



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #332

Wisconsin Election Campaign Fund (Government Accountability Board, General Fund Taxes and Miscellaneous Appropriations)

[LFB 2011-13 Budget Summary: Page 186, #9, Page 199, #4, and Page 294, #11]

CURRENT LAW

The Wisconsin Election Campaign Fund (WECF) provides public financing grants for eligible candidates for Governor, Lieutenant Governor, Attorney General, State Treasurer, Secretary of State, Superintendent of Public Instruction, State Senate, and State Assembly. The WECF is supported by funds generated from a campaign finance check-off on state individual income tax returns. Of each \$3 campaign finance check-off made, \$1 is deposited to the WECF to support public financing grants. The remaining \$2 is deposited into the Democracy Trust Fund to support grants for candidates for Supreme Court Justice. As the campaign finance check-off does not increase the tax liability or reduce the tax refund of the taxfiler, the funding generated from the check-off is transferred to the WECF from the general fund.

GOVERNOR

Provide that, for taxable years beginning after December 31, 2011, an individual's tax liability would be increased by \$3 or the individual's tax refund would be decreased by \$3 for any designation made to the WECF and the Democracy Trust Fund on the individual income tax form. Permit the Department of Revenue to deduct administrative costs, including data processing costs, in administering the revised campaign finance check-off and deposit this administrative deduction to its administration of income tax checkoff voluntary payments appropriation. Effective January 1, 2013, repeal the GPR election campaign fund payments appropriation which provides one-third of the funding generated from the check-off to the WECF. Reestimate current law check-off revenue to the WECF by -\$17,300 GPR in 2011-12, and by -\$23,300 GPR in 2012-13. As a result, it is estimated that check-off funding to the WECF would total \$164,000 GPR in 2011-12, and \$158,000 GPR in 2012-13.

DISCUSSION POINTS

1. Under the WECF, in return for public financing grants, participating candidates agree to be subject to a limit on the total amount of money from all sources that may be expended on their campaigns. Further, any candidate who accepts a grant from the fund is subject to a separate limit on the amount that he or she may personally contribute to his or her own campaign. These spending and self-contribution limits for various offices under the WECF are specified in Table 1.

TABLE 1

Spending and Self-Contribution Limits -- Election Campaign Fund Recipients

<u>Office</u>	<u>Total Spending Limit</u>	<u>Limit on Candidate Contribution to Self</u>
Governor	\$1,078,200	\$20,000
Lieutenant Governor	323,475	20,000
Attorney General	539,000	20,000
State Treasurer	215,625	20,000
Secretary of State	215,625	20,000
Superintendent of Public Instruction	215,625	20,000
State Senate	34,500	2,000
State Assembly	17,250	1,000

2. These provisions reflect the Legislature's declaration of policy under s. 11.001 of the statutes that, "It further finds that excessive spending on campaigns for public office jeopardizes the integrity of elections. It is desirable to encourage the broadest possible participation in financing campaigns by all citizens of the state, and to enable candidates to have an equal opportunity to present their programs to the voters." The spending limit on candidates who accept a grant is intended to address the concerns of those who argue that allowing candidates to spend an unlimited amount on a campaign favors those candidates who have the greatest resources and ability to raise money, compared to those with limited funds and fundraising ability who would be disadvantaged in that regard when waging a campaign.

3. Prior to 1987, the Elections Board (the predecessor to the Government Accountability Board) had the authority to adjust campaign spending limits to reflect the biennial impact of inflation, as determined on December 31 of each odd-numbered year. However, 1987 Act 370 repealed this provision, thereby fixing the spending limits for candidates seeking a grant from the fund at 1987 levels.

4. In return for agreeing to abide by spending limits under the WECF, a candidate is eligible to receive a grant of up to 45% of the spending limit. As the maximum grant amount under the WECF is linked to the spending limit, the maximum grant amounts under the WECF have not increased since 1987. Table 2 identifies the maximum grant amounts for the various offices that may receive public financing grants under the WECF.

