



1995 ENGROSSED ASSEMBLY BILL 37

March 8, 1995 - Printed by direction of SENATE CHIEF CLERK.

1 **AN ACT** *to repeal* 11.26 (9) (c); *to renumber and amend* 11.50 (9); *to amend*
2 11.06 (1) (a), 11.12 (6), 11.19 (1), 11.26 (9) (a), 11.26 (9) (b), 11.26 (13), 11.30 (5)
3 and 25.42; and *to create* 11.05 (3) (m), 11.05 (3) (q), 11.095, 11.26 (8m), 11.26
4 (9) (am), 11.30 (6), 11.31 (3n) and 11.385 of the statutes; **relating to:** various
5 changes in the campaign finance law.

Analysis by the Legislative Reference Bureau

Engrossment information:

The text of 1995 Engrossed Assembly Bill 37 consists of the following documents adopted in the assembly on February 17, 1995: Assembly Substitute Amendment 2, as affected by the following Assembly Amendments: Assembly Amendment 17, Assembly Amendment 20 and Assembly Amendment 21.

Content of 1995 Engrossed Assembly Bill 37:

This bill makes numerous changes in the campaign finance law. Significant changes include:

1. Under current law, disbursement (expenditure) levels are specified for candidates for various state and local offices. These levels become a binding limitation upon any candidate for state office who accepts a state grant from the Wisconsin election campaign fund or who agrees to be bound by the limitation, unless the candidate is opposed by a major opponent who could have qualified for a grant but declines to accept one. Current law also requires a committee or individual making disbursements independently of a candidate in support of or in opposition to a candidate for a state or local office to inform the appropriate filing officer within 24 hours of making such a disbursement, if the cumulative amount of such disbursements made by the committee or individual later than 15 days prior to a primary or election exceeds \$20. The filing officer must mail a copy of the report to

each candidate for the affected office. The bill authorizes a candidate to make disbursements exceeding statutory disbursement limits to the extent of independent obligations incurred or disbursements made in opposition to his or her candidacy or in support of his or her opponent, if the obligations and disbursements exceed \$250 cumulatively. The bill also replaces the provision requiring reports of cumulative independent disbursements exceeding \$20 made later than 15 days prior to a primary or election with a provision that requires reports of cumulative independent disbursements made or obligations incurred exceeding \$250 later than 21 days prior to a primary or election. In addition, the bill requires that a report be received by the appropriate filing officer no later than 24 hours after the independent disbursement is made or obligation is incurred. Under the bill, the filing officer must attempt to contact each candidate for the affected office by direct means of communication to inform the candidates of the content of the report.

2. Current law limits the total contributions that a candidate for state or local office may accept from all political committees, including political party and legislative campaign committees, and from the Wisconsin election campaign fund to 65% of the value of the statutory disbursement level specified for the office which the candidate seeks. The total amount that a candidate may accept from committees other than political party and legislative campaign committees and from the Wisconsin election campaign fund is limited to 45% of that disbursement level. The bill:

a. Authorizes a candidate to accept contributions exceeding 65% of his or her disbursement level from political party or legislative campaign committees to the extent of independent obligations incurred or disbursements made in opposition to his or her candidacy or in support of his or her opponent, if the obligations or disbursements exceed \$250 cumulatively.

b. Decreases the limitation on total contributions that a candidate may accept from committees other than political party and legislative campaign committees from 45% of the disbursement level for the office which the candidate seeks to 33% of the disbursement level for that office. However, the bill does not change the limitation on the total grant that a candidate for state office may receive from the Wisconsin election campaign fund. Under the bill, grants from the Wisconsin election campaign fund are not subject to the 33% limitation.

3. The bill prohibits a special interest ("political action") committee from making any contribution or contributions to another such committee. The prohibition does not apply to any contribution or contributions made by a committee to another committee with which it is affiliated, not exceeding a total of \$5,000 within any biennial period starting on January 1 of an odd-numbered year and ending on December 31 of the following even-numbered year. The prohibition also does not apply to a nonresident committee to the extent that the committee receives contributions from a resident committee in a corresponding amount in the same biennium, if both committees are affiliated.

Violations are punishable by a forfeiture (civil penalty) of up to treble the amount of the contribution. Intentional violations constitute a misdemeanor and are

punishable by a fine of not more than \$1,000 or by imprisonment for not more than 6 months or both.

4. Under current law, a “conduit” is an individual or organization that receives a contribution and transfers the contribution to another individual or organization without exercising discretion as to the amount that is transferred and the individual to whom or the organization to which the transfer is made. The campaign financing reports filed by the candidate identify only the original contributor, not the conduit. The bill requires the campaign financing reports filed by candidates to identify any conduit from whom a contribution is received, as well as the original contributor.

