



2001 ASSEMBLY BILL 682

December 17, 2001 - Introduced by Representatives GUNDRUM, JENSEN, TRAVIS, FREESE, LASSA, LADWIG, ZIEGELBAUER, STONE, McCORMICK, OLSEN, STARZYK, KESTELL, SKINDRUD, NASS, HAHN, ALBERS, KRAWCZYK, D. MEYER, KREIBICH, DUFF, PETROWSKI, HUEBSCH, VRAKAS, BIES and LIPPERT, cosponsored by Senators ROSENZWEIG, HUELSMAN, ROESSLER and HARSDF. Referred to Committee on Campaigns and Elections.

1 **AN ACT** *to amend* 11.25 (2) (b) and 19.53 (6); and *to create* 19.45 (13), 19.535 and
2 19.59 (1) (br) of the statutes; **relating to:** official action in return for providing
3 or withholding political contributions, services, or other things of value and
4 providing a penalty.

Analysis by the Legislative Reference Bureau

Currently, no person may offer or give to a state public official, including a member of the legislature, directly or indirectly, and no state public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the state public official's vote, official actions, or judgment, or could reasonably be considered a reward for any official action or inaction on the part of the state public official.

This bill provides, in addition, that no state or local public official holding an elective 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, or any other person who is subject to a registration requirement under the campaign finance law.

Violators are subject to a forfeiture (civil penalty) of not more than \$5,000 for each violation, and are also subject to a forfeiture in an amount equal to the amount

ASSEMBLY BILL 682

or value of any political contribution, service, or other thing of value that was wrongfully procured. Intentional violators are guilty of a misdemeanor and are subject to a fine of not less than \$100 nor more than \$5,000 or imprisonment in the county jail for not more than one year or both.

The bill also provides that, if the ethics board refuses or otherwise fails to authorize an investigation with respect to any violation of the prohibition created by the bill within 30 days after receiving a verified complaint alleging such a violation, the person making the complaint may bring a lawsuit to recover a forfeiture on behalf of the state. If the person making the complaint prevails, the bill provides that the court may require the defendant to pay the complainant's attorney fees and costs, but any forfeiture recovered must be paid to the state. If the court finds that a lawsuit was frivolous, the court must award fees and costs to the defendant. The bill provides that no lawsuit based upon such a complaint may be brought during the period beginning 120 days before a general, spring, or special election 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.

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

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

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

ASSEMBLY BILL 682

1 11.06 (1). If contributions from the campaign depository account are used for such
2 expenses, they are subject to s. 11.26.

3 **SECTION 2.** 19.45 (13) of the statutes is created to read:

4 19.45 (13) No state public official holding an elective office may, directly or by
5 means of an agent, give, or offer or promise to give, or withhold, or offer or promise
6 to withhold, his or her vote or influence, or promise to take or refrain from taking
7 official action with respect to any proposed or pending matter in consideration of or
8 upon condition that any other person make or refrain from making a political
9 contribution, or provide or refrain from providing any service or other thing of value,
10 to or for the benefit of a candidate, a political party, or any other person who is subject
11 to a registration requirement under s. 11.05.

12 **SECTION 3.** 19.53 (6) of the statutes is amended to read:

13 19.53 (6) An order requiring the accused to forfeit not more than \$500 for each
14 violation of s. 19.43, 19.44 or 19.56 (2) or not more than \$5,000 for each violation of
15 any other provision of this subchapter, or not more than the applicable amount
16 specified in s. 13.69 for each violation of subch. III of ch. 13; ~~and, if, If~~ the board
17 determines that the accused has realized economic gain as a result of the violation,
18 an the board may, in addition, order requiring the accused to forfeit the amount
19 gained as a result of the violation, and, if the board determines that the accused has
20 violated s. 19.45 (13), the board may, in addition, order the accused to forfeit an
21 amount equal to the amount or value of any political contribution, service, or other
22 thing of value that was wrongfully procured. The attorney general, when so
23 requested by the board, shall institute proceedings to recover any forfeiture incurred
24 under this section or s. 19.545 which is not paid by the person against whom it is
25 assessed.

ASSEMBLY BILL 682

1 **SECTION 4.** 19.535 of the statutes is created to read:

2 **19.535 Direct enforcement. (1)** Except as provided in sub. (2), if the board
3 refuses or otherwise fails to authorize an investigation under s. 19.49 (3) with respect
4 to a violation of s. 19.45 (13) within 30 days after receiving a verified complaint
5 alleging a violation of s. 19.45 (13) by that person, the person making the complaint
6 may bring an action to recover the forfeiture under s. 19.53 (6) on his or her relation
7 in the name, and on behalf, of the state. In such actions, the court may award actual
8 and necessary costs of prosecution, including reasonable attorney fees, to the relator
9 if he or she prevails, but any forfeiture recovered shall be paid to the state. If the
10 court finds in any such action that the cause of action was frivolous as provided in
11 s. 814.025, the court shall award costs and fees to the defendant under that section.

12 **(2)** No action based upon a complaint that is filed under sub. (1) may be
13 commenced during the period beginning 120 days before a general, spring, or special
14 election and ending on the date of that election against a candidate who files a
15 declaration of candidacy to have his or her name appear on the ballot at that election.

16 **SECTION 5.** 19.59 (1) (br) of the statutes is created to read:

17 **19.59 (1) (br)** No local public official holding an elective office may, directly or
18 by means of an agent, give, or offer or promise to give, or withhold, or offer or promise
19 to withhold, his or her vote or influence, or promise to take or refrain from taking
20 official action with respect to any proposed or pending matter in consideration of or
21 upon condition that any other person make or refrain from making a political
22 contribution, or provide or refrain from providing any service or other thing of value,
23 to or for the benefit of a candidate, a political party, or any other person who is subject
24 to a registration requirement under s. 11.05.

25

(END)