



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBs0270/2
JTK:kmg:ch

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 682**

January 8, 2002 - Offered by Representatives GUNDRUM and TRAVIS.

1 **AN ACT** *to renumber and amend* 19.49 (5) and 19.59 (7); *to amend* 11.25 (2)
2 (b), 19.53 (6) and 19.59 (8) (c); and *to create* 19.42 (3m), (4g) and (4r), 19.45 (13),
3 19.49 (1m), 19.49 (5) (b), 19.535, 19.59 (1) (br), 19.59 (7) (b) and 19.59 (8) (cm)
4 and (cn) of the statutes; **relating to:** official action in return for providing or
5 withholding political contributions, services, or other things of value and
6 providing a penalty.

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

7 **SECTION 1.** 11.25 (2) (b) of the statutes is amended to read:
8 11.25 (2) (b) Notwithstanding par. (a), a registrant may accept contributions
9 and make disbursements from a campaign depository account for the purpose of
10 making expenditures in connection with a campaign for national office; for payment
11 of civil penalties incurred by the registrant under this chapter but not under any
12 other chapter; or for payment of the expenses of nonpartisan campaigns to increase

1 voter registration or participation. Notwithstanding par. (a), a personal campaign
2 committee or support committee may accept contributions and make disbursements
3 from a campaign depository account for payment of inaugural expenses of an
4 individual who is elected to state or local office. If such expenses are paid from
5 contributions made to the campaign depository account, they are reportable under
6 s. 11.06 (1) as disbursements. Otherwise, such expenses are not reportable under s.
7 11.06 (1). If contributions from the campaign depository account are used for such
8 expenses, they are subject to s. 11.26.

9 **SECTION 2.** 19.42 (3m), (4g) and (4r) of the statutes are created to read:

10 19.42 **(3m)** "Candidate," except as otherwise provided, has the meaning given
11 in s. 11.01 (1).

12 **(4g)** "Clearly identified," when used in reference to a communication
13 containing a reference to a person, means one of the following:

14 (a) The person's name appears.

15 (b) A photograph or drawing of the person appears.

16 (c) The identity of the person is apparent by unambiguous reference.

17 **(4r)** "Communication" means a message transmitted by means of a printed
18 advertisement, billboard, handbill, sample ballot, radio or television advertisement,
19 telephone call, or any medium that may be utilized for the purpose of disseminating
20 or broadcasting a message, but not including a poll conducted solely for the purpose
21 of identifying or collecting data concerning the attitudes or preferences of electors.

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

23 19.45 **(13)** No state public official holding an elective office may, directly or by
24 means of an agent, give, or offer or promise to give, or withhold, or offer or promise
25 to withhold, his or her vote or influence, or promise to take or refrain from taking

1 official action with respect to any proposed or pending matter in consideration of, or
2 upon condition that, any other person make or refrain from making a political
3 contribution, or provide or refrain from providing any service or other thing of value,
4 to or for the benefit of a candidate, a political party, any other person who is subject
5 to a registration requirement under s. 11.05, or any person making a communication
6 that contains a reference to a clearly identified state public official holding an
7 elective office or to a candidate for state public office.

8 **SECTION 4.** 19.49 (1m) of the statutes is created to read:

9 19.49 (1m) No complaint alleging a violation of s. 19.45 (13) may be filed during
10 the period beginning 120 days before a general or spring election, or during the
11 period commencing on the date of the order of a special election under s. 8.50, and
12 ending on the date of that election, against a candidate who files a declaration of
13 candidacy to have his or her name appear on the ballot at that election.

14 **SECTION 5.** 19.49 (5) of the statutes is renumbered 19.49 (5) (a) and amended
15 to read:

16 19.49 (5) (a) ~~No~~ Except as provided in par. (b), no action may be taken on any
17 complaint ~~which~~ that is filed later than 3 years after a violation of this subchapter
18 or subch. III of ch. 13 is alleged to have occurred.

19 **SECTION 6.** 19.49 (5) (b) of the statutes is created to read:

20 19.49 (5) (b) The period of limitation under par. (a) is tolled for a complaint
21 alleging a violation of s. 19.45 (13) or 19.59 (1) (br) for the period during which such
22 a complaint may not be filed under s. 19.49 (1m) or 19.59 (8) (cm).