5. Under current law, residual funds remaining when a person who is required to register under the campaign financing law disbands or ceases incurring obligations, making disbursements or accepting contributions may be used for any lawful political purpose, returned to the original contributors or donated to a charitable organization or the common school fund. The bill allows residual funds remaining when a registrant disbands or ceases incurring obligations, making disbursements or accepting contributions to be transferred to the Wisconsin election campaign fund.

6. The bill requires any individual, committee or group who or which is subject to a registration requirement under the campaign finance law and who or which retains a telephone bank operator to contact, or who requests or suggests that any other person contact, by telephone, more than one potential voter for the purpose of asking questions concerning the preferences of the potential voters with respect to any candidate, political party or issue of public concern in relation to an election, or to present any information or viewpoint with respect to any candidate, political party or issue of public concern in relation to an election, to file a report with the elections board containing the text of any substantially identical question asked or statement made by the operator or any such question or statement requested or suggested to be asked or made to more than one potential voter, in such manner that the board receives the report within 24 hours of the time that the operator or other person makes an initial contact with more than one potential voter. The report must include the names and addresses of the operator and the person who retained the operator or who requested or suggested that the contacts be made, the election with respect to which the telephoning is conducted, and if the telephoning is not conducted on a statewide basis, the name of each jurisdiction or district within which the telephoning is conducted. Currently, there is no such requirement.

7. The bill requires any individual, committee or group who or which is subject to a registration requirement under the campaign finance law and who or which publishes, distributes or broadcasts, or causes to be published, distributed or broadcast, any communication which advocates the election or defeat of a candidate for state or local office independently of any candidate who is supported or whose opponent is opposed to file with the state elections board a copy of the text of the communication within 24 hours of the time that the communication is first published, distributed or broadcast. Currently, there is no such requirement.

8. The bill prohibits any deduction from being made by an employer, or from being received by an employer or an employe organization, from the wages or

reimbursements or allowances for expenses payable to an employe for the purpose of making or transferring a political contribution to any individual, committee or group in connection with a state or local election, unless the employe specifically authorizes the deduction in writing and the authorization is revocable by similar means. No authorization may be effective for a period of more than one year. Currently, there is no such restriction. The bill also prohibits any person from soliciting or obtaining an authorization for such a deduction by means of coercion, physical force, employment discrimination or financial reprisals, or by threat of any such action, or as a condition of employment.

9. Under current law, whenever a person receives payment from another person, in cash or in-kind, for the direct or indirect cost of conducting a poll concerning support or opposition to a candidate, political party or referendum, the person conducting the poll must, upon request of the person who is polled, disclose the name and address of the person making payment for the poll and, in the case of a registrant under the campaign finance law, the name of the treasurer of the person making payment. The bill provides that whenever a person is authorized to conduct by another person, committee or group who or which is subject to a registration requirement under the campaign finance law, and contracts to receive or receives payment from such a person, committee or group for the direct or indirect cost of conducting, a poll concerning such a matter, the person conducting the poll must, no later than the conclusion of each polling communication and at any time upon request of any person who is polled, disclose the name of the person, committee or group authorizing the poll to be conducted, and the name of the person, committee or group making payment for the poll, if different from the person, committee or group authorizing the poll to be conducted.

10. The bill requires a nonresident committee, upon registration with the appropriate filing officer under the Wisconsin campaign finance law, to report the financial information that it would have been required to report for the previous 2-year period if it had been registered during that period, except information relating to disbursements made or obligations incurred to make disbursements outside this state. Currently, reporting requirements begin at the time that such a committee becomes subject to a registration requirement.

With the exception of unlawful contributions, violations of the prohibitions or requirements created by the bill are punishable by a forfeiture (civil penalty) of not more than \$500 for each offense. Intentional violations constitute a misdemeanor and are punishable by a fine of not more than \$1,000 or imprisonment for not more than 6 months, or both, for each offense.

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

1 **SECTION 1.** 11.05 (3) (m) of the statutes is created to read:

1 11.05 (3) (m) In the case of a personal campaign committee, the name of the
2 candidate on whose behalf the committee was formed or intends to operate and the
3 office or offices that the candidate seeks.

4 **SECTION 2.** 11.05 (3) (q) of the statutes is created to read:

5 11.05 (3) (q) In the case of a committee which does not maintain a street address
6 within this state, a report providing the information required under s. 11.06 (1) for
7 the 2-year period ending with the month in which the committee registers, except
8 that the committee need not report any disbursement made or obligation incurred
9 to make a disbursement outside this state.

