
Wisconsin Legislative Council

AMENDMENT MEMO



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Contact: Katie Bender-Olson, Principal Attorney

2023 Senate Bill 408

Senate Amendment 2

2023 SENATE BILL 408, AS ORIGINALLY ENROLLED

Senate Bill 408, as originally enrolled¹ (hereinafter, “Senate Bill 408”), creates several exceptions to the “50-piece rule,” which prohibits state and local elected officials from using public funds for distributing 50 or more pieces of substantially identical material between the first day for circulating nomination papers and the date of the election.

First, the bill provides that the 50-piece rule applies to a member of the Assembly who is running for partisan office after the deadline for filing nomination papers (June 1), rather than the first day for circulating nomination papers (April 15).

Second, Senate Bill 408 increases the limit to 150 pieces for state Senators and first applies the limit after the deadline for filing nomination papers, rather than the first day for circulating nomination papers. A state Senator is limited to distributing 150 pieces after the nomination filing deadline, regardless of whether that particular Senator is up for election. The bill also provides that a special election does not trigger the 150-piece rule for a state Senator unless the Senator is a candidate at that election.

Third, the bill creates an exception to the 50-piece rule during a declared state of emergency for an elected official representing any part of the territory subject to the emergency declaration, if the materials substantially relate to the emergency.

Fourth, Senate Bill 408 creates an additional exception from the 50-piece rule for communications between legislators and communications between legislators and partisan or nonpartisan staff.²

Finally, Senate Bill 408 creates new penalties for a violation of the 50-piece rule that vary depending on how close in time a violation occurs to the deadline when the prohibition applies. Under the bill, a violation is punishable by a formal warning of the Ethics Commission, by a \$100 forfeiture, or by a \$500 forfeiture.

SENATE AMENDMENT 2

Senate Amendment 2 changes the new 150-piece limit for state Senators. The bill, as enrolled, applied the 150-piece limit to every state Senator, regardless of whether a particular Senator is running at that election. In contrast, Senate Amendment 2 applies the 150-piece limit only to a Senator who becomes a candidate at that election. The amendment also makes a corresponding change to eliminate language

¹ The Senate initially adopted Senate Amendment 1 and passed the bill, as amended, in November 2023. The Assembly then concurred in the engrossed bill in January 2024. However, the Senate adopted Senate Joint Resolution 113 and recalled the bill from enrolling on February 13, 2024, which returned the bill to an amendable stage.

² Current law provides an exception for certain communications between members of the Legislature, but the exception only applies if the communication is about the legislative or deliberative process and occurs while the Legislature is in session. [s. 11.1205 (2) (c), Stats.]

clarifying that a special election only triggers the 150-piece limit if the Senator is running in that special election.

BILL HISTORY

Senator LeMahieu offered Senate Amendment 2 on February 16, 2024. On February 20, 2024, the Senate adopted Senate Amendment 2 and passed the bill, as amended, on voice votes.

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

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