TABLE 2

Maximum WECF Grant Amounts

<u>Office</u>	<u>Maximum Grant</u>
Governor	\$485,190
Lieutenant Governor	145,564
Attorney General	242,550
State Treasurer	97,031
Secretary of State	97,031
Superintendent of Public Instruction	97,031
State Senate	15,525
State Assembly	7,763

5. All candidates, whether or not they participate in the WECF, must also comply with individual contribution limits and single committee contribution limits applicable to non-political party committees. The individual and single committee contribution limits per campaign are shown in Table 3.

TABLE 3

Limitation on Private Contributions

<u>Office</u>	<u>Individual</u>	<u>Single Committee</u>
Governor	\$10,000	\$43,128
Lieutenant Governor	10,000	12,939
Attorney General	10,000	21,560
State Treasurer	10,000	8,625
Secretary of State	10,000	8,625
Superintendent of Public Instruction	10,000	8,625
State Senate	1,000	1,000
State Assembly	500	500

6. In addition to the individual contribution limits per candidate outlined in Table 3, an individual may not make aggregate contributions to candidates and committees, including political party committees, of more than \$10,000 in any calendar year. These contribution limitations reflect the Legislature's declaration of policy under s. 11.001 of the statutes that, "When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence."

7. Candidates who do not participate in the WECF are entirely dependent upon private contributors and their own personal income to finance their election campaigns. For candidates

participating in the WECF, private contributions may be utilized to provide additional funding, up to the spending limit, in addition to the WECF grant to fund their campaigns.

8. Grant funding under the WECF has been supported by a \$1 campaign finance check-off on state individual income tax returns. [Effective with tax year 2010, the check-off has been increased to \$3, but the WECF still receives \$1 from every campaign finance check-off. The remaining \$2 from every campaign finance check-off is allocated to the Democracy Trust Fund which provides public financing for candidates for Supreme Court Justice.] As the campaign finance check-off does not increase the tax liability or decrease the tax refund of the taxpayer, the funding from the check-off is transferred to the WECF from the general fund.

9. Over time there has been a steady decline in the percentage and absolute number of taxpayers making income tax check-off designations to provide funding for the WECF. While for tax year 1979 almost 20% of all eligible taxpayers (561,083 taxpayers) made a designation for the WECF, by tax year 2009 this had decreased to approximately 4% of all taxpayers (166,344). As a result, the WECF has had to prorate grants at times as there was insufficient funding to fully fund all qualifying grants.

10. Since 1987 the spending limits for campaigns and the associated grant awards (up to 45% of the spending limit) have not been adjusted for inflation. Since 1986 there has been a substantial decline in candidate participation in the WECF. In 1986, 150 candidates participated in the WECF including: (a) two for Governor; (b) two for Lieutenant Governor; (c) two for Secretary of State; (d) two for State Treasurer; (e) two for Attorney General; (f) 23 for State Senate; and (g) 117 for State Assembly. By 2010, the number of candidates participating in the WECF had declined to 30 including: (a) one for Attorney General; (b) one for Secretary of State; (c) four for State Senate; and (d) 24 for State Assembly.

11. With the decreasing role of the WECF in statewide and legislative races, candidates increasingly rely on private contributions and personal income to fund their campaigns. Tables 4 and 5 provide information on the private contributions that provided support in 2010 (through November 2nd) for candidates for Governor and the Legislature. It should be noted that state law permits an individual to make multiple contributions to a given candidate, provided that the aggregate individual contribution limits are followed.

TABLE 4

Individual, Committee, and Business Contributions Received by Candidates Running for Governor in 2010 Who Filed Campaign Finance Reports Electronically

	Eligible Voters Statewide	<u>Contributions Received of Less Than \$500 Each</u>		<u>Contributions Received of \$500 or More Each</u>		<u>Total Contributions</u>	
		Number	Amount	Number	Amount	Number	Amount
Governor	4,372,300	69,030	\$4,864,800	6,489	\$8,508,700	75,519	\$13,373,500

TABLE 5

Individual, Committee, and Business Contributions Received by Candidates Running for Legislative Office in 2010 Who Filed Campaign Finance Reports Electronically

