

STATE ELECTIONS BOARD

Chapter El Bd 1

CAMPAIGN FINANCING

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El Bd 1.02 Multiple candidacies. (1) Any candidate seeking election to an office other than that indicated on his registration statement or that of his personal campaign committee must file an amended registration statement with the appropriate filing officer or officers indicating such change. Financial disclosure reports filed subsequent to such change must be filed with the filing officer for the office designated on the amended registration statement.

(2) When a candidate is simultaneously seeking election to more than one office, he shall file duplicate consolidated registration statements indicating all offices sought and duplicate consolidated financial disclosure reports with the appropriate filing officers. The personal campaign committee of such a candidate is responsible for ensuring compliance with the contribution limitation applicable to each office sought.

(3) Regardless of the number of offices sought, a candidate may not have more than one committee, treasurer and campaign depository account.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

El Bd 1.03 Duplicate filing requirements. Section 11.09, Wis. Stats., is applied as follows:

(7) The executive secretary of the board shall promptly after each apportionment of congressional and legislative districts and judicial circuits transmit to all county clerks and make available a list of districts and circuits affected by this section, categorized according to responsibility for filing duplicate reports.

History: Emerg. cr. 8-9-74; cr. Register, November, 1974, No. 227, eff. 12-1-74; r. (1) to (6), Register, March, 1976, No. 243, eff. 4-1-76.

El Bd 1.04 Debt retirement. Contributions received for the purpose of retiring debts incurred in a prior campaign should be counted against the contributor's contribution limit for said campaign. Con-

tributions received in excess of the amount needed to retire such debt shall be counted against the contributor's contribution limits applicable to the next campaign on a first-in first-out basis with the contributions received first applied to debt retirement.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

El Bd 1.05 Reporting of disbursements. Every withdrawal of funds except for internal transfers for investment purposes from the campaign depository account must be reported in accordance with sections 11.06 and 11.20, Wis. Stats.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

El Bd 1.06 Corporate registration and reporting. (1) Every foreign or domestic corporation or association organized under chapter 185, Wis. Stats., which establishes a separate segregated fund pursuant to section 11.38 (1) (a) 2., Wis. Stats., shall register with the appropriate filing officer on a form prescribed by the board.

(2) Every foreign or domestic corporation or association organized under chapter 185, Wis. Stats., which is required to register pursuant to subsection (1), shall file financial disclosure reports with the appropriate filing officer in accordance with section 11.20 (4), Wis. Stats., on a form prescribed by the board.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

El Bd 1.10 Reporting by nonresident committees and groups. Every nonresident committee or group as defined in section 11.07 (6), Wis. Stats., acting in support of or in opposition to any candidate for state or local office, which makes or accepts contributions, incurs obligations or makes disbursements exceeding \$25 cumulatively in a calendar year within this state shall register both with the appropriate filing officer under section 11.05 (1), Wis. Stats., and with the secretary of state under section 11.07 (1), Wis. Stats.

History: Emerg. cr. 8-16-74; cr. Register, November, 1974, No. 227, eff. 12-1-74.

El Bd 1.12 Filing requirements for special elections. (1) The personal campaign committee of every candidate who wins a primary for a special election must file pre primary, pre election and post election reports, on the dates specified for those reports in section 11.20 (3), Wis. Stats. The personal campaign committee of every candidate who loses a primary for a special election must file pre and post primary reports, on the dates specified for those reports in section 11.20 (3), Wis. Stats.

(2) Every political committee and group required to register under section 11.05, Wis. Stats., and formed exclusively to affect the outcome of a special election shall file reports, according to the requirements set out for personal campaign committees under (1).

(3) Every political party committee and every political committee and group not specified in (2) that makes a direct disbursement to affect the outcome of a special election shall file election reports according to the requirements set out for personal campaign committees under (1).

(4) A direct disbursement under (3) shall not include a contribution made to a political party committee, a political committee or a political group.

History: Emerg. cr. eff. 9-19-75; cr. Register, March, 1976, No. 243, eff. 4-1-76; emerg. am. eff. 3-25-77; am. Register, July, 1977, No. 259, eff. 8-1-77.

El Bd 1.13 Spring primary reports. When no spring primary is held, all candidates in the spring election and all political committees supporting or opposing said candidates and all political groups supporting or opposing referenda to be voted on at the spring election must file pre and post primary reports in accordance with section 11.20 (3), Wis. Stats. This requirement, however, does not apply to registrants exempted from filing requirements under section 11.05 (2r), Wis. Stats.

History: Emerg. cr. eff. 2-3-76; cr. Register, June, 1976, No. 246, eff. 7-1-76.

El Bd 1.25 Loan treatment respecting limitations. A loan when made by any person, committee or group (except a loan of money by a national or state bank made by the bank in accordance with applicable banking laws and regulations in the ordinary course of business) shall be reported as a contribution or disbursement, and also as an incurred obligation by the debtor. When such a loan is received by a registrant, it is counted within the contribution limitation of the creditor while outstanding, but is not counted within the limitation after repayment. The amount or value of any such outstanding loans and any other contributions or disbursements shall at no time exceed any limitation specified in sections 11.26 and 11.31, Wis. Stats.

