



2007 ASSEMBLY BILL 250

April 10, 2007 - Introduced by Representatives HINTZ, HILGENBERG, BERCEAU, BLACK, BOYLE, BENEDICT, CULLEN, GARTHWAITE, HEBL, KREUSER, MASON, MUSSER, PARISI, POCAN, RICHARDS, SHILLING, SINICKI, SMITH, SOLETSKI, TRAVIS and POPE-ROBERTS, cosponsored by Senators COGGS, ERPENBACH, JAUCH, LASSA, LEHMAN, RISSER and SCHULTZ. Referred to Committee on Elections and Constitutional Law.

1 **AN ACT to repeal** 11.50 (3) (a) 2.; **to amend** 8.35 (4) (b), 11.12 (2), 11.16 (2), 11.16
2 (3), 11.26 (1) (a), 11.26 (2) (a), 11.26 (9) (a), 11.26 (9) (b), 11.26 (13), 11.31 (1) (d),
3 11.50 (1) (a) 1., 11.50 (3) (b), 11.60 (4) and 11.61 (2); and **to create** 11.01 (14m),
4 11.26 (1) (am), 11.26 (2) (an), 11.26 (9) (ba), 11.501 to 11.522, 20.511 (1) (r),
5 20.585 (1) (q), 20.585 (1) (r), 20.855 (4) (bb), 25.17 (1) (cm) and 25.421 of the
6 statutes; **relating to:** public financing of campaigns for the office of justice of
7 the supreme court, making appropriations, and providing penalties.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes in the campaign finance law affecting campaigns for the office of justice of the supreme court. The bill limits the application of the Wisconsin election campaign fund, under which eligible candidates for certain state offices (including justice of the supreme court) may receive public grants from state general purpose revenues derived from designations made by individuals filing state income tax returns, to state offices other than the office of justice. To finance elections for the office of justice of the supreme court, the bill creates a democracy trust fund, under which eligible candidates for this office may receive public grants derived from general purpose revenues.

Under the bill, a candidate for the office of justice of the supreme court may qualify for public financing from the democracy trust fund to finance a campaign in

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a primary or election by receiving qualifying contributions of at least \$5 but not more than \$100 each made by an elector of this state in an aggregate amount of at least \$5,000 but not more than \$15,000. A candidate who accepts public financing may also accept "seed money" contributions in amounts of \$100 or less, subject to aggregate limitations, and may contribute personal funds in specified amounts during specified periods. In order to qualify for a public financing benefit for the primary, a candidate at the primary must have an opponent who qualifies to have his or her name appear on the ballot at the spring primary, and in order to qualify for a public financing benefit for the spring election, a candidate at the election must have an opponent who qualifies to have his or her name appear on the ballot at the election. A candidate who accepts a public financing benefit may not accept any contributions other than qualifying and seed money contributions and contributions from personal funds within the limitations permitted. Public financing benefits for eligible candidates are \$100,000 in the spring primary and \$300,000 in the spring election. The benefits are subject to a biennial cost of living adjustment. A candidate who accepts more than a specified amount of qualifying or seed money contributions has the excess deducted from his or her public financing benefit. In addition, if a candidate's opponent declines to accept a public financing benefit and makes expenditures in a total amount that exceeds by more than 5 percent the amount permitted for a candidate who accepts a public financing benefit, the candidate who accepts a public financing benefit receives additional funding equivalent to the excess expenditures made by his or her opponent, but not more than three times the amount of the public financing benefit for the office that the candidate seeks. A candidate also receives additional public financing equivalent to any independent expenditures made against the candidate or in support of his or her opponents if those expenditures exceed 20 percent of the amount of the public financing benefit for the office that the candidate seeks (but not more than three times the amount of that benefit).

The bill provides that if a candidate makes disbursements that exceed the total amount of the public financing benefit allocated to the candidate and the total qualifying and seed money contributions lawfully accepted by the candidate, the candidate is subject to a forfeiture (civil penalty) of not more than ten times the amount by which his or her disbursements exceed the allocation. In addition, the bill provides that a candidate who accepts contributions in excess of any limitation imposed under the bill is subject to a forfeiture of not more than ten times the amount by which the contributions exceed the applicable limitation. The bill also provides that if any candidate or agent of a candidate knowingly accepts more contributions than the candidate is entitled to receive, or makes disbursements exceeding the total amount of the public financing benefit received by the candidate and the qualifying and seed money contributions lawfully received by the candidate, the candidate or agent may be fined not more than \$25,000 or imprisoned for not more than ten years, or both. Under the bill, any person who, in connection with the receipt or disbursement of a public financing benefit, knowingly provides false information to the Government Accountability Board, or knowingly conceals or withholds information from the board, is subject to the same penalty.