	Eligible Voters Statewide	Contributions Received of \$100 or Less Each		Contributions Received of More Than \$100 Each		Total Contributions	
		Number	Amount	Number	Amount	Number	Amount
	4,372,300						
Assembly		38,152	\$2,017,600	10,450	\$3,320,800	48,602	\$5,338,400
Senate		<u>20,326</u>	<u>1,039,300</u>	<u>6,187</u>	<u>2,219,100</u>	<u>26,513</u>	<u>3,258,400</u>
Total		58,478	\$3,056,900	16,637	\$5,539,900	75,115	\$8,596,800

12. This contribution data shows that a relatively small number of individuals, committees, and businesses (compared to the total number of eligible voters statewide) are providing the funding for these races. While there were 4,372,300 eligible voters statewide in 2010, 6,489 contributions from individuals, committees, and businesses provided 64% of the private financing for the campaigns for Governor in 2010. Likewise, 16,637 contributions from individuals, committees, and businesses provided 64% of the private financing for legislative campaigns in 2010. In some cases, the same individual, committee, or business made multiple contributions. As a result, the net number of contributors is less than the number of distinct contributions identified above. However, campaign committees may aggregate the contributions of many contributors. [This data reflects the campaign finance reports of candidates and their committees who were required to file electronically. Under s. 11.21(16) of the statutes, GAB is required to have campaign finance registrants who accept contributions in a total amount or value of \$20,000 during a campaign period, to file required campaign finance reports electronically. Campaign finance registrants may also voluntarily choose to file their campaign finance reports electronically.]

13. The administration indicates that the changes recommended to the campaign finance check-off under the bill were proposed to reduce costs associated with administering the WECF and the DTF. Beginning with taxable years after December 31, 2011, an individual's income tax liability would be increased by \$3, or the individual's income tax refund would be decreased by \$3, for any income tax check-off designation made for the WECF and the DTF [Alternative 1]. [Under current law, of each \$3 campaign finance check-off made, \$2 is deposited to the Democracy Trust Fund (DTF) to support grants for eligible Supreme Court Justice candidates, and the remaining \$1 is deposited to the WECF. As the campaign finance check-off does not currently increase the tax liability or reduce the tax refund of the taxfiler, the funding generated from the check-off is transferred to the DTF and the WECF from the general fund.]

14. Under the bill, GPR appropriations from check-off deposits to the WECF are shown as \$164,000 for 2011-12, and \$158,000 for 2012-13. The \$164,000 amount is the estimated amount that will be generated for the WECF from tax year 2011, and the \$158,000 amount is from tax year 2012. The \$158,000 GPR in funding in 2012-13, under the bill associated with the campaign finance check-off should be deleted if the Governor's recommendations are adopted as the current

law check-off would not apply for tax year 2012 [*Alternative 2*]. Beginning with tax year 2012, revenue for the check-off would come from additional donations made by taxfilers, and not from transfers from the general fund.

15. The bill does not eliminate expenditure authority for the GPR appropriations that provide funding under the current campaign finance check-off during the upcoming 2011-13 biennium. Thus, if the Committee wished to maintain higher funding amounts to the WECF and the DTF under the current law campaign finance check-off, it could do so without having to provide additional funding under the 2011-13 budget [*Alternative 4*].

16. Under the bill, the \$3 campaign finance income tax check-off would now become a donation creating a liability or reducing a refund for the taxfiler. Wisconsin already has a series of income tax check-offs where a taxfiler may make a donation creating a liability or reducing a refund. For tax year 2009, the most popular income tax check-off (that created a taxfiler liability) was the endangered resources check-off. Based on an analysis of participation in the endangered resources check-off it is estimated that approximately 1 out of every 200 taxfilers, or 0.5% of taxfilers, would continue to make the campaign finance check-off if it became a donation creating a liability or reducing a refund for the taxfiler. At this participation level the WECF would receive funding of \$20,000 annually to provide public financing grants to candidates for Governor, Lieutenant Governor, Attorney General, State Treasurer, Secretary of State, Superintendent of Public Instruction, State Senator, and Representative to the Assembly. It is anticipated that these funding changes would make it difficult for the WECF to provide meaningful public financing grants to eligible candidates. With annual revenue of \$20,000, it would take approximately 24 years to build up sufficient balances in the fund to fully pay a public financing grant for one candidate for Governor. [This assumes that all annual revenue would be allocated exclusively to the WECF subaccount for Governor.] The fund, however, is intended to provide public financing grants for other statewide and legislative offices as well. While this calculation does not factor in any interest earnings, it could be anticipated that taxfiler interest in the campaign finance check-off could decrease if taxfilers did not believe that the WECF was viable.

