 (7) (b), 19.59 (8) (c) and 19.59 (8) (cm) and (cn); to *create* 19.42 (3s), 19.42 (11m), 19.579 and 19.58 (1) (b) of the statutes; and to *affect* 2001 Wisconsin Act 109, section 9115 (2y) (b) and 2001 Wisconsin Act 109, section 9415 (1zx); **relating to:** official action in return for providing or withholding political contributions, services, or other things of value and providing a penalty.

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

**SECTION 1.** 11.25 (2) (b) of the statutes is amended to read:

11.25 (2) (b) Notwithstanding par. (a), a registrant may accept contributions and make disbursements from a campaign depository account for the purpose of making expenditures in connection with a campaign for national office; for payment of civil penalties incurred by the registrant under this chapter but not under any other chapter; or for payment of the expenses of nonpartisan campaigns to increase voter registration or participation. Notwithstanding par. (a), a personal campaign committee or support committee may accept contributions and make disbursements from a campaign depository account for payment of inaugural expenses of an individual who is elected to state or local office. If such expenses are paid from contributions made to the campaign depository account, they are reportable under s. 11.06 (1) as disbursements. Otherwise, such expenses are not reportable under s. 11.06 (1). If contributions from the campaign depository account are used for such expenses, they are subject to s. 11.26.

**SECTION 2.** 19.42 (3m) of the statutes, as created by 2001 Wisconsin Act 109, is repealed and recreated to read:

19.42 (3m) "Candidate," except as otherwise provided, has the meaning given in s. 11.01 (1).

**SECTION 2e.** 19.42 (3s) of the statutes is created to read:

19.42 (3s) "Candidate for local public office" means any individual who files nomination papers and a declaration of candidacy under s. 8.21 or who is nominated at a caucus under s. 8.05 (1) for the purpose of appearing on the ballot for election as a local public official or any individual who is nominated for the purpose of appearing on the ballot for election as a local public official through the write-in process or by appointment to fill a vacancy in nomination and who files a declaration of candidacy under s. 8.21.

**SECTION 2m.** 19.42 (4g) and (4r) of the statutes, as created by 2001 Wisconsin Act 109, are repealed and recreated to read:

19.42 (4g) "Clearly identified," when used in reference to a communication containing a reference to a person, means one of the following:

- (a) The person's name appears.

\* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(b) A photograph or drawing of the person appears.

(c) The identity of the person is apparent by unambiguous reference.

**(4r)** "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 2s.** 19.42 (11m) of the statutes is created to read:

19.42 **(11m)** "Political party" means a political organization under whose name individuals who seek elective public office appear on the ballot at any election or any national, state, or local unit or affiliate of that organization.

**SECTION 3.** 19.45 (13) of the statutes, as created by 2001 Wisconsin Act 109, is repealed and recreated to read:

19.45 **(13)** No state public official or candidate for state public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under s. 11.05, or any person making a communication that contains a reference to a clearly identified state public official holding an elective office or to a candidate for state public office.

**SECTION 4.** 19.49 (1m) of the statutes, as created by 2001 Wisconsin Act 109, is repealed and recreated to read:

19.49 **(1m)** No complaint alleging a violation of s. 19.45 (13) may be filed during the period beginning 120 days before a general or spring election, or during the period commencing on the date of the order of a special election under s. 8.50, and ending on the date of that election, against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

**SECTION 5.** 19.49 (5) (a) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

19.49 **(5)** (a) Except as provided in par. (b), no action may be taken on any complaint that is filed later than 3 years after a violation of this subchapter or subch. III of ch. 13 is alleged to have occurred.

**SECTION 6.** 19.49 (5) (b) of the statutes, as created by 2001 Wisconsin Act 109, is repealed and recreated to read:

19.49 **(5)** (b) The period of limitation under par. (a) is tolled for a complaint alleging a violation of s. 19.45 (13) or 19.59 (1) (br) for the period during which such a complaint may not be filed under s. 19.49 (1m) or 19.59 (8) (cm).

**SECTION 7.** 19.53 (6) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

19.53 **(6)** An order requiring the accused to forfeit not more than \$500 for each violation of s. 19.43, 19.44, or 19.56 (2) or not more than \$5,000 for each violation of any other provision of this subchapter, or not more than the applicable amount specified in s. 13.69 for each violation of subch. III of ch. 13. If the board determines that the accused has realized economic gain as a result of the violation, the board may, in addition, order the accused to forfeit the amount gained as a result of the violation. In addition, if the board determines that a state public official has violated s. 19.45 (13), the board may order the official to forfeit an amount equal to the amount or value of any political contribution, service, or other thing of value that was wrongfully obtained. If the board determines that a state public official has violated s. 19.45 (13) and no political contribution, service or other thing of value was obtained, the board may order the official to forfeit an amount equal to the maximum contribution authorized under s. 11.26 (1) for the office held or sought by the official, whichever amount is greater. The attorney general, when so requested by the board, shall institute proceedings to recover any forfeiture incurred under this section or s. 19.545 which is not paid by the person against whom it is assessed.