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Currently, a candidate for the office of justice of the supreme court may qualify to receive a grant from the Wisconsin election campaign fund for use in an election campaign only (no funding is provided for primary campaigns). In order to qualify for a grant, a candidate must qualify to have his or her name appear on the spring election ballot and must have an opponent who qualifies to have his or her name appear on that ballot. The maximum amount of a grant that a candidate may receive is \$97,031. This amount is not subject to any cost of living adjustment. In addition, this amount is reduced by the total amount of contributions received by a candidate from special interest committees and this amount may not be fully funded in a particular year if there are not sufficient moneys in the Wisconsin election campaign fund to provide full financing for all qualifying candidates. A candidate must agree to abide by spending and self-contribution limits in order to receive a grant, but this agreement does not apply if the candidate has an opponent who could have qualified for a grant but declines to do so and declines to file an affidavit of voluntary compliance with spending and self-contribution limits.

Currently, individuals and committees making political contributions to candidates for the office of justice of the supreme court are subject to limitations on the amount or value of any contribution or contributions that may be made cumulatively to any candidate in a campaign. The limitations are \$10,000 in the case of an individual making a contribution to a candidate and \$8,625 in the case of a committee making a contribution to a candidate. This bill replaces these limitations with a contribution limitation of \$1,000 applicable to an individual or committee making any contribution or contributions cumulatively during a campaign period to any candidate for the office of justice of the supreme court who is eligible to qualify for a public financing benefit but who declines to accept one.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 **SECTION 1.** 8.35 (4) (b) of the statutes is amended to read:
- 2 8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys
- 3 received by a candidate from the Wisconsin election campaign fund shall be
- 4 immediately transferred to any candidate who is appointed to replace such
- 5 candidate, upon filing of a proper application therefor under s. 11.50 (2). If there is

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1 no candidate appointed or if no proper application is filed within 7 days of the date
2 on which the vacancy occurs, such moneys shall revert to the state as provided in s.
3 11.50 (8). Notwithstanding par. (a), any unspent and unencumbered moneys
4 received by a candidate from the democracy trust fund shall be immediately
5 transferred to any candidate who is appointed to replace that candidate upon filing
6 of a proper application therefor under s. 11.502 (1). For purposes of qualification,
7 contributions received and disbursements made by the former candidate are
8 considered to have been received or made by the replacement candidate. If there is
9 no candidate appointed or if no proper application is filed within 7 days of the date
10 on which a vacancy occurs, the moneys shall revert to the state.

11 **SECTION 2.** 11.01 (14m) of the statutes is created to read:

12 11.01 (14m) "Partisan state office" means the office of governor, lieutenant
13 governor, secretary of state, state treasurer, attorney general, state senator, state
14 representative to the assembly, or district attorney.

15 **SECTION 3.** 11.12 (2) of the statutes is amended to read:

16 11.12 (2) ~~Any No registrant, except a candidate who receives a public financing~~
17 ~~benefit from the democracy trust fund, may accept an~~ anonymous contribution
18 ~~exceeding \$10 received by a campaign or committee treasurer or by an individual~~
19 ~~under s. 11.06 (7) may not be used or expended. The, No candidate who receives a~~
20 ~~public financing benefit from the democracy trust fund may accept an anonymous~~
21 ~~contribution exceeding \$5. Any anonymous contribution that may not be accepted~~
22 ~~under this subsection~~ shall be donated to the common school fund or to any a
23 charitable organization at the option of the registrant's treasurer.

24 **SECTION 4.** 11.16 (2) of the statutes is amended to read:

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1 11.16 (2) LIMITATION ON CASH CONTRIBUTIONS. ~~Every~~ Except as provided in s.
2 11.506 (6), every contribution of money exceeding \$50 shall be made by negotiable
3 instrument or evidenced by an itemized credit card receipt bearing on the face the
4 name of the remitter. No treasurer may accept a contribution made in violation of
5 this subsection. The treasurer shall promptly return the contribution, or donate it
6 to the common school fund or to a charitable organization in the event that the donor
7 cannot be identified.

8 **SECTION 5.** 11.16 (3) of the statutes is amended to read:

9 11.16 (3) FORM OF DISBURSEMENTS. ~~Every~~ Except as authorized under s. 11.511
10 (1), every disbursement which is made by a registered individual or treasurer from
11 the campaign depository account shall be made by negotiable instrument. Such
12 instrument shall bear on the face the full name of the candidate, committee,
13 individual or group as it appears on the registration statement filed under s. 11.05
14 and where necessary, such additional words as are sufficient to clearly indicate the
15 political nature of the registrant or account of the registrant. The name of a political
16 party shall include the word "party". The instrument of each committee registered
17 with the board and designated under s. 11.05 (3) (c) as a special interest committee
18 shall bear the identification number assigned under s. 11.21 (12) on the face of the
19 instrument.