10 **SECTION 3.** 11.06 (1) (a) of the statutes is amended to read:

11 11.06 (1) (a) An itemized statement giving the date, full name and street
12 address of each contributor who has made a contribution in excess of \$20, or whose
13 contribution if \$20 or less aggregates more than \$20 for the calendar year, together
14 with the amount of the contribution and the cumulative total contributions made by
15 that contributor for the calendar year and, if the contributor made the contribution
16 through a conduit, the identity of the conduit.

17 **SECTION 4.** 11.095 of the statutes is created to read:

18 **11.095 Regulation of certain telephoning activities. (1)** In this section,
19 “telephone bank operator” means any person who, for remuneration, places or
20 directs the placement of telephone calls to individuals.

21 **(2)** Every individual, committee or group who or which is subject to a
22 registration requirement under s. 11.05 and who or which retains a telephone bank
23 operator to contact, or who requests or suggests that any other person contact, by
24 telephone, more than one potential voter for the purpose of asking questions
25 concerning the preferences of the potential voters with respect to any candidate,

1 political party or issue of public concern in relation to an election or to present any
2 information or viewpoint with respect to any candidate, political party or issue of
3 public concern in relation to an election shall file a report with the board containing
4 the text of any substantially identical question asked or statement made by the
5 operator or any such question or statement requested or suggested to be asked or
6 made to more than one potential voter, in such a manner that the board receives the
7 report within 24 hours of the time that the operator or other person makes an initial
8 contact with more than one potential voter during which the question is asked or the
9 statement is made. The report shall include the name and address of the individual,
10 committee or group who or which retained the telephone bank operator or who or
11 which requested or suggested that the contacts be made; the name and address of the
12 telephone bank operator, if any; the name and date of the election with respect to
13 which the telephoning is conducted; and if the telephoning is not conducted on a
14 statewide basis, the name of each jurisdiction or district within which the
15 telephoning is conducted. The report shall be certified in the manner provided in s.
16 11.06 (5). No person is required to file a report required under this section containing
17 any information that has been previously filed by that person or another person.

18 **SECTION 5.** 11.12 (6) of the statutes is amended to read:

19 11.12 (6) If any disbursement of more than ~~\$20~~ \$250 cumulatively is made or
20 obligation to make a disbursement of more than \$250 cumulatively is incurred to
21 advocate the election or defeat of a clearly identified candidate by an individual or
22 committee later than ~~15~~ 21 days prior to a primary or election in which the
23 candidate's name appears on the ballot without cooperation or consultation with a
24 candidate or agent or authorized committee of a candidate who is supported or whose
25 opponent is opposed, and not in concert with or at the request or suggestion of such

1 a candidate, agent or committee, the individual or treasurer of the committee shall,
2 within 24 hours of making the disbursement, inform or incurring the obligation shall
3 report to the appropriate filing officer of the information required under s. 11.06 (1)
4 in the form prescribed by the board, in such manner as the board may prescribe that
5 the report or a reasonable facsimile is received by the filing officer no later than 24
6 hours after the disbursement is made or the obligation is incurred. The information
7 shall also be included in the next regular report of the individual or committee under
8 s. 11.20. For purposes of this subsection, disbursements and obligations cumulate
9 beginning with the day after the last date covered on the preprimary or preelection
10 report and ending with the day before the primary or election. Upon receipt of a
11 report by the board under this subsection, the board shall immediately attempt, by
12 direct means of communication, such as by telephone or facsimile transmission, to
13 inform all candidates for any office in support of or in opposition to one of whom a
14 disbursement or obligation identified in the report is made or incurred of the content
15 of the report. Upon receipt of a report under this subsection, the board and every
16 other filing officer shall, within 24 hours of receipt, mail a copy of the report to all
17 candidates for any office in support of or opposition to one of whom a disbursement
18 or incurred obligation identified in the report is made or incurred.

19 **SECTION 6.** 11.19 (1) of the statutes is amended to read:

20 11.19 (1) Whenever any registrant disbands or determines that obligations will
21 no longer be incurred, and contributions will no longer be received nor disbursements
22 made during a calendar year, and the registrant has no outstanding incurred
23 obligations, the registrant shall file a termination report with the appropriate filing
24 officer. Such report shall indicate a cash balance on hand of zero at the end of the
25 reporting period and shall indicate the disposition of residual funds. Residual funds

1 may be used for any political purpose not prohibited by law, returned to the donors
2 in an amount not exceeding the original contribution, transferred to the board for
3 deposit in the Wisconsin election campaign fund, or donated to a charitable
4 organization or the common school fund. The report shall be filed and certified as
5 were previous reports, and shall contain the information required by s. 11.06 (1). If
6 a termination report or suspension report under sub. (2) is not filed, the registrant
7 shall continue to file periodic reports with the appropriate filing officer, no later than
8 the dates specified in s. 11.20. This subsection does not apply to any registrant
9 making an indication under s. 11.05 (2r).