History: Cr. Register, March, 1975, No. 231, eff. 4-1-75.

El Bd 1.26 Return of contribution; effect on limitation. When a contribution is returned by a registrant after deposit in the campaign depository, such return does not constitute a disbursement for purposes of section 11.31, Wis. Stats. The registrant returning the contribution lists it as a "negative entry", while the registrant receiving the returned contribution lists it as "other income".

History: Cr. Register, March, 1975, No. 231, eff. 4-1-75.

El Bd 1.27 Refund of disbursement; effect on limitation. When a disbursement made by any registrant is refunded in whole or in part, the return may be indicated as a negative entry under the listing of itemized disbursements in a financial report.

History: Cr. Register, March, 1975, No. 231, eff. 4-1-75.

El Bd 1.28 Scope of regulated activity; election of candidates.
(1) Definitions. As used in this rule:

(a) "Political committee" means every committee which is formed primarily to influence elections or which is under the control of a candidate.

(b) "Contributions earmarked for political purposes" means contributions made to 1) a candidate, or 2) a political committee or 3) an individual who makes contributions to a candidate or political committee or incurs obligations or makes disbursements for the purpose of expressly advocating the election or defeat of an identified candidate.

(2) Individuals other than candidates and committees other than political committees are subject to the applicable disclosure-related and recordkeeping-related requirements of chapter 11, Wis. Stats., only when they:

(a) Make contributions earmarked for political purposes, or

(b) Make contributions to any person at the request or with the authorization of a candidate or political committee, or

(c) Make expenditures for the purpose of expressly advocating the election or defeat of an identified candidate.

(3) Consistent with section 11.05 (2), nothing in subsection (1) or (2) should be construed as requiring registration and reporting, under sections 11.05 and 11.06, Wis. Stats., of an individual whose only activity is the making of contributions.

History: Emerg. cr. eff. 8-25-76; cr. Register, January, 1977, No. 253, eff. 2-1-77.

El Bd 1.29 Scope of regulated activity; referenda. The requirements of disclosure and recordkeeping of section 11.23, Wis. Stats., are applicable to individuals and groups other than groups formed primarily to influence the outcome of a referendum as to contributions, disbursements and obligations which are directly related to express advocacy of a particular result in a referendum. Nothing contained herein should be construed to exempt groups formed primarily to influence the outcome of a referendum from the requirements of disclosure and recordkeeping of section 11.23, Wis. Stats.

History: Emerg. cr. eff. 8-25-76; emerg. am. eff. 9-7-76; cr. Register, January, 1977, No. 253, eff. 2-1-77.

El Bd 1.30 Revocation of \$250 exemption indication. When a registrant who has signed an indication on a registration statement that the registrant will not receive contributions, make disbursements or incur obligations in excess of \$250 discovers that his or her financial activity will exceed \$250, the registrant must so inform his or her filing officer by verified letter filed with the filing officer or with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no later than the date on which the \$250 limit is exceeded. Such registrant is subject to applicable reporting requirements as of the date on which the \$250 limit is exceeded, including the requirement to report contributions received, disbursements made and obligations incurred before the \$250 limit was exceeded.

History: Emerg. cr. eff. 9-13-76; cr. Register, January, 1977, No. 253, eff. 2-1-77.

El Bd 1.31 Treatment of commercial loan guaranties. (1) DEFINITIONS. As used in this rule:

(a) "Registrant" means any committee, group, individual or candidate who or which is required to register with a filing officer pursuant to section 11.05, Wis. Stats.

(b) "Commercial loan" means a loan of money by a national or state bank made in accordance with applicable banking laws and regulations in the ordinary course of business.

(2) TREATMENT OF GUARANTY ON DEFAULTED LOAN. (a) In the event that any registrant defaults on a commercial loan, the unpaid balance

shall be apportioned among the guarantors as loans from each guarantor, in that proportion of the unpaid balance which each guarantor bears to the total number of guarantors. Each such loan shall be reported by the registrant as a contribution and as an incurred obligation, the registrant shall specify that the obligation arose out of the guaranty of a commercial loan, and shall describe the commercial loan by listing the name of the commercial lender and the date on which the loan was made.

(b) If the registrant reduces the unpaid balance by payment to the commercial lender or reimburses a guarantor from whom the commercial lender has collected on a guaranty contract, the amount of each guarantor's loan shall be reduced in that proportion of the payment or reimbursement which each guarantor bears to the total number of guarantors. A reduction in the amount of the loan from a guarantor should be reported as a corresponding reduction in the amount of the guarantor's contribution and in the amount of the registrant's incurred obligation to the guarantor.

(3) In addition to the above, in the event the registrant defaults, the guarantor becomes independently subject to registration and reporting requirements on the basis of his incurred obligation to the commercial lender, pursuant to section 11.01 (11), Wis. Stats.

(4) Nothing in this rule applies to loans secured by individuals or candidates for non-political purposes.

History: Cr. Register, June, 1977, No. 258, eff. 7-1-77.