20 **SECTION 6.** 11.26 (1) (a) of the statutes is amended to read:

21 11.26 (1) (a) Candidates for governor, lieutenant governor, secretary of state,
22 state treasurer, attorney general, or state superintendent ~~or justice~~, \$10,000.

23 **SECTION 7.** 11.26 (1) (am) of the statutes is created to read:

24 11.26 (1) (am) Candidates for justice, \$1,000.

25 **SECTION 8.** 11.26 (2) (a) of the statutes is amended to read:

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1 11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state,
2 state treasurer, attorney general, or state superintendent ~~or~~ justice, 4 percent of the
3 value of the disbursement level specified in the schedule under s. 11.31 (1).

4 **SECTION 9.** 11.26 (2) (an) of the statutes is created to read:

5 11.26 (2) (an) Candidates for justice, \$1,000.

6 **SECTION 10.** 11.26 (9) (a) of the statutes is amended to read:

7 11.26 (9) (a) ~~No~~ Except as provided in par. (ba), no individual who is a candidate
8 for state or local office may receive and accept more than 65 percent of the value of
9 the total disbursement level determined under s. 11.31 for the office for which he or
10 she is a candidate during any primary and election campaign combined from all
11 committees subject to a filing requirement, including political party and legislative
12 campaign committees.

13 **SECTION 11.** 11.26 (9) (b) of the statutes is amended to read:

14 11.26 (9) (b) ~~No~~ Except as provided in par. (ba), no individual who is a candidate
15 for state or local office may receive and accept more than 45 percent of the value of
16 the total disbursement level determined under s. 11.31 for the office for which he or
17 she is a candidate during any primary and election campaign combined from all
18 committees other than political party and legislative campaign committees subject
19 to a filing requirement.

20 **SECTION 12.** 11.26 (9) (ba) of the statutes is created to read:

21 11.26 (9) (ba) Paragraphs (a) and (b) do not apply to a candidate who receives
22 a public financing benefit from the democracy trust fund.

23 **SECTION 13.** 11.26 (13) of the statutes is amended to read:

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1 11.26 (13) Except as provided in sub. (9), contributions received from the
2 Wisconsin election campaign fund and public financing benefits received from the
3 democracy trust fund are not subject to limitation by this section.

4 **SECTION 14.** 11.31 (1) (d) of the statutes is amended to read:

5 11.31 (1) (d) Candidates for secretary of state, state treasurer, justice or state
6 superintendent, \$215,625.

7 **SECTION 15.** 11.50 (1) (a) 1. of the statutes is amended to read:

8 11.50 (1) (a) 1. With respect to a spring or general election, any individual who
9 is certified under s. 7.08 (2) (a) as a candidate in the spring election for justice or state
10 superintendent, or an individual who receives at least 6% of the vote cast for all
11 candidates on all ballots for any state office, except district attorney, for which the
12 individual is a candidate at the September primary and who is certified under s. 7.08
13 (2) (a) as a candidate for that office in the general election, or an individual who has
14 been lawfully appointed and certified to replace either such individual on the ballot
15 at the spring or general election; and who has qualified for a grant under sub. (2).

16 **SECTION 16.** 11.50 (3) (a) 2. of the statutes is repealed.

17 **SECTION 17.** 11.50 (3) (b) of the statutes is amended to read:

18 11.50 (3) (b) If a vacancy occurs in the office of state superintendent or justice
19 after August 15 in any year and an election is scheduled to fill the vacancy at the
20 spring election in the following year, the state treasurer shall transfer an amount not
21 exceeding 8 percent of the moneys transferred to the fund on the preceding August
22 15 to the superintendency account ~~for the office in which the vacancy occurs~~, such
23 moneys to be drawn from any account within the accounts created under sub. (4) in
24 the amount or amounts specified by the board.

25 **SECTION 18.** 11.501 to 11.522 of the statutes are created to read:

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1 **11.501 Definitions.** In ss. 11.501 to 11.522:

2 **(1)** “Allowable contribution” means a qualifying contribution, seed money
3 contribution, or personal contribution authorized under ss. 11.502 to 11.522.

4 **(2)** “Campaign” has the meaning given in s. 11.26 (17).

5 **(3)** “Election campaign period” means the period beginning on the day after the
6 spring primary election or the day on which a primary election would be held, if
7 required, and ending on the day of the succeeding spring election.