**SECTION 8.** 19.535 of the statutes, as created by 2001 Wisconsin Act 109, is repealed and recreated to read:

**19.535 Enforcement.** If the board receives a verified complaint alleging a violation of s. 19.45 (13), the board shall, within 30 days after receipt of the complaint, either authorize an investigation of the allegations contained in the complaint under s. 19.49 (3) or dismiss the complaint. If the board dismisses the complaint, with or without investigation, the board shall promptly notify the complainant in writing. Upon receiving notification of the dismissal, the complainant may then file the complaint with the attorney general, the district attorney for the county where a violation is alleged to occur or the district attorney for a county that is adjacent to that county. The attorney general or district attorney may then investigate the allegations contained in the complaint and commence a prosecution.

**SECTION 8b.** 19.579 of the statutes is created to read:

**19.579 Civil penalty.** Any person who violates s. 19.45 (13) may be required to forfeit not more than \$5,000.

**SECTION 8e.** 19.58 (1) of the statutes is renumbered 19.58 (1) (a) and amended to read:

19.58 (1) (a) Any person who intentionally violates any provision of this subchapter except s. 19.45 (13) or 19.59 (1) (br), or a code of ethics adopted or established under s. 19.45 (11) (a) or (b), shall be fined not less than \$100 nor more than \$5,000 or imprisoned not more than one year in the county jail or both.

**SECTION 8m.** 19.58 (1) (b) of the statutes is created to read:

19.58 (1) (b) Any person who intentionally violates s. 19.45 (13) or 19.59 (1) (br) is guilty of a Class I felony.

**SECTION 8s.** 19.58 (2) of the statutes is amended to read:

19.58 (2) The ~~penalty~~ penalties under sub. (1) ~~does not~~ limit the power of either house of the legislature to discipline its own members or to impeach a public official, or limit the power of a department to discipline its state public officials or employees.

**SECTION 9.** 19.59 (1) (br) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

19.59 (1) (br) No local public official or candidate for local public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under s. 11.05, or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.

**SECTION 10.** 19.59 (7) (a) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

19.59 (7) (a) Any person who violates sub. (1) may be required to forfeit not more than \$1,000 for each violation, and, if the court determines that the accused has violated sub. (1) (br), the court may, in addition, order the accused to forfeit an amount equal to the amount or value of any political contribution, service, or other thing of value that was wrongfully obtained.

**SECTION 11.** 19.59 (7) (b) of the statutes, as created by 2001 Wisconsin Act 109, is repealed and recreated to read:

19.59 (7) (b) Any person who violates sub. (1) may be required to forfeit not more than \$1,000 for each violation, and, if the court determines that a local public offi-

cial has violated sub. (1) (br) and no political contribution, service or other thing of value was obtained, the court may, in addition, order the accused to forfeit an amount equal to the maximum contribution authorized under s. 11.26 (1) for the office held or sought by the official, whichever amount is greater.

**SECTION 12.** 19.59 (8) (c) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

19.59 (8) (c) If the district attorney fails to commence an action to enforce sub. (1) (a), (b), or (c) to (g) within 20 days after receiving a verified complaint or if the district attorney refuses to commence such an action, the person making the complaint may petition the attorney general to act upon the complaint. The attorney general may then bring an action under par. (a) or (b), or both.

**SECTION 13.** 19.59 (8) (cm) and (cn) of the statutes, as created by 2001 Wisconsin Act 109, are repealed and recreated to read:

19.59 (8) (cm) No complaint alleging a violation of sub. (1) (br) may be filed during the period beginning 120 days before a general or spring election, or during the period commencing on the date of the order of a special election under s. 8.50, and ending on the date of that election, against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

(cn) If the district attorney for the county in which a violation of sub. (1) (br) is alleged to occur receives a verified complaint alleging a violation of sub. (1) (br), the district attorney shall, within 30 days after receipt of the complaint, either commence an investigation of the allegations contained in the complaint or dismiss the complaint. If the district attorney dismisses the complaint, with or without investigation, the district attorney shall notify the complainant in writing. Upon receiving notification of the dismissal, the complainant may then file the complaint with the attorney general or the district attorney for a county that is adjacent to the county in which the violation is alleged to occur. The attorney general or district attorney may then investigate the allegations contained in the complaint and commence a prosecution.

