



**SENATE AMENDMENT 5,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 104**

January 29, 2002 – Offered by Senators PLACHE and ROBSON.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 2, line 11: after “financing,” insert “official action in return for
3 providing or withholding political contributions, services, or other things of value,”.

4 **2.** Page 2, line 14: delete “and”.

5 **3.** Page 2, line 15: after “appropriations” insert “, and providing a penalty”.

6 **4.** Page 32, line 17: after that line insert:

7 **“SECTION 67m.** 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 **5.** Page 53, line 3: after that line insert:

10 “**SECTION 124b.** 19.42 (3m), (4g) and (4r) of the statutes are created to read:

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

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

15 (a) The person’s name appears.

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

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

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

23 **SECTION 124d.** 19.45 (13) of the statutes is created to read:

1 19.45 (13) No state public official holding an elective office may, directly or by
2 means of an agent, give, or offer or promise to give, or withhold, or offer or promise
3 to withhold, his or her vote or influence, or promise to take or refrain from taking
4 official action with respect to any proposed or pending matter in consideration of, or
5 upon condition that, any other person make or refrain from making a political
6 contribution, or provide or refrain from providing any service or other thing of value,
7 to or for the benefit of a candidate, a political party, any other person who is subject
8 to a registration requirement under s. 11.05, or any person making a communication
9 that contains a reference to a clearly identified state public official holding an
10 elective office or to a candidate for state public office.

11 **SECTION 124f.** 19.49 (1m) of the statutes is created to read:

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

17 **SECTION 124h.** 19.49 (5) of the statutes is renumbered 19.49 (5) (a) and
18 amended to read:

19 19.49 (5) (a) ~~No~~ Except as provided in par. (b), no action may be taken on any
20 complaint ~~which~~ that is filed later than 3 years after a violation of this subchapter
21 or subch. III of ch. 13 is alleged to have occurred.

22 **SECTION 124k.** 19.49 (5) (b) of the statutes is created to read:

23 19.49 (5) (b) The period of limitation under par. (a) is tolled for a complaint
24 alleging a violation of s. 19.45 (13) or 19.59 (1) (br) for the period during which such
25 a complaint may not be filed under s. 19.49 (1m) or 19.59 (8) (cm).

1 **SECTION 124m.** 19.53 (6) of the statutes is amended to read:

2 19.53 (6) An order requiring the accused to forfeit not more than \$500 for each
3 violation of s. 19.43, 19.44, or 19.56 (2) or not more than \$5,000 for each violation of
4 any other provision of this subchapter, or not more than the applicable amount
5 specified in s. 13.69 for each violation of subch. III of ch. 13; ~~and, if, If the board~~
6 ~~determines that the accused has realized economic gain as a result of the violation,~~
7 ~~an the board may, in addition, order requiring the accused to forfeit the amount~~
8 ~~gained as a result of the violation. In addition, if the board determines that a state~~
9 ~~public official has violated s. 19.45 (13), the board may order the official to forfeit an~~
10 ~~amount equal to the amount or value of any political contribution, service, or other~~
11 ~~thing of value that was wrongfully obtained. If the board determines that a state~~
12 ~~public official has violated s. 19.45 (13) and no political contribution, service or other~~
13 ~~thing of value was obtained, the board may order the official to forfeit an amount~~
14 ~~equal to the maximum contribution authorized under s. 11.26 (1) for the office held~~
15 ~~or sought by the official, whichever amount is greater.~~ The attorney general, when
16 so requested by the board, shall institute proceedings to recover any forfeiture
17 incurred under this section or s. 19.545 which is not paid by the person against whom
18 it is assessed.

19 **SECTION 124p.** 19.535 of the statutes is created to read:

20 **19.535 Direct enforcement.** If the board refuses or otherwise fails to
21 authorize an investigation under s. 19.49 (3) with respect to a violation of s. 19.45 (13)
22 within 30 days after receiving a verified complaint alleging a violation of s. 19.45 (13),
23 the person making the complaint may bring an action to recover the forfeiture under
24 s. 19.53 (6) on his or her relation in the name, and on behalf, of the state. In such
25 actions, the court may award actual and necessary costs of prosecution, including

1 reasonable attorney fees, to the relator if he or she prevails, but any forfeiture
2 recovered shall be paid to the state. If the court finds in any such action that the
3 cause of action was frivolous as provided in s. 814.025, the court shall award costs
4 and fees to the defendant under that section.

5 **SECTION 124r.** 19.59 (1) (br) of the statutes is created to read:

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

16 **SECTION 124t.** 19.59 (7) of the statutes is renumbered 19.59 (7) (a) and
17 amended to read:

18 19.59 (7) (a) Any person who violates sub. (1) may be required to forfeit not
19 more than \$1,000 for each violation, and, if the court determines that the accused has
20 violated sub. (1) (br), the court 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 obtained.

23 **SECTION 124v.** 19.59 (7) (b) of the statutes is created to read:

24 19.59 (7) (b) Any person who violates sub. (1) may be required to forfeit not
25 more than \$1,000 for each violation, and, if the court determines that a local public

1 official has violated sub. (1) (br) and no political contribution, service or other thing
2 of value was obtained, the court may, in addition, order the accused to forfeit an
3 amount equal to the maximum contribution authorized under s. 11.26 (1) for the
4 office held or sought by the official, whichever amount is greater.

5 **SECTION 124x.** 19.59 (8) (c) of the statutes is amended to read:

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

11 **SECTION 124z.** 19.59 (8) (cm) and (cn) of the statutes are created to read:

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

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