8 **(4)** “Eligible candidate” means a candidate for the office of justice who has an
9 opponent who has qualified to have his or her name certified for placement on the
10 ballot at the spring primary or election and who qualifies for public financing by
11 collecting the required number of qualifying contributions, making all required
12 reports and disclosures, and being certified by the board as being in compliance with
13 ss. 11.502 to 11.522.

14 **(5)** “Excess disbursement amount” means the amount of disbursements made
15 by a nonparticipating candidate in excess of the public financing benefit available to
16 an eligible candidate for the same office that the nonparticipating candidate seeks.

17 **(6)** “Excess qualifying contribution amount” means the amount of qualifying
18 contributions accepted by a candidate beyond the number or dollar amount of
19 contributions required to qualify a candidate for a public financing benefit.

20 **(7)** “Exploratory period” means the period that begins after the date of a spring
21 election and ends on the first day of the public financing qualifying period for the next
22 election for justice.

23 **(9)** “Immediate family,” when used with reference to a candidate, includes the
24 candidate’s spouse and children.

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1 **(10)** “Independent disbursement” means a disbursement by a person expressly
2 advocating the election or defeat of a clearly identified candidate which is made
3 without cooperation or consultation with a candidate, or any authorized committee
4 or agent of a candidate, and which is not made in concert with, or at the request or
5 suggestion of, any candidate, or any authorized committee or agent of a candidate.

6 **(11)** “Nonparticipating candidate” means a candidate for the office of justice
7 who does not apply for a public financing benefit or who is otherwise ineligible or fails
8 to qualify for a public financing benefit under ss. 11.502 to 11.522.

9 **(12)** “Personal funds” means funds contributed by a candidate or a member of
10 a candidate’s immediate family.

11 **(13)** “Primary election campaign period” means the period beginning on the
12 day after the last day prescribed by law for filing nomination papers for that office
13 and ending on the day of the spring primary election for that office or the day on
14 which the primary election would be held, if required.

15 **(14)** “Public financing qualifying period” means the period beginning on the
16 first day of July of any year and ending on the day before the beginning of the primary
17 election campaign period for that office.

18 **(15)** “Qualifying contribution” means a contribution made to a candidate by an
19 elector of this state during the public financing qualifying period, which is
20 acknowledged by written receipt identifying the contributor.

21 **(16)** “Seed money contribution” means a contribution in an amount of not more
22 than \$100 made to a candidate by an elector of the jurisdiction or district in which
23 the candidate seeks office during the exploratory period or the public financing
24 qualifying period, or a contribution made to a candidate consisting of personal funds

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1 of that candidate in an amount not more than the amount authorized under s. 11.507
2 during the exploratory period or the public financing qualifying period.

3 **11.502 Qualification; certification. (1)** Before a candidate for justice in the
4 primary election may be certified as an eligible candidate to receive a public
5 financing benefit for the primary election campaign period, the candidate shall apply
6 to the board for a public financing benefit and file a sworn statement that the
7 candidate has complied and will comply with all requirements of this section and ss.
8 11.503 to 11.522 throughout the applicable campaign, which includes the primary
9 and election for that office. A candidate shall file the application and statement no
10 later than the beginning of the primary election campaign period for the office that
11 the candidate seeks.

12 **(2)** A candidate shall be certified by the board as an eligible candidate for
13 receipt of public financing for a primary election if the candidate complies with sub.
14 (1) and receives at least 1,000 qualifying contributions in amounts equal to not less
15 than \$5 nor more than \$100 and in an aggregate amount of not less than \$5,000 nor
16 more than \$15,000 before the close of the public financing qualifying period.

17 **(3)** The board shall verify a candidate's compliance with the requirements of
18 sub. (2) by such verification and sampling techniques as the board considers
19 appropriate.

20 **(4)** Each candidate shall:

21 (a) Acknowledge each qualifying contribution by a receipt to the contributor
22 which contains the contributor's name and home address.

23 (b) No later than the 15th or the last day of the month which immediately
24 follows the date of receipt of a qualifying contribution, whichever comes first, file a

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1 copy of the receipt under par. (a) with the board, except that during July, August, and
2 September a copy need only be filed on the last day of the month.

3 (5) A qualifying contribution may be utilized only for the purpose of making
4 a disbursement authorized by law.

5 **11.503 Time of application.** (1) Before a candidate may be certified as
6 eligible for receipt of public financing for a spring election, the candidate shall apply
7 to the board and file a sworn statement that the candidate has fulfilled all the
8 requirements of ss. 11.502 to 11.522 during the primary election campaign period
9 and will comply with such requirements during the election campaign period.
10 Except as authorized in s. 8.35 (4) (b), the application shall be filed no later than the
11 7th day after the date of the spring primary election or the day on which the primary
12 election would be held if a primary were required.