**SECTION 14.** 2001 Wisconsin Act 109, section 9115 (2y) (b) is amended to read:

[2001 Wisconsin Act 109] Section 9115 (2y) (b) Notwithstanding section 990.001 (11) of the statutes, if a court finds that any part of the repeal of sections 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and 11.50 (10) of the statutes, the renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50 (1) (a) 1. of the statutes, the renumbering and amendment of sections 11.05 (1), 11.05 (2), 11.05 (2r), 11.12 (6), 11.26 (9) (a), 11.31 (2m), 11.50 (1) (a) 2., 11.50 (5), 11.50 (9), ~~19.49 (5), 19.59 (7),~~ and 71.10 (3) (a) of the statutes, the amendment of sections 5.02 (13), 5.05 (2), 7.08 (2) (c), 7.08 (2) (cm), 8.30 (2), 8.35

(4) (a) 1. a. and b., 8.35 (4) (c) and (d), 11.05 (3) (c), 11.05 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e), 11.06 (2), 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b), 11.06 (7m) (c), 11.07 (1), 11.07 (5), 11.09 (3), 11.10 (1), 11.12 (2), 11.12 (4), 11.12 (5), 11.14 (3), 11.16 (2), 11.16 (5), 11.19 (title), 11.19 (1), 11.20 (1), 11.20 (2), 11.20 (3) (a) and (b), 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12), 11.21 (2), 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26 (2) (intro.), 11.26 (2) (a), 11.26 (3), 11.26 (4), 11.26 (5), 11.26 (6), 11.26 (8), 11.26 (9) (b), 11.26 (10), 11.26 (15), 11.26 (17) (a), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1) (e) and (f), 11.31 (2), 11.31 (2m) (title), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8) (b), 11.50 (2) (a), 11.50 (2) (b) 3. and 4., 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50 (2) (g), 11.50 (2) (h), 11.50 (2) (i), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (10m), 11.50 (11) (e), 11.60 (4), 11.61 (1) (a) (by SECTION 2d), ~~19.53 (6), 19.59 (8) (e)~~, 20.510 (1) (q), 25.42, 71.08 (1) (intro.), and 71.10 (3) (b) of the statutes, the repeal and recreation of sections 11.05 (9) (title) and 11.50 (4) of the statutes, the creation of sections 11.001 (2m), 11.01 (4m), 11.01 (12w), (13) and (14), 11.01 (16) (a) 3., 11.05 (1) (b), 11.05 (2) (b), 11.05 (3) (m), 11.05 (3) (r), 11.06 (1) (cm) and (dm), 11.06 (2m) (b) to (d), 11.06 (11) (bm), 11.12 (6) (am), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t), 11.20 (8) (am), 11.24 (1w), 11.24 (4), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae), (am), (as) and (av), 11.26 (2m), 11.26 (2t), 11.26 (8n), 11.26 (8r), 11.26 (9) (a) 1. to 4., 11.26 (9) (am), 11.26 (9m), 11.26 (10a), 11.31 (1) (de), 11.31 (2m) (a), 11.31 (3p), 11.31 (9), 11.385, 11.50 (1) (a) 1. (intro.), 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm), 11.50 (2) (b) 6., 11.50 (2) (j), 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (9) (b), 11.50 (14), 11.60 (3r), ~~19.42 (3m), (4g) and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535, 19.59 (1) (br), 19.59 (7) (b), 19.59 (8) (cm) and (cn)~~, 71.07 (6s), 71.10 (3) (ac), 71.10 (3) (d), 71.10 (4) (gw), and 806.04 (11m) of the statutes or SECTIONS 9115 (2v), (2x), and (2y), 9132 (4v), 9215 (3v), 9244 (6v), 9315 (2v) and (2w), and 9344 (2v) of this act is unconstitutional, the treatment of those provisions by this act is void.