10 **SECTION 7.** 11.26 (8m) of the statutes is created to read:

11 11.26 **(8m)** (a) No committee, other than a personal campaign committee,
12 support committee under s. 11.18, political party committee or legislative campaign
13 committee, may make any contribution or contributions, directly or indirectly, to
14 another committee, other than a personal campaign committee, support committee
15 under s. 11.18, political party committee or legislative campaign committee.

16 (b) Paragraph (a) does not apply to any contribution or contributions made by
17 a committee to another committee with which it is affiliated not exceeding a total of
18 \$5,000 in a biennium, exclusive of any contribution or contributions to which par. (c)
19 applies.

20 (c) Paragraph (a) does not apply to any contribution or contributions made in
21 any biennium by a committee which does not maintain an address within this state,
22 to the extent that the committee receives any contribution or contributions in a
23 corresponding amount from a committee which maintains an address in this state
24 in the same biennium if both the committee that makes the contribution or

1 contributions and the committee that receives the contribution or contributions are
2 affiliated.

3 (e) For purposes of this subsection, any committee established by a corporation,
4 joint stock company, professional association or labor organization is considered to
5 be affiliated with any other committee established by the same corporation,
6 company, association or organization including any parent, subsidiary, branch,
7 division, department or local unit thereof.

8 (f) In this subsection, a biennium commences with January 1 of each
9 odd-numbered year and ends with December 31 of the following even-numbered
10 year.

11 **SECTION 8.** 11.26 (9) (a) of the statutes is amended to read:

12 11.26 (9) (a) ~~No~~ Except as authorized in par. (am), no individual who is a
13 candidate for state or local office may receive and accept more than 65% of the value
14 of the total disbursement level, as determined under s. 11.31 (1), for the office for
15 which he or she is a candidate during any primary and election campaign combined
16 from all committees that are subject to a filing requirement, including political party
17 and legislative campaign committees.

18 **SECTION 9.** 11.26 (9) (am) of the statutes is created to read:

19 11.26 (9) (am) If any incurred obligation or disbursement of more than \$250
20 cumulatively is incurred or made by an individual or committee to advocate the
21 election or defeat of a clearly identified candidate whose name appears on the ballot
22 at an election and the incurred obligation or disbursement is incurred or made
23 without cooperation or consultation with any candidate who is supported or whose
24 opponent is opposed or such a candidate's agent or authorized committee, and not in
25 concert with, or at the request or suggestion of, any such candidate, agent or

1 authorized committee, then each candidate whose name appears on the same ballot
2 and who is opposed or whose opponent is supported by that advocacy may receive and
3 accept from a political party or legislative campaign committee contributions in
4 addition to the value prescribed in par. (a) but not to exceed, in total, the value
5 prescribed in par. (a) plus the total value of incurred obligations and disbursements
6 that are reported to the appropriate filing officer under s. 11.12 (6). For the purposes
7 of this paragraph, obligations and disbursements cumulate as provided in s. 11.12
8 (6).

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

10 11.26 (9) (b) No individual who is a candidate for state or local office may receive
11 and accept more than ~~45%~~ 33% of the value of the total disbursement level, as
12 determined under s. 11.31 (1), for the office for which he or she is a candidate during
13 any primary and election campaign combined from all committees other than
14 political party and legislative campaign committees that are subject to a filing
15 requirement.

16 **SECTION 11.** 11.26 (9) (c) of the statutes is repealed.

17 **SECTION 12.** 11.26 (13) of the statutes is amended to read:

18 11.26 (13) ~~Except as provided in sub. (9), contributions~~ Contributions received
19 from the Wisconsin election campaign fund are not subject to limitation by this
20 section.

21 **SECTION 12m.** 11.30 (5) of the statutes is amended to read:

22 11.30 (5) Whenever any person is authorized to conduct by a person, committee
23 or group who or which is subject to a registration requirement under s. 11.05, and
24 contracts to receive or receives payment from another any such person, committee
25 or group, in cash or in-kind, for the direct or indirect cost of conducting, a poll

SECTION 12m

1 concerning support or opposition to a candidate, political party or referendum that
2 is conducted within 60 days before an election, the person conducting the poll shall,
3 no later than the conclusion of each polling communication and at any time upon
4 request of any person who is polled, disclose the name ~~and address of the person,~~
5 committee or group authorizing the poll to be conducted, and the name of the person,
6 committee or group making payment for the poll and, in the case of a registrant under
7 s. 11.05, the name of the treasurer of the person making payment if different from
8 the person, committee or group authorizing the poll to be conducted.