13 (2) The board shall certify a candidate as an eligible candidate for receipt of
14 public financing for a spring election if the candidate complies with sub. (1) and the
15 candidate was an eligible candidate during the primary election campaign period.

16 **11.505 Agreement by candidate.** An eligible candidate who accepts a public
17 financing benefit under ss. 11.502 to 11.522 during the primary election campaign
18 period shall agree to comply with all requirements of ss. 11.502 to 11.522 throughout
19 the election campaign period during the same campaign as a precondition to receipt
20 of public financing. An eligible candidate who accepts a public financing benefit
21 during a primary election campaign period may not elect to accept private
22 contributions in violation of ss. 11.502 to 11.522 during the corresponding election
23 campaign period.

24 **11.506 Requirements imposed upon candidates.** (1) An eligible
25 candidate may not accept private contributions other than seed money contributions

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1 and qualifying contributions that the candidate accepts during the exploratory
2 period and the public financing qualifying period.

3 (2) In addition to reports required to be filed under ss. 11.12 (5) and 11.20, a
4 candidate who receives a public financing benefit shall furnish complete financial
5 records, including records of seed money contributions, qualifying contributions, and
6 disbursements, to the board on the 15th or the last day of the month that
7 immediately follows the receipt of the contribution or the making of the
8 disbursement, whichever comes first, except that during July, August, and
9 September records need only be furnished on the last day of the month. Each such
10 candidate shall cooperate with any audit or examination by the board.

11 (3) In addition to adhering to requirements imposed under ss. 11.06 (5) and
12 11.12 (3), a candidate who receives a public financing benefit shall maintain records
13 of all contributions received by the candidate of more than \$5 but less than \$50,
14 including seed money contributions and qualifying contributions, which shall
15 contain the full name of the contributor and the contributor's full home address. In
16 addition, if a contributor's aggregate contributions to any candidate exceed \$50 for
17 any campaign, the candidate shall also maintain a record of the contributor's
18 principal occupation and the name and business address of the contributor's place
19 of employment.

20 (4) The failure to record or provide the information specified in sub. (3)
21 disqualifies a contribution from counting as a qualifying contribution.

22 (5) No eligible candidate and no person acting on a candidate's behalf may
23 deposit any contribution that is not recorded in accordance with sub. (3) in a
24 candidate's campaign depository account.

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1 **(6)** No eligible candidate may accept more than \$25 in cash from any
2 contributor and no such candidate may accept cash from all sources in a total amount
3 greater than one-tenth of 1 percent of the public financing benefit for the office that
4 the candidate seeks or \$500, whichever is greater.

5 **11.507 Personal funds of candidates. (1)** The personal funds of a candidate
6 contributed as seed money contributions may not exceed an aggregate amount of
7 \$5,000.

8 **(2)** No eligible candidate may make any disbursement derived from personal
9 funds after the close of the public financing qualifying period.

10 **11.508 Seed money contributions. (1)** An eligible candidate may accept
11 seed money contributions from any individual or committee prior to the end of the
12 public financing qualifying period, provided the total contributions received from one
13 contributor, except personal funds and qualifying contributions otherwise permitted
14 under ss. 11.502 to 11.522, do not exceed \$100, and the aggregate contributions,
15 including personal funds, but not including qualifying contributions, do not exceed
16 \$5,000.

17 **(2)** An eligible candidate may make disbursements derived from seed money
18 contributions only during the exploratory period and the public financing qualifying
19 period.

20 **11.509 Excess contributions.** If an eligible candidate receives excess seed
21 money contributions or qualifying contributions on an aggregate basis, the
22 candidate may retain the contributions and make disbursements derived from the
23 contributions, in an amount not exceeding \$15,000. An amount equivalent to the
24 excess contributions shall be deducted by the board from the candidate's public
25 financing benefit. A candidate shall return to the board all seed money and

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1 qualifying contributions that exceed the limits prescribed in this section within 48
2 hours after the end of the exploratory period. The board shall deposit all
3 contributions returned under this section in the democracy trust fund.

4 **11.51 Certification by candidate. (1)** To apply for a public financing benefit,
5 a candidate shall certify to the board that the candidate has complied and will
6 comply, throughout the applicable campaign, with all requirements of ss. 11.502 to
7 11.522 and that all disclosures required as of the time of application have been made,
8 and shall present evidence of the requisite number of qualifying contributions
9 received by the candidate. The candidate's request for certification shall be signed
10 by the candidate and the candidate's campaign treasurer.

