



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0778/3
JTK&MES:nwn:rs

DOA:.....Frederick, BB0164 – Public financing of campaigns for state office
FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: public financing of campaigns for state offices and the individual income tax checkoff for public financing of campaigns.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Currently, eligible candidates for the office of justice of the supreme court may receive state grants from the democracy trust fund. The grants are funded from general purpose revenue, which is provided to the fund when individual income tax filers designate \$2 to be deposited into the fund. Currently, if the total amount of designations for the democracy trust fund does not generate sufficient revenue for the democracy trust fund, the deficiency is covered with an appropriation of general purpose revenue so that the maximum amounts of grants that are payable to all eligible candidates for the office of justice of the supreme court are paid in full. Currently, an eligible candidate for the office of justice of the supreme court may also receive supplemental grants from the democracy trust fund: a) if the eligible candidate is opposed by one or more candidates who decline to accept grants and who do not adhere to a specified spending level that is close to the grant amounts; and b) if one or more persons make independent expenditures in opposition to the eligible candidate or in support of one or more of the eligible candidate's opponents. Eligible candidates for the office of justice of the supreme court are severely limited in the total amount of private contributions that they may accept. The bill deletes the

supplement from general purpose revenue which currently ensures that all eligible candidates for the office of justice of the supreme court receive the full amounts of the grants to which they are entitled. Under the bill, if there are insufficient moneys available to make payment of the full amounts of grants to which eligible candidates for the office of justice of the supreme court are entitled, the amounts of the grants are prorated to adjust for the deficiency. The bill also deletes the supplemental grants that are currently may become payable to eligible candidates for the office of justice of the supreme court. The bill permits candidates for the office of justice of the supreme court who accept grants to also accept additional private contributions in an amount sufficient to cover any deficiency in the public grants to which they would otherwise be entitled. The bill applies to grants awarded after December 31, 2011. Currently, the democracy trust fund is administered by the state treasurer. This bill transfers administration of the fund to the Government Accountability Board.

TAXATION

INCOME TAXATION

Currently, an individual filing an individual income tax return who has a tax liability or who is entitled to a tax refund may designate \$3 for the Wisconsin election campaign fund and the democracy trust fund. If the designation is made, \$2 of general purpose revenue is allocated to the democracy trust fund, which is used to finance the campaigns of eligible candidates for the office of justice of the supreme court and \$1 of general purpose revenue is allocated to the Wisconsin election campaign fund, which is used to finance the campaigns of eligible candidates for certain other state offices specified by law. A designation does not affect the amount of the tax liability of, or the amount of any refund payable to, the individual making the designation.

This bill provides that any designation of \$3 for the Wisconsin election campaign fund and the democracy trust fund made by an individual is added to the individual's tax liability or deducted from the individual's refund otherwise payable. The bill applies to designations made after December 31, 2011.

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:

SECTION 1. 11.26 (9) (a) and (b) of the statutes are amended to read:

11.26 (9) (a) Except as provided in par. (ba), no individual who is a candidate for state or local office may receive and accept more than 65 percent of the value of the total disbursement level determined under s. 11.31 or 11.511 (7) (a) for the office

for which he or she is a candidate during any primary and election campaign combined from all committees subject to a filing requirement, including political party and legislative campaign committees.

(b) Except as provided in par. (ba), no individual who is a candidate for state or local office may receive and accept more than 45 percent of the value of the total disbursement level determined under s. 11.31 or 11.511 (7) (a) for the office for which he or she is a candidate during any primary and election campaign combined from all committees other than political party and legislative campaign committees subject to a filing requirement.

SECTION 2. 11.506 (1) of the statutes is amended to read:

11.506 (1) An eligible candidate shall not accept private contributions ~~other than seed money contributions and qualifying contributions that the candidate accepts during the exploratory period and the public financing qualifying period during the primary election campaign period in an aggregate amount exceeding the difference, if any, between the maximum amount of the public financing benefit for the primary election campaign period and the actual amount of the public financing benefit for that period paid to the eligible candidate.~~ An eligible candidate shall not accept private contributions during the election campaign period in an aggregate amount exceeding the difference, if any, between the maximum amount of the public financing benefit for the election campaign period and the actual amount of the public financing benefit for that period paid to the eligible candidate.

SECTION 3. 11.51 (title) of the statutes is amended to read:

11.51 (title) ~~Certification~~ Certifications by candidate and board.