El Bd 1.32 Contribution of partnership funds. (1) As used in this rule, "partnership" includes all associations organized for profit and all other partnerships.

(a) A contribution in the name of a partnership shall be treated as an individual contribution from each partner in relation to each partner's interest in the partnership profits or losses unless the partners agree to apportion the contribution otherwise.

(b) When a contribution is made in the name of a partnership, the registrant must obtain the information as to each partner's share thereof within 30 days after receiving the contribution or return the contribution.

History: Cr. Register, June, 1977, No. 258, eff. 7-1-77.

El Bd 1.33 Retirement of campaign debts incurred to business creditors. (1) As used in this section "an obligation incurred by a registrant to a business creditor" means an obligation incurred by the registrant for goods or services.

(2) An obligation incurred by a registrant to a business creditor will be treated as a contribution of the creditor if any part of the obligation is outstanding for a period longer than that consistent with normal business or trade practice, or if the obligation is settled for less than the outstanding debt, unless a showing is made to the registrant's filing officer that the creditor has treated the obligation in a commercially reasonable manner. Such a showing must include at least the following:

(a) The initial extension of credit on which the obligation was incurred was made in the ordinary course of business with terms

substantially similar to those granted to non-political debtors of similar credit risk; and

(b) The creditor has made all reasonable efforts to retire the debt, including pursuit of all remedies which would normally be employed by the creditor in pursuit of a non-political debtor. "Reasonable efforts to retire the debt" include lawsuits, if filed in similar circumstances.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

El Bd 137 Primary and election reporting requirements. (1) CANDIDATE-RELATED CONTRIBUTIONS AND EXPENDITURES. (a) All candidates at a primary shall file pre and post primary reports. All candidates at an election shall file pre and post election reports. All political party committees shall file pre and post primary reports and pre and post election reports for primaries and elections taking place in September and November of even-numbered years. All registrants shall file pre and post primary reports in the event that any contributions or expenditures are made, or obligations are incurred, in support of a candidate at the primary. All registrants shall file pre and post election reports in the event that any contributions, expenditures, or obligations are made or incurred in support of a candidate at the election.

(b) A contribution, expenditure or obligation in support of a candidate during a pre or post primary reporting period will be considered to have been made or incurred in support of the candidate at the primary, regardless of whether the candidate is opposed at the primary. A contribution, expenditure or obligation in support of a candidate during a pre or post election period will be considered to have been made or incurred in support of a candidate at the election, regardless of whether the candidate is opposed at the election.

(c) A registrant who or which makes or incurs a contribution, expenditure or obligation in support of a candidate during a pre primary period must file pre and post primary reports, regardless of whether the registrant makes or incurs any contribution, expenditure or obligation during the post primary period. A registrant who or which makes a contribution or expenditure in support of a candidate during a pre election reporting period must file pre and post election reports, regardless of whether the registrant makes or incurs any contribution, expenditure or obligation during the post election period.

(d) Notwithstanding (a), a registrant who or which makes or incurs a contribution, expenditure or obligation in support of a candidate during a post primary period, but has made or incurred no contribution, expenditure or obligation during the pre primary period, is not required to file a pre primary report. A registrant who or which makes or incurs a contribution, expenditure or obligation in support of a candidate during a post election period, but has made or incurred no contribution, expenditure or obligation during the pre election period, is not required to file a pre election report.

(e) Notwithstanding (a), pursuant to Wis. Adm. Code El Bd 1.12, a registrant who is not a candidate at a special election or special election primary need not file primary or election reports for the special election or special election primary if the registrant's only

activity is a contribution to a political group, political party committee, or a political committee.

(2) **REFERENDUM-RELATED CONTRIBUTIONS AND EXPENDITURES.** All registrants who or which make or incur contributions, expenditures or obligations in support of or opposition to a referendum at an election shall file pre and post election reports.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

El Bd 1.39 Conversion of federal campaign committee to state committee. (1) As used in this rule,

(a) "federal campaign committee" means the campaign committee of a candidate for federal office, which is not registered with a state or local filing officer, and

(b) "state campaign committee" means the personal campaign committee of a candidate for state or local office.

(2) A federal campaign committee may convert to a state campaign committee and use funds collected for federal purposes in a state or local campaign by filing a campaign finance registration statement, pursuant to section 11.05, Stats., with the appropriate filing officer and simultaneously filing a campaign finance disclosure report showing the sources of all funds on hand at the time of the report, pursuant to the requirements of section 11.06 (1) (a), (b), (c), (d) and (f), Stats. In determining the sources of funds on hand and allocating those funds among the sources, the funds shall be treated on a last-in, last-out basis, so that they will be attributed in the report to the most recent sources, in the full amount received from each source.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

El Bd 1.40 Timely registration requirements. Pursuant to section 11.05 (6), Stats., every person, committee or group must register with the appropriate filing officer within 5 days of the receipt of any contribution intended for state or local political purposes and before the making of any disbursement or contribution for such purposes. This rule should not be construed to require an individual who makes contributions from personal funds to register.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.