11 **(2)** The board shall distribute to each eligible candidate at the spring primary
12 election a check for the amount of the public financing benefit payable to the
13 candidate promptly after the candidate demonstrates his or her eligibility and, in
14 any event, not later than 5 days after the end of the public financing qualifying
15 period; however, no candidate may utilize a check received under this subsection
16 until the beginning of the primary election campaign period.

17 **(3)** The board shall distribute to each eligible candidate for justice at a spring
18 election a check for the amount of the public financing benefit payable to the
19 candidate not later than 48 hours after the date of the spring primary election for the
20 office of justice, or the date that the primary election would be held if a primary were
21 required. However, no candidate for a particular office shall receive a check until all
22 candidates for the office of justice who apply and qualify for a public financing benefit
23 have been certified as eligible candidates.

24 **(4)** If any candidate who receives a public financing benefit violates the
25 requirements of ss. 11.502 to 11.522, the board shall require the candidate to repay

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1 all public funds received by the candidate to the board. The board shall deposit all
2 repayments received under this subsection in the democracy trust fund.

3 **11.511 Public financing benefits.** (1) The board shall provide to each
4 eligible candidate who qualifies to receive a public financing benefit for the primary
5 or election campaign period separate checks for the public financing benefits payable
6 to the candidate for the primary and election campaign periods in the amounts
7 specified in this section, subject to any required adjustment under s. 11.509, 11.512
8 (2) or 11.513 (2). An eligible candidate may use this public financing benefit to
9 finance any lawful disbursements during the primary and election campaign periods
10 to further the election of the candidate in that primary or election. An eligible
11 candidate may not use this public financing benefit to repay any loan, or in violation
12 of ss. 11.502 to 11.522 or any other applicable law.

13 (2) Except as provided in ss. 11.512 (2) and 11.513 (2), the public financing
14 benefit for a primary election campaign period is \$100,000.

15 (3) Except as provided in ss. 11.512 (2) and 11.513 (2), the public financing
16 benefit for an election campaign period is \$300,000.

17 (4) If there is no spring primary election for the office of justice, no eligible
18 candidate may receive a public financing benefit for the primary election campaign
19 period.

20 (5g) An eligible candidate who receives a public financing benefit in the
21 primary election campaign period and whose name is certified to appear on the ballot
22 at the election following that primary may utilize any unencumbered balance of the
23 public financing benefit received by the candidate in the primary election campaign
24 period for the election campaign period.

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1 **(5r)** Except as permitted in sub. (5g), an eligible candidate who receives a
2 public financing benefit and who does not encumber or expend some portion of the
3 benefit for a purpose described in sub. (1) shall return any unencumbered portion of
4 the benefit to the board within 30 days after the primary or election in which the
5 candidate participates.

6 **(6)** Notwithstanding subs. (2) and (3), beginning on July 1, 2010, and every 2
7 years thereafter, the board shall modify the public financing benefits provided for in
8 subs. (2) and (3) to adjust for the change in the consumer price index, all items, U.S.
9 city average, published by the U.S. department of labor for the preceding 2-year
10 period ending on December 31.

11 **11.512 Financial activity by nonparticipating candidates.** **(1)** In
12 addition to other reports required by law, a nonparticipating candidate for an office
13 at a primary or election who receives contributions or makes or obligates to make
14 disbursements in an amount more than 5 percent greater than the public financing
15 benefit applicable to an eligible candidate for the same office at the same primary or
16 election shall file a report with the board itemizing the total contributions received
17 and disbursements made or obligated to be made by the candidate as of the date of
18 the report. The board shall transmit copies of the report to all candidates for the
19 same office at the same election. A nonparticipating candidate shall file additional
20 reports after the candidate receives each additional \$1,000 of contributions, or the
21 candidate makes or obligates to make each additional \$1,000 of disbursements. If
22 such contributions are received or such disbursements are made or obligated to be
23 made more than 6 weeks prior to the date of the primary election at which the name
24 of the candidate appears on the ballot, or prior to the date that the primary election
25 would be held, if a primary were required, such reports shall be made at the next

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1 regular reporting interval under s. 11.506. If such contributions are received or such
2 disbursements made or obligated to be made within 6 weeks prior to the date of the
3 primary election at which the name of the candidate appears on the ballot, or within
4 6 weeks prior to the date that the primary election would be held, if a primary were
5 required, such reports shall be made within 24 hours after each instance in which
6 such contributions are received, or such disbursements are made or obligated to be
7 made.

8 (2) Upon receipt of such information, the state treasurer shall immediately
9 issue a check to an opposing eligible candidate in an additional amount equivalent
10 to the total excess disbursements made or obligated to be made, but not to exceed 3
11 times the public financing benefit for the applicable office.