SECTION 4. 11.51 (1m) of the statutes is created to read:

11.51 (1m) Upon determination of the number of eligible candidates who qualify for a public financing benefit for the primary election campaign period, the board shall determine the amounts of the public financing benefits that are payable to all eligible candidates in the primary election campaign period and the election campaign period by reserving a public financing benefit amount from the democracy trust fund for the election campaign period for 2 eligible candidates, if 2 or more candidates qualify to receive a public financing benefit for the primary election campaign period, or for one eligible candidate, if only one candidate qualifies to receive a public financing benefit for the primary election campaign period and, if there are insufficient moneys in the democracy trust fund to make full payment of all public financing benefits that are or may become payable for the primary and election campaign periods, by prorating the amounts of the public financing benefits to fully allocate all available moneys to the eligible candidates. If, on the day that the board makes its certification under sub. (3), there are additional moneys in the democracy trust fund that have become available for distribution to eligible candidates in the election campaign period, the board shall distribute the additional moneys in equal amounts to each eligible candidate at the spring election or, if there is only one eligible candidate, to that candidate alone, up to the maximum amount of the public financing benefit for the spring election, as provided in s. 11.511 (3) and (6).

SECTION 5. 11.51 (2) of the statutes is amended to read:

11.51 (2) The board shall certify to the state treasurer the name of each eligible candidate at the spring primary together with the amount of the public financing benefit payable to the candidate promptly after the candidate demonstrates his or her eligibility and, in any event, not later than 5 days after the end of the public

financing qualifying period. ~~The state treasurer~~ Upon certification of an eligible candidate, the board shall immediately credit that candidate's account with a line of credit for the amount certified. No candidate may utilize a line of credit received under this subsection until the beginning of the primary election campaign period.

SECTION 6. 11.51 (3) of the statutes is amended to read:

11.51 (3) The board shall certify ~~to the state treasurer~~ the name of each eligible candidate at the spring election together with the amount of the public financing benefit payable to the candidate not later than 48 hours after the date of the spring primary election for the office of justice, or the date that the primary election would be held if a primary were required. ~~The state treasurer~~ Upon certification of an eligible candidate, the board shall immediately credit that candidate's account with a line of credit for the amount certified. However, no candidate for a particular office shall receive a line of credit until all candidates for the office of justice who apply and qualify for a public financing benefit have been certified as eligible candidates.

SECTION 7. 11.511 (1) of the statutes is amended to read:

11.511 (1) ~~The state treasurer~~ board shall provide to each eligible candidate who qualifies to receive a public financing benefit for the primary or election campaign period separate lines of credit for the public financing benefits payable to the candidate for the primary and election campaign periods in the amounts specified in this section, subject to any required adjustment under s. 11.512 (2) or 11.513 (2). An eligible candidate may use this public financing benefit to finance any lawful disbursements during the primary and election campaign periods to further the election of the candidate in that primary or election. An eligible candidate shall not use this public financing benefit to repay any loan, or in violation of ss. 11.502 to 11.522 or any other applicable law.

SECTION 8

SECTION 8. 11.511 (1) of the statutes, as affected by 2011 Wisconsin Act (this act), is amended to read:

11.511 (1) The board shall provide to each eligible candidate who qualifies to receive a public financing benefit for the primary or election campaign period separate lines of credit for the public financing benefits payable to the candidate for the primary and election campaign periods in the amounts specified in this section, ~~subject to any required adjustment under s. 11.512 (2) or 11.513 (2).~~ An eligible candidate may use this public financing benefit to finance any lawful disbursements during the primary and election campaign periods to further the election of the candidate in that primary or election. An eligible candidate shall not use this public financing benefit to repay any loan, or in violation of ss. 11.502 to 11.522 or any other applicable law.

SECTION 9. 11.511 (2) of the statutes is amended to read:

11.511 (2) ~~Except as provided in ss. 11.512 (2) and 11.513 (2), the~~ The maximum public financing benefit for a primary election campaign period is \$100,000, subject to adjustment under s. 11.51 (1m).

SECTION 10. 11.511 (3) of the statutes is amended to read:

11.511 (3) ~~Except as provided in ss. 11.512 (2) and 11.513 (2), the~~ The maximum public financing benefit for an election campaign period is \$300,000, subject to adjustment under s. 11.51 (1m).

SECTION 11. 11.511 (6) of the statutes is amended to read:

11.511 (6) Notwithstanding subs. (2) and (3), beginning on July 1, 2012, and every 2 years thereafter, the board shall modify the maximum public financing benefits provided for in subs. (2) and (3) to adjust for the change in the consumer price

index, all items, U.S. city average, published by the U.S. department of labor for the preceding 2-year period ending on December 31.

SECTION 12. 11.511 (7) (a) of the statutes is renumbered 11.511 (7) and amended to read:

11.511 (7) ~~Except as provided in par. (b), no~~ No candidate for the office of justice who files an application for a public financing benefit and certification under s. 11.51 (1) and who accepts a public financing benefit may make or authorize total disbursements in a campaign, beginning with the first day of the exploratory period and ending on the date of the spring election, to the extent of more than the maximum amounts specified in ss. 11.502 (2) and 11.508 (1), plus the amount specified in s. 11.511 (3), as adjusted under s. 11.511 (6), and, if there is a primary for the office of justice, the amount specified in s. 11.511 (2), as adjusted under s. 11.511 (6).

