



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

<b>2003 Wisconsin Act 39</b> [2003 Assembly Bill 1]	<b>“Pay-to-Play” Prohibitions</b>
2003 Acts: <a href="http://www.legis.state.wi.us/2003/data/acts/">www.legis.state.wi.us/2003/data/acts/</a>	Act Memos: <a href="http://www.legis.state.wi.us/lc/act_memo/act_memo.htm">www.legis.state.wi.us/lc/act_memo/act_memo.htm</a>

2003 Wisconsin Act 39 generally prohibits state and local public officials from taking official action in exchange for political contributions or anything else of value for the benefit of a candidate, political party, or any person making certain candidate-related communications.

### **The “Pay-to-Play” Prohibitions**

The pay-to-play prohibitions in the Act apply to state and local elected officials, candidates for state and local elective office, and other state and local officials currently covered by the standards of conduct in the State Ethics Code and by the statutory standards of conduct applicable to local officials. (Hereafter, referred to as “public officials.”)

Under the Act:

- No public official 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 on 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 any other thing of value,
- to or for the benefit of a candidate, political party, other registrant, or any person making certain candidate-related communications, as defined in the Act.

---

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

**Enforcement**

By making the pay-to-play prohibition that applies to state public officials and candidates for state elective office part of the State Code of Ethics for public officials, the Act gives the Ethics Board jurisdiction to investigate and enforce violations involving these officials.

If the Ethics Board, in the case of a state public official, or a district attorney, in the case of a local public official, receives a verified complaint alleging a pay-to-play violation, the board or district attorney must, within 30 days of receipt of the complaint, either authorize an investigation or dismiss the complaint. If a complaint is dismissed, with or without investigation, the complainant must be notified in writing. The complainant may then file the complaint with the Attorney General or certain district attorneys. The Attorney General or district attorney may then investigate and commence prosecution.

The Act prohibits a complaint alleging a violation of the pay-to-play prohibitions against a candidate for elective office for a specified period beginning before the election and ending on the date of the election.

**Penalty**

The Act imposes civil and criminal penalties for violations of the pay-to-play prohibitions.

A civil forfeiture imposed by the Ethics Board for violations of the prohibitions by state public officials may also include an amount equal to the amount or value of any political contribution, service, or any other thing of value wrongfully obtained or, if nothing of value is obtained (because, for example, a campaign contribution was withheld as a result of the violation), an amount equal to the maximum contribution authorized for the office sought. Further, the board may order forfeiture of the amount gained as a result of the violation if the offender realized economic gain.

Forfeitures imposed by a court for violations of the pay-to-play prohibitions by local public officials may include an amount equal to the amount or value of any political contribution, service, or other thing of value wrongfully obtained.

Intentional violations of the pay-to-play prohibitions are punishable as a Class I felony (\$10,000 maximum fine; three years, six months maximum imprisonment; or both).

***Effective Date:*** Act 39 takes effect on August 26, 2003.

***Prepared by:*** Don Dyke, Chief of Legal Services

September 10, 2003

DD:wu:tlu:jal;tlu