12 **11.513 Independent disbursements.** (1) If any person makes, or becomes
13 obligated to make, by oral or written agreement, an independent disbursement in
14 excess of \$1,000 with respect to a candidate for the office of justice at a spring primary
15 or election, that person shall file with the board a notice of such disbursement or
16 obligation to make such a disbursement. Any such person shall file reports of such
17 disbursements or obligations to make such disbursements on the 15th or last day of
18 the month that immediately follows the date of the disbursement or the obligation
19 to make the disbursement, whichever comes first, except that, within 6 weeks prior
20 to the date of the spring primary election, the person shall file such reports within
21 24 hours after each independent disbursement is made or obligated to be made. Any
22 such person shall file additional reports after each additional \$1,000 of
23 disbursements are made or obligated to be made.

24 (2) When the aggregate independent disbursements against an eligible
25 candidate for an office or for the opponents of that candidate exceed 20 percent of the

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1 public financing benefit for that office in any campaign, the board shall immediately
2 credit that candidate's account with an additional line of credit equivalent to the total
3 disbursements made or obligated to be made, but not to exceed 3 times the public
4 financing benefit for the applicable office.

5 **11.515 Democracy trust fund.** The democracy trust fund shall be
6 administered by the state treasurer.

7 **11.516 Administration.** Except as otherwise specifically provided in ss.
8 11.501 to 11.522, the duties of and authority for administering and enforcing ss.
9 11.501 to 11.522 are vested in the board.

10 **11.517 Penalties; enforcement. (1)** Notwithstanding s. 11.60 (1), if an
11 eligible candidate makes disbursements that exceed the total amount of the public
12 financing benefit allocated to the candidate for any campaign and the total
13 qualifying and seed money contributions lawfully accepted by the candidate, the
14 candidate may be required to forfeit not more than 10 times the amount by which the
15 disbursements exceed the allocation.

16 **(2)** Notwithstanding s. 11.60 (1), any eligible candidate who accepts
17 contributions in excess of any limitation imposed under ss. 11.502 to 11.522 may be
18 required to forfeit not more than 10 times the amount by which the contributions
19 exceed the applicable limitation.

20 **(3)** If the board finds that there is probable cause to believe that a candidate
21 has made excess disbursements or has accepted excess contributions contrary to sub.
22 (1) or (2), the board shall attempt for a period of not more than 14 days after its
23 finding to correct the matter by informal methods of conference and conciliation and
24 to enter into a settlement and conciliation agreement under s. 5.05 (1) (c) with the
25 person involved. A settlement and conciliation agreement made pursuant to this

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1 subsection shall be a matter of public record. Unless violated, a settlement and
2 conciliation agreement is a bar to any civil action under sub. (4).

3 (4) If the board has probable cause to believe that a candidate has made excess
4 disbursements or has accepted excess contributions and the board is unable to
5 correct the matter by informal methods within the time prescribed in sub. (3), the
6 board shall make a public finding of probable cause in the matter. After making a
7 public finding, the board may bring a civil action against the candidate as provided
8 in s. 5.05 (1) (c).

9 (5) If an elector believes that a candidate has violated ss. 11.502 to 11.522 and
10 the elector is entitled to vote for or against the candidate in the election in connection
11 with which the violation is alleged to occur, the elector may file a complaint with the
12 board requesting it to take remedial action. If the board refuses to take remedial
13 action or, within 30 days after the filing of such a complaint, fails to take remedial
14 action, the elector may commence a civil action requesting the court to impose a
15 forfeiture under sub. (1) or (2) in circuit court for the county where the board is
16 authorized to bring an action under s. 5.05 (1) (c).

17 (6) The board and courts shall expedite all proceedings under ss. 11.502 to
18 11.522 so that all complaints brought prior to an election are resolved, to the extent
19 possible, before the election is held.

20 (7) If a complaint brought under ss. 11.502 to 11.522 is resolved against the
21 complainant and is found to have been brought in bad faith and without reasonable
22 basis therefor, the board or court may assess costs, including reasonable attorney
23 fees, against the complainant.

24 **11.518 Prohibited acts.** (1) Notwithstanding s. 11.61 (1) (c) if a candidate
25 or agent of a candidate knowingly accepts more contributions than the candidate is

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1 entitled to receive, or makes disbursements exceeding the total amount of the public
2 financing benefit received by the candidate and the qualifying and seed money
3 contributions lawfully received by the candidate, the candidate or agent is guilty of
4 a Class G felony.

5 (2) Notwithstanding s. 11.61 (1) (c), if in connection with the receipt or
6 disbursement of a public financing benefit for an election campaign, any person
7 knowingly provides false information to the board, or knowingly conceals or
8 withholds information from the board, that person is guilty of a Class G felony.