**SECTION 15.** 2001 Wisconsin Act 109, section 9415 (1zx) is amended to read:

[2001 Wisconsin Act 109] Section 9415 (1zx) CAMPAIGN FINANCE AND RELATED CHANGES. The repeal of sections 11.01 (12s), 11.05 (3) (o), 11.265, 11.50 (3), and

11.50 (10) of the statutes, the renumbering of sections 11.05 (2r) (title), 11.24 (2), and 11.50 (1) (a) 1. of the statutes, the renumbering and amendment of sections 11.05 (1), 11.05 (2), 11.05 (2r), 11.12 (6), 11.26 (9) (a), 11.31 (2m), 11.50 (1) (a) 2., 11.50 (5), ~~and 11.50 (9), 19.49 (5), and 19.59 (7)~~ of the statutes, the amendment of sections 5.02 (13), 5.05 (2), 7.08 (2) (c), 7.08 (2) (cm), 8.30 (2), 8.35 (4) (a) 1. a. and b., 8.35 (4) (c) and (d), 11.05 (3) (c), 11.05 (5), 11.05 (9) (b), 11.05 (12) (b), 11.05 (13), 11.06 (1) (intro.), 11.06 (1) (e), 11.06 (2), 11.06 (3) (b) (intro.), 11.06 (4) (b), 11.06 (5), 11.06 (7m) (a), 11.06 (7m) (b), 11.06 (7m) (c), 11.07 (1), 11.07 (5), 11.09 (3), 11.10 (1), 11.12 (2), 11.12 (4), 11.12 (5), 11.14 (3), 11.16 (2), 11.16 (5), 11.19 (title), 11.19 (1), 11.20 (1), 11.20 (2), 11.20 (3) (a) and (b), 11.20 (7), 11.20 (8) (intro.), 11.20 (8) (a), 11.20 (9), 11.20 (10) (a), 11.20 (12), 11.21 (2), 11.21 (15), 11.21 (16), 11.22 (3), 11.23 (1), 11.23 (2), 11.26 (1) (intro.), 11.26 (2) (intro.), 11.26 (2) (a), 11.26 (3), 11.26 (4), 11.26 (5), 11.26 (6), 11.26 (8), 11.26 (9) (b), 11.26 (10), 11.26 (15), 11.26 (17) (a), 11.31 (1) (intro.), 11.31 (1) (a) to (d), 11.31 (1) (e) and (f), 11.31 (2), 11.31 (2m) (title), 11.31 (3), 11.38 (1) (a) 2., 11.38 (6), 11.38 (8) (b), 11.50 (2) (a), 11.50 (2) (b) 3. and 4., 11.50 (2) (b) 5., 11.50 (2) (c), 11.50 (2) (f), 11.50 (2) (g), 11.50 (2) (h), 11.50 (2) (i), 11.50 (6), 11.50 (7) (intro.), 11.50 (8), 11.50 (10m), 11.50 (11) (e), 11.60 (4), 11.61 (1) (a) (by SECTION 2d), ~~19.53 (6), 19.59 (8) (e)~~, 20.510 (1) (q), and 25.42 of the statutes, the repeal and recreation of sections 11.05 (9) (title) and 11.50 (4) of the statutes, the creation of sections 11.001 (2m), 11.01 (4m), 11.01 (12w), (13) and (14), 11.01 (16) (a) 3., 11.01 (17g) and (17r), 11.05 (1) (b), 11.05 (2) (b), 11.05 (3) (m), 11.05 (3) (r), 11.06 (1) (cm) and (dm), 11.06 (2m) (b) to (d), 11.06 (11) (bm), 11.12 (6) (am), 11.12 (6) (c) and (d), 11.12 (8) and (9), 11.20 (2s), 11.20 (2t), 11.20 (8) (am), 11.21 (17), 11.24 (1w), 11.24 (4), 11.26 (1m), 11.26 (1t), 11.26 (2) (ae), (am), (as) and (av), 11.26 (2m), 11.26 (2t), 11.26 (8n), 11.26 (8r), 11.26 (9) (a) 1. to 4., 11.26 (9) (am), 11.26 (9m), 11.26 (10a), 11.31 (1) (de), 11.31 (2m) (a), 11.31 (3p), 11.31 (9), 11.385, 11.50 (1) (a) 1. (intro.), 11.50 (1) (a) 2m., 11.50 (1) (am), 11.50 (1) (bm) and (cm), 11.50 (2) (b) 6., 11.50 (2) (j), 11.50 (2m), 11.50 (2s), 11.50 (2w), 11.50 (9) (b), 11.50 (14), 11.60 (3r), ~~19.42 (3m), (4g) and (4r), 19.45 (13), 19.49 (1m), 19.49 (5) (b), 19.535, 19.59 (1) (br), 19.59 (7) (b), 19.59 (8) (cm) and (cn)~~, and 806.04 (11m) of the statutes and SECTIONS 9115 (2v) and (2w) and 9315 (2v) and (2w) of this act take effect on July 1, 2003.