17. In his remarks before the Committee, the Director and General Counsel for GAB noted that, "The budget proposal transforms the original programs from a means of providing significant campaign funding for state candidates for partisan office and candidates for the Supreme Court to an underfund mechanism for delivering nominal amounts of campaign funds with significant administrative costs. It is a significant waste of limited state funds to maintain these programs at a subsistence level given the diversion of precious staff resources at the G.A.B. and the Department of Revenue to provide a few dollars to a handful of candidates for public office."

18. By altering the \$3 check-off to a tax liability, the Governor's budget would significantly reduce the amount of money going to the state's public campaign finance program. Candidates could conclude that they could not wage competitive campaigns under the WECF due to: (a) reduced funding to provide public financing grants; and (b) spending limits for campaigns that have not been adjusted for inflation since 1987. Consideration could be given to eliminating the WECF entirely effective with the enactment of the bill. This would permit elimination of GPR expenditures associated with the WECF, and avoid the expense of administering a fund that may go largely unutilized. This alternative would permit the deletion of all remaining GPR funding

associated with the WECF from the bill (\$164,000 GPR in 2011-12, and \$158,000 GPR in 2012-13, from the GPR election campaign fund payments appropriation). This alternative would also permit the unencumbered balance in the WECF to lapse to the general fund. It is estimated that the WECF will have a balance of \$940,900 on July 1, 2011. A significant portion of this balance, \$492,600, represents amounts that have built up in the gubernatorial subaccount that have gone unutilized. [Alternative 3]

19. Alternatively, the Committee could consider maintaining the current law campaign finance check-off and, in addition: (a) adjust the spending limits under the WECF to reflect the change in inflation since 1987 as measured by the consumer price index (U.S. city average, all items); (b) adjust the spending limits on December 31 of each odd-numbered year to reflect the change in inflation as measured by the consumer price index (U.S. city average, all items); (c) eliminate subaccounts under the WECF; and (d) create a GPR sum sufficient WECF grants appropriation to provide full funding for WECF grants. [Alternative 5] These changes would: (a) permit the WECF to provide fully-funded campaign finance grants to applicants; (b) permit WECF participants to spend more on their campaigns to reflect the changes in inflation since 1987; (c) on an ongoing basis adjust the WECF spending limits and associated grant awards to reflect changes in inflation; and (d) permit GAB to utilize existing WECF balances in individual office subaccounts to make grants in 2012. Table 6 identifies the increased spending limits that would be permitted under the WECF, by office, and identifies the maximum public financing grant that would be available (based on consumer price index inflation data through December, 2010). [Under the WECF, the maximum public financing grant is equal to 45% of the spending limit.]

TABLE 6

Increased Spending Limits and Maximum Grant Amounts if the Current 1987 WECF Spending Limits Were Adjusted for Inflation

<u>Office</u>	<u>Spending Limit Adjusted for Inflation</u>	<u>Maximum Grant</u>
Governor	\$2,069,600	\$931,320
Lieutenant Governor	620,900	279,405
Attorney General	1,034,600	465,570
State Treasurer	413,900	186,255
Secretary of State	413,900	186,255
Superintendent of Public Instruction	413,900	186,255
State Senate	66,200	29,790
State Assembly	33,100	14,895

20. As statewide office holders ran for office in 2010, these offices are not scheduled to be up for re-election in 2012. In 2012, however, half of the Senate seats and the whole Assembly will be up for election. If, under an amended WECF, candidates participated in the WECF as they did, on average, for the five general elections from 1986 through 1994, then 15 Senate candidates and 88 Assembly candidates could be expected to receive WECF grant funding. Assuming that all of these grants would be fully funded, the WECF would need \$1,757,600 in grant funding for the fall, 2012 election (the 2012-13 state fiscal year). If it is assumed that the WECF will close the

fiscal year with a balance of \$940,900, and that campaign finance check-offs under the current law system would total \$334,000 through 2011-12, then it is estimated that \$482,700 GPR would need to be provided to a WECF GPR sum sufficient appropriation in 2012-13, to fully fund grant amounts for the fall 2012 election under an amended WECF. [Alternative 5] The actual amount of funding that would be required under the sum sufficient appropriation could be higher or lower than what is shown here based on the number of candidates who would seek public funding. [At this writing, it is unknown whether there will be any Senate recall campaigns and if candidates in those campaigns would seek public financing under a revised WECF. This estimate does not factor in the cost of any Senate recall campaigns.]