9 **11.522 Contributions to nonparticipating candidates; attributions. (1)**

10 A nonparticipating candidate may accept contributions from private sources without
11 limitation, except that no person may make any contribution or contributions to a
12 nonparticipating candidate exceeding a total of \$1,000 during any campaign.

13 (2) In addition to the attribution required under s. 11.30 (2), any electronic or
14 print communication paid for or authorized by a nonparticipating candidate shall
15 contain the following sentence: "This communication is paid for with money raised
16 from private sources. This candidate has not agreed to abide by campaign
17 contribution and spending limits."

18 **SECTION 19.** 11.60 (4) of the statutes, as affected by 2007 Wisconsin Act 1, is
19 amended to read:

20 11.60 (4) Except as otherwise provided in ss. 5.05 (2m) (c) 15. and 16. and (h),
21 5.08, and 5.081, actions under this section or 11.517 may be brought by the board or
22 by the district attorney for the county where the defendant resides or, if the
23 defendant is a nonresident, by the district attorney for the county where the violation
24 is alleged to have occurred. For purposes of this subsection, a person other than a

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1 natural person resides within a county if the person’s principal place of operation is
2 located within that county.

3 **SECTION 20.** 11.61 (2) of the statutes, as affected by 2007 Wisconsin Act 1, is
4 amended to read:

5 11.61 (2) Except as otherwise provided in ss. 5.05 (2m) (c) 15. and 16. and (i),
6 5.08, and 5.081, all prosecutions under this section or s. 11.518 shall be conducted
7 by the district attorney for the county where the defendant resides or, if the
8 defendant is a nonresident, by the district attorney for the county where the violation
9 is alleged to have occurred. For purposes of this subsection, a person other than a
10 natural person resides within a county if the person’s principal place of operation is
11 located within that county.

12 **SECTION 21.** 20.005 (3) (schedule) of the statutes: at the appropriate place,
13 insert the following amounts for the purposes indicated:

14		2007-08	2008-09
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15 **20.511 Government accountability**

16 (1) ADMINISTRATION OF ELECTION, ETHICS, AND
17 LOBBYING LAWS

18	(r) Democracy trust fund adminis-				
19	tration	SEG	A	-0-	-0-

20 **20.585 Treasurer, state**

21 (1) CUSTODIAN OF STATE FUNDS

22	(r) Democracy trust fund adminis-				
23	tration	SEG	A	-0-	-0-

24 **SECTION 22.** 20.511 (1) (r) of the statutes is created to read:

ASSEMBLY BILL 250**SECTION 22**

1 20.511 (1) (r) *Democracy trust fund administration.* From the democracy trust
2 fund, the amounts in the schedule for the administration of ss. 11.501 to 11.522.

3 **SECTION 23.** 20.585 (1) (q) of the statutes is created to read:

4 20.585 (1) (q) *Public financing benefits; candidates for justice.* From the
5 democracy trust fund, a sum sufficient to provide for payment of public financing
6 benefits to eligible candidates under ss. 11.501 to 11.522.

7 **SECTION 24.** 20.585 (1) (r) of the statutes is created to read:

8 20.585 (1) (r) *Democracy trust fund administration.* From the democracy trust
9 fund, the amounts in the schedule for the administration of ss. 11.501 to 11.522.

10 **SECTION 25.** 20.855 (4) (bb) of the statutes is created to read:

11 20.855 (4) (bb) *Democracy trust fund transfer.* A sum sufficient equal to the
12 amounts appropriated under ss. 20.511 (1) (r) and 20.585 (1) (r) and the amounts
13 required to provide public financing benefits that candidates qualify to receive from
14 the democracy trust fund, to be transferred from the general fund to the democracy
15 trust fund no later than the time required to make payments of grants under s. 11.51
16 (2) and (3).

17 **SECTION 26.** 25.17 (1) (cm) of the statutes is created to read:

18 25.17 (1) (cm) Democracy trust fund (s. 25.421);

19 **SECTION 27.** 25.421 of the statutes is created to read:

20 **25.421 Democracy trust fund.** All moneys appropriated under s. 20.855 (4)
21 (bb) and all moneys deposited in the state treasury under ss. 11.509, 11.51 (4) and
22 11.511 (5r) constitute the democracy trust fund, to be expended for the purposes of
23 ss. 11.501 to 11.522.

24 **SECTION 28. Effective dates.** This act takes effect on the day after publication,
25 except as follows:

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1 (1) The treatment of sections 11.60 (4) and 11.61 (2) of the statutes takes effect
2 on December 1 following the date of publication or on the initiation date specified in
3 2007 Wisconsin Act 1, SECTION 209 (1), whichever is later.

4

(END)