9 **SECTION 13.** 11.30 (6) of the statutes is created to read:

10 11.30 (6) Every individual, committee or group who or which is subject to a
11 registration requirement under s. 11.05 and who or which publishes, distributes or
12 broadcasts, or causes to be published, distributed or broadcast, any communication
13 which advocates the election or defeat of a clearly identified candidate without
14 cooperation or consultation with a candidate or agent or authorized committee of a
15 candidate who is supported or whose opponent is opposed, and not in concert with
16 or at the request or suggestion of such a candidate, agent or committee shall file with
17 the board, in writing, a copy of the text of the communication, together with the name
18 of the person who is publishing, distributing or broadcasting the communication or
19 causing it to be published, distributed or broadcast and that person's address, in such
20 manner that the text is received by the board within 24 hours of the time that the
21 communication is first published, distributed or broadcast. The report shall be
22 certified in the manner prescribed in s. 11.06 (5). No person is required to file the text
23 of a communication with the board under this subsection that has been previously
24 filed by that person or another person.

25 **SECTION 14.** 11.31 (3n) of the statutes is created to read:

1 11.31 **(3n)** INDEPENDENT DISBURSEMENTS; EXCEPTION. Notwithstanding subs. (1)
2 and (2), if any incurred obligation or disbursement of more than \$250 cumulatively
3 is incurred or made by an individual or committee to advocate the election or defeat
4 of a clearly identified candidate whose name appears on the ballot at an election and
5 the incurred obligation or disbursement is incurred or made without cooperation or
6 consultation with any candidate who is supported or whose opponent is opposed or
7 such a candidate's agent or authorized committee, and not in concert with, or at the
8 request or suggestion of, any such candidate, agent or authorized committee, then
9 each candidate whose name appears on the same ballot and who is opposed or whose
10 opponent is supported by that advocacy may make or authorize total disbursements
11 from the campaign treasury in excess of the amount prescribed in sub. (1) but not to
12 exceed, in total, the amount prescribed in sub. (1) plus the total amount of incurred
13 obligations and disbursements that are reported to the appropriate filing officer
14 under s. 11.12 (6). For the purposes of this subsection, obligations and
15 disbursements cumulate as provided in s. 11.12 (6).

16 **SECTION 15.** 11.385 of the statutes is created to read:

17 **11.385 Certain deductions for political purposes prohibited.** (1) In this
18 section:

19 (a) "Employe organization" means any association consisting of 2 or more
20 employes of one or more employers.

21 (b) "Employer" includes the state and every local governmental unit as defined
22 in s. 16.97 (7).

23 **(2)** No employer may deduct any amount from the wages or allowances or
24 reimbursements for expenses payable to an employe for the purpose of making or
25 transferring a contribution to any individual, committee or group, without a written

1 authorization, signed by the employe and effective for a period of not more than one
2 year, which specifically authorizes the deduction for the purpose of making or
3 transferring such a contribution.

4 (3) No employer or employe organization may make or transfer a contribution
5 to any individual, committee or group unless the deduction is made in compliance
6 with sub. (2).

7 (4) Every employer who makes a deduction and every employer and employe
8 organization to which a deduction is payable for the purpose of making or
9 transferring a contribution specified in sub. (3) shall provide to the employe who
10 authorizes the deduction to be made an opportunity to terminate the deduction prior
11 to the end of its effective period upon written notice to the employer making the
12 deduction, or to the employer or employe organization for which the deduction is
13 made. A termination of an authorization under this subsection is effective at such
14 time as may be agreed between the employe and the employe's employer or the
15 employer or employe organization for which the deduction is made, but in no case
16 later than the number of days after notice of termination is filed equal to the interval
17 between regular payments to the employe from which the deduction is taken.

18 (5) No person may solicit or obtain an authorization for a deduction from the
19 wages or allowances or reimbursements for expenses payable to an employe for the
20 purpose of making or transferring a contribution to any individual, committee or
21 group by means of coercion, physical force, employment discrimination or financial
22 reprisals, or by threat of any such action, or as a condition of employment.

23 **SECTION 16.** 11.50 (9) of the statutes is renumbered 11.50 (9) (a) and amended
24 to read:

