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# Wisconsin Legislative Council

## ACT MEMO

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March 18, 2024

**2023 Wisconsin Act 105**  
[2023 Senate Bill 408]

**Changes to the “50-Piece Rule”**

### BACKGROUND

State law prohibits state and local elected officials who are running for office from using public funds to distribute 50 or more pieces of substantially identical material between the first day for circulating nomination papers and the date of the election. This prohibition is commonly referred to as the “50-piece rule.” For legislators running for reelection, the prohibition currently applies from the first date for circulating nomination papers (April 15) through the General Election in November.

Prior state law provided several exceptions, allowing elected officials to use public funds to distribute more than 50 pieces during the prohibited period, if the materials were addressed to certain recipients or included certain content. Specifically, the exceptions were for responses to constituents, directed actions of administrative officers, communications between legislators regarding the legislative or deliberative process during the legislative session, and communications about special or extraordinary session.

### 2023 WISCONSIN ACT 105

Act 105 creates a 150-piece rule for state Senators, shortens the period during which the rule applies to legislators, creates additional exceptions, prohibits the Legislature from adopting more restrictive legislative rules, and alters the penalties for a violation. The provisions first apply to the 2024 General Election.

#### Increased Limit – State Senators

Act 105 also changes the piece limit that applies to state Senators running for partisan office. For these Senators, the act expands the number of substantially identical materials that can be created and distributed with public funds to 150 pieces, rather than 50.

#### Delayed Trigger Date - State Representatives and State Senators

The act changes the date on which the prohibition against using public funds to distribute substantially identical materials first applies to a legislator who is running for a partisan office. For an Assembly member running for partisan office, the 50-piece rule first applies after the last day for filing nomination papers (June 1), rather than the first day for circulating nomination papers (April 15). Similarly, for a state Senator running for partisan office, the new 150-piece rule first applies after the last day for filing nomination papers, rather than the first day for circulating nomination papers.

#### Exception for Legislative Communications

Act 105 expands the prior exception for legislative communications. Prior law allowed legislators to send 50 or more substantially similar materials to other members of the Legislature, even during

campaign season, if the communication was about the legislative or deliberative process and occurred while the Legislature was in session.

The act expands the exception to cover any communications between legislators or between legislators and partisan or nonpartisan legislative staff, and eliminates the requirements that the communications occur during session and address certain topics.

## **Exception for Communications About a Declared State of Emergency**

Act 105 creates an exception for materials relating to a declared state of emergency. Under the act, an elected official representing any part of territory subject to an emergency declaration made by the federal government, the Governor, or a local government may use public funds to send unlimited materials, even during campaign season. To qualify for the exception, the materials must be substantially related to the emergency or to a government order issued in connection with the emergency.

## **Prohibited Legislative Rules**

The act prohibits the Legislature from adopting rules more restrictive than state law. Specifically, the language prohibits any legislative rule from imposing limits on the use of public funds by legislators for substantially identical material that is more restrictive than the limits provided under s. 11.1205 (1) (a) and (am), Stats.

## **Modified Penalties for Violations**

Act 105 changes the penalties for a violation of the 50-piece rule (or 150-piece rule for Senators) that vary depending on how close in time a violation occurs to the trigger date when the prohibition applies. Under prior law, a violation of the 50-piece rule was subject to a civil penalty of a forfeiture up to \$500 for each violation, or subject to a criminal penalty of imprisonment of six months or less, a fine of \$1,000 or less, or both.

The act instead provides that a violation occurring within the first seven business days after the trigger date is punishable by a formal warning from the Wisconsin Ethics Commission published on its website. A violation occurring between the seventh and 14<sup>th</sup> business days after the trigger date is punishable by a \$100 forfeiture. Finally, a violation occurring more than 14 business days after the trigger date is punishable by a \$500 forfeiture. An official cannot pay any forfeiture from his or her candidate committee depository account.

**Effective date:** March 10, 2024

For a full history of the bill, visit the Legislature's [bill history page](#).

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