23 **SECTION 7.** 19.53 (6) of the statutes is amended to read:

24 19.53 (6) An order requiring the accused to forfeit not more than \$500 for each
25 violation of s. 19.43, 19.44, or 19.56 (2) or not more than \$5,000 for each violation of

1 any other provision of this subchapter, or not more than the applicable amount
2 specified in s. 13.69 for each violation of subch. III of ch. 13; ~~and, if.~~ If the board
3 determines that the accused has realized economic gain as a result of the violation,
4 an the board may, in addition, order requiring the accused to forfeit the amount
5 gained as a result of the violation. In addition, if the board determines that a state
6 public official has violated s. 19.45 (13), the board may order the official to forfeit an
7 amount equal to the amount or value of any political contribution, service, or other
8 thing of value that was wrongfully obtained. If the board determines that a state
9 public official has violated s. 19.45 (13) and no thing of value was obtained by the
10 official, the board may order the official to forfeit an amount equal to the maximum
11 contribution authorized under s. 11.26 (1) for the office held or sought by the official,
12 whichever amount is greater. The attorney general, when so requested by the board,
13 shall institute proceedings to recover any forfeiture incurred under this section or s.
14 19.545 which is not paid by the person against whom it is assessed.

15 **SECTION 8.** 19.535 of the statutes is created to read:

16 **19.535 Direct enforcement.** If the board refuses or otherwise fails to
17 authorize an investigation under s. 19.49 (3) with respect to a violation of s. 19.45 (13)
18 within 30 days after receiving a verified complaint alleging a violation of s. 19.45 (13),
19 the person making the complaint may bring an action to recover the forfeiture under
20 s. 19.53 (6) on his or her relation in the name, and on behalf, of the state. In such
21 actions, the court may award actual and necessary costs of prosecution, including
22 reasonable attorney fees, to the relator if he or she prevails, but any forfeiture
23 recovered shall be paid to the state. If the court finds in any such action that the
24 cause of action was frivolous as provided in s. 814.025, the court shall award costs
25 and fees to the defendant under that section.

1 **SECTION 9.** 19.59 (1) (br) of the statutes is created to read:

2 19.59 (1) (br) No local public official holding an elective office may, directly or
3 by means of an agent, give, or offer or promise to give, or withhold, or offer or promise
4 to withhold, his or her vote or influence, or promise to take or refrain from taking
5 official action with respect to any proposed or pending matter in consideration of, or
6 upon condition that, any other person make or refrain from making a political
7 contribution, or provide or refrain from providing any service or other thing of value,
8 to or for the benefit of a candidate, a political party, any other person who is subject
9 to a registration requirement under s. 11.05, or any person making a communication
10 that contains a reference to a clearly identified local public official holding an elective
11 office or to a candidate for local public office.

12 **SECTION 10.** 19.59 (7) of the statutes is renumbered 19.59 (7) (a) and amended
13 to read:

14 19.59 (7) (a) Any person who violates sub. (1) may be required to forfeit not
15 more than \$1,000 for each violation, and, if the court determines that the accused has
16 violated sub. (1) (br), the court may, in addition, order the accused to forfeit an
17 amount equal to the amount or value of any political contribution, service, or other
18 thing of value that was wrongfully obtained.

19 **SECTION 11.** 19.59 (7) (b) of the statutes is created to read:

20 19.59 (7) (b) Any person who violates sub. (1) may be required to forfeit not
21 more than \$1,000 for each violation, and, if the court determines that a local public
22 official has violated sub. (1) (br) and no thing of value was obtained by the official,
23 the court may, in addition, order the accused to forfeit an amount equal to the
24 maximum contribution authorized under s. 11.26 (1) for the office held or sought by
25 the official, whichever amount is greater.

1 **SECTION 12.** 19.59 (8) (c) of the statutes is amended to read:

2 19.59 (8) (c) If the district attorney fails to commence an action to enforce sub.
3 (1) (a), (b), or (c) to (g) within 20 days after receiving a verified complaint or if the
4 district attorney refuses to commence such an action, the person making the
5 complaint may petition the attorney general to act upon the complaint. The attorney
6 general may then bring an action under par. (a) or (b), or both.

7 **SECTION 13.** 19.59 (8) (cm) and (cn) of the statutes are created to read:

8 19.59 (8) (cm) No complaint alleging a violation of sub. (1) (br) may be filed
9 during the period beginning 120 days before a general or spring election, or during
10 the period commencing on the date of the order of a special election under s. 8.50, and
11 ending on the date of that election, against a candidate who files a declaration of
12 candidateship to have his or her name appear on the ballot at that election.

13 (cn) If the district attorney refuses or otherwise fails to commence an action to
14 enforce sub. (1) (br) within 30 days after receiving a verified complaint alleging a
15 violation of sub. (1) (br), the person making the complaint may bring an action to
16 recover the forfeiture under sub. (7) on his or her relation in the name, and on behalf,
17 of the state. In such actions, the court may award actual and necessary costs of
18 prosecution, including reasonable attorney fees, to the relator if her or she prevails,
19 but any forfeiture recovered shall be paid to the state. If the court finds in any such
20 action that the cause of action was frivolous as provided in s. 814.025, the court shall
21 award costs and fees to the defendant under that section.

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(END)