SECTION 13. 11.511 (7) (b) of the statutes is repealed.

SECTION 14. 11.512 of the statutes is repealed.

SECTION 15. 11.513 of the statutes is repealed.

SECTION 16. 11.515 of the statutes is amended to read:

11.515 Democracy trust fund. The democracy trust fund shall be administered by the ~~state treasurer~~ government accountability board. The ~~state treasurer~~ board shall establish an account within the fund for each eligible candidate.

SECTION 17. 11.517 (1) of the statutes is amended to read:

11.517 (1) Notwithstanding s. 11.60 (1), if an eligible candidate makes disbursements that exceed the total amount of the public financing benefit allocated to the candidate for any campaign ~~and~~, the total qualifying and seed money contributions lawfully accepted by the candidate, and the total private contributions

that the candidate may accept under s. 11.506 (1), the candidate may be required to forfeit not more than 10 times the amount by which the disbursements exceed the allocation that total.

SECTION 18. 11.522 of the statutes is amended to read:

11.522 Contributions to nonparticipating candidates. A nonparticipating candidate may accept contributions from private sources ~~without limitation, except that no person may make any contribution or contributions to a nonparticipating candidate exceeding a total of \$1,000 during any campaign, subject to applicable limitations under s. 11.26.~~

SECTION 19. 20.511 (1) (qm) of the statutes, as affected by 2011 Wisconsin Act (this act), is amended to read:

20.511 (1) (qm) *Public financing benefits; candidates for justice.* From the democracy trust fund, a sum sufficient equal in each fiscal year to the lesser of the total amount annually certified for the democracy trust fund under s. 71.10 (3e) (h) 3., minus the amount appropriated under s. 20.511 (1) (r) for the fiscal year in which the certification is made, and the total amount of public financing benefits that eligible candidates qualify to receive in that fiscal year, to provide for payment of public financing benefits to eligible candidates under ss. 11.501 to 11.522.

SECTION 20. 20.566 (1) (hp) of the statutes is amended to read:

20.566 (1) (hp) *Administration of income tax checkoff voluntary payments.* The amounts in the schedule for the payment of all administrative costs, including data processing costs, incurred in administering ss. 71.10 (3e), (5), (5e), (5f), (5fm), (5g), (5h), (5i), (5j), and (5m), and 71.30 (10). All moneys specified for deposit in this appropriation under ss. 71.10 (3e) (j), (5) (h) 5., (5e) (h) 4., (5f) (i), (5fm) (i), (5g) (i),

(5h) (i), (5i) (i), (5j) (i), and (5m) (i), and 71.30 (10) (i) and (11) (i) shall be credited to this appropriation account.

SECTION 21. 20.585 (1) (q) of the statutes is renumbered 20.511 (1) (qm).

SECTION 22. 20.585 (1) (r) of the statutes is repealed.

SECTION 23. 20.855 (4) (b) of the statutes is repealed.

SECTION 24. 20.855 (4) (ba) of the statutes is repealed.

SECTION 25. 20.855 (4) (bb) of the statutes is repealed.

SECTION 26. 25.42 of the statutes is amended to read:

25.42 Wisconsin election campaign fund. All moneys appropriated under s. 20.855 (4) (b) and all moneys deposited in the Wisconsin election campaign fund under s. 71.10 (3e) (j) together with all moneys reverting to the state under s. 11.50 (8) and all gifts, bequests and devises received under s. 11.50 (13) constitute the Wisconsin election campaign fund, to be expended for the purposes of s. 11.50. All moneys in the fund not disbursed by the state treasurer shall continue to accumulate indefinitely.

SECTION 27. 25.42 of the statutes, as affected by 2011 Wisconsin Act ... (this act), is amended to read:

25.42 Wisconsin election campaign fund. All moneys appropriated under ~~s. 20.855 (4) (b) and all moneys~~ deposited in the Wisconsin election campaign fund under s. 71.10 (3e) (j) together with all moneys reverting to the state under s. 11.50 (8) and all gifts, bequests and devises received under s. 11.50 (13) constitute the Wisconsin election campaign fund, to be expended for the purposes of s. 11.50. All moneys in the fund not disbursed by the state treasurer shall continue to accumulate indefinitely.