21. It may be worth noting that under the Democracy Trust Fund issue paper #331, the Committee could delete \$1,243,500 GPR from the bill and still maintain current law for the Democracy Trust Fund (DTF) and the campaign finance check-off. As a result, the Committee could amend the WECF and provide full grant funding for legislative candidates in the fall 2012 election and still reduce a net \$760,800 GPR from the bill.

22. To the extent that an amended WECF increased candidate participation in the fund, the change could reduce the role and perceived influence of private contributions on campaigns by replacing private contributions with public financing and limiting the level of contributions and disbursements of participating candidates. On the other hand, recent elections have also highlighted the ongoing ability of third parties to spend substantial amounts of money on issue ads that are not subject to regulation or matching funds under the WECF.

23. Eliminating the WECF would not address the influence of, or regulate, third party expenditures on issue ads in statewide and legislative campaigns. Eliminating the WECF would also leave candidates dependent on private contributions to fund their campaigns.

ALTERNATIVES

1. Approve the Governor's recommendation to provide that, for taxable years beginning after December 31, 2011, an individual's tax liability would be increased by \$3 or the individual's tax refund would be decreased by \$3 for any designation made to the Wisconsin Election Campaign Fund (WECF) and the Democracy Trust Fund on the individual income tax form. Permit the Department of Revenue to deduct administrative costs, including data processing costs, in administering the revised campaign finance check-off and deposit this administrative deduction to its administration of income tax checkoff voluntary payments appropriation. Effective January 1, 2013, repeal the GPR election campaign fund payments appropriation which provides one-third of the funding generated from the check-off to the WECF. Reestimate check-off revenue to the WECF by -\$17,300 GPR in 2011-12, and by -\$23,300 GPR in 2012-13. As a result, under the bill it is estimated that check-off funding to the WECF would total \$164,000 GPR in 2011-12, and \$158,000 GPR in 2012-13.

2. Delete \$158,000 GPR associated with check-offs in 2012-13. This funding would not be utilized under the bill as beginning with tax year 2012, the check-off would be funded from increased donations from taxfilers, and not from transfers from the general fund. [*This alternative*

may be adopted in addition to Alternative 1.]

ALT 2	Change to Bill Funding	
GPR	-\$158,000	

3. Effective with the enactment of the bill, delete the Wisconsin Election Campaign Fund. Delete the GPR election campaign fund payments appropriation and its associated expenditure authority of \$164,000 GPR in 2011-12, and \$158,000 GPR in 2012-13. Lapse the unencumbered balance from the WECF to the general fund. It is estimated that this unencumbered balance will equal \$940,900 on July 1, 2011.

ALT 3	Change to Bill	
	Revenue	Funding
GPR	\$940,900	- \$322,000

4. Maintain current law.

5. Maintain current law. In addition: (a) with enactment of the bill, adjust the spending limits under the WECF to reflect the change in inflation since 1987 as measured by the consumer price index (U.S. city average, all items); (b) adjust the spending limits on December 31 of each odd-numbered year to reflect the change in inflation as measured by the consumer price index (U.S. city average, all items); (c) eliminate subaccounts under the WECF; and (d) create a GPR sum sufficient WECF grant appropriation to provide full funding for WECF grants. Provide \$482,700 GPR in 2012-13, to the GPR sum sufficient WECF grant appropriation to fund the estimated need for legislative grants in the fall 2012 general election. These changes would update the WECF spending limits and associated grant awards (45% of the relevant spending limit) to reflect the changes in inflation since 1987 and provide full funding for all awarded grants.

ALT 5	Change to Bill Funding	
GPR	\$482,700	

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