SECTION 28. 25.421 of the statutes is amended to read:

25.421 Democracy trust fund. All moneys appropriated under s. 20.855 (4) (ba) and (bb) and all moneys deposited in the state treasury democracy trust fund under ss. 11.509, 11.51 (4), and 11.511 (5r), and 71.10 (3e) (j) constitute the democracy trust fund, to be expended for the purposes of ss. 11.501 to 11.522.

SECTION 29. 25.421 of the statutes, as affected by 2011 Wisconsin Act ... (this act), is amended to read:

25.421 Democracy trust fund. All moneys appropriated under s. 20.855 (4) (ba) and all moneys deposited in the democracy trust fund under ss. 11.509, 11.51 (4), 11.511 (5r), and 71.10 (3e) (j) constitute the democracy trust fund, to be expended for the purposes of ss. 11.501 to 11.522.

SECTION 30. 71.10 (3) (title) of the statutes is amended to read:

71.10 (3) (title) CAMPAIGN FUND FUNDS, BEFORE 2012.

SECTION 31. 71.10 (3) (c) of the statutes is created to read:

71.10 (3) (c) This subsection does not apply to a taxable year that begins after December 31, 2011.

SECTION 32. 71.10 (3e) of the statutes is created to read:

71.10 (3e) CAMPAIGN FUNDS, AFTER 2011. (a) *Definition.* In this subsection, “department” means the department of revenue.

(b) *Voluntary payments.* 1. ‘Designation on return.’ Every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return \$3 of additional payment or \$3 of a refund due that individual for the Wisconsin election campaign fund and the democracy trust fund for the use of eligible candidates under ss. 11.50 to 11.522. If the individuals filing a joint return have a tax liability or are entitled to a tax refund, each individual may make a designation of \$3 under this subsection.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for the Wisconsin election campaign fund and the democracy trust fund when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided under par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department shall deduct the amount designated on the return for the Wisconsin election campaign fund and the democracy trust fund from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for the Wisconsin election campaign fund and the democracy trust fund:

1. The department shall reduce the designation for the Wisconsin election campaign fund and the democracy trust fund to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for the Wisconsin election campaign fund and the democracy trust fund.

2. The designation for the Wisconsin election campaign fund and the democracy trust fund is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual who is owed a refund which does not equal or exceed the amount designated on the return for the Wisconsin election campaign fund and the democracy trust fund, after crediting under ss. 71.75 (9) and

71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for the Wisconsin election campaign fund and the democracy trust fund to reflect the actual amount of the refund the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for the Wisconsin election campaign fund or the democracy trust fund, the designation is void.

(f) *Void designation.* If a designation for the Wisconsin election campaign fund and the democracy trust fund is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return and, on forms printed by the department, the secretary shall highlight that place on the return by a symbol chosen by the government accountability board that relates to the Wisconsin election campaign fund and the democracy trust fund.

(h) *Certification of amounts.* Annually, on or before August 15, the secretary of revenue shall certify to the government accountability board, the department of administration and the state treasurer all of the following:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for the Wisconsin election campaign fund and the democracy trust fund made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

(i) *Confidentiality.* The names of persons making designations under this subsection shall be strictly confidential.

(j) *Appropriations.* From the moneys received from designations for the Wisconsin election campaign fund and the democracy trust fund, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited in the general fund and credited to the appropriation under s. 20.566 (1) (hp), and two-thirds of the net amount remaining certified under par. (h) 3. shall be deposited in the democracy trust fund and one-third of the net amount remaining certified under par. (h) 3. shall be deposited in the Wisconsin election campaign fund.

(k) *Amounts subject to refund.* Amounts designated for the Wisconsin election campaign fund and the democracy trust fund under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department, within 18 months after the date taxes are due or the date the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year that the refund is certified.

(L) This subsection first applies to taxable years beginning after December 31, 2011.

SECTION 9418. Effective dates; Government Accountability Board.

(1) PUBLIC FINANCING OF CAMPAIGNS FOR STATE OFFICE. The treatment of sections 11.26 (9) (a) and (b), 11.506 (1), 11.51 (title) and (1m), 11.511 (1) (by SECTION 8), (2),

(3), and (6), 11.512, 11.513, 11.517 (1), 11.522, 20.511 (1) (qm), 20.566 (1) (hp), 20.855 (4) (bb), 25.421, and 71.10 (3) (title) and (c) and (3e) of the statutes, the repeal of section 11.511 (7) (b) of the statutes, and the renumbering and amendment of section 11.511 (7) (a) of the statutes, and the amendment of section 20.511 (1) (am) of the statutes, as renumbered, take effect on January 1, 2012.

(2) CAMPAIGN FUND APPROPRIATIONS. The treatment of sections 20.855 (4) (b) and (ba) and 25.42 (by SECTION 27) and 25.421 (by SECTION 29) of the statutes takes effect on January 1, 2013.

(END)