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CAMPAIGN FINANCE REFORM

2001 Wisconsin Act 109, the budget reform act, passed by the legislature and signed by Governor Scott McCallum on July 26, 2002, made numerous changes in Wisconsin's campaign finance regulations, most of which take effect on July 1, 2003. This brief summarizes some, but not all, of the major changes.

BACKGROUND

During the 2001-02 legislative session, at least 17 bills dealing with campaign finance reform were introduced, and five of them proposed comprehensive changes to the state's campaign finance regulations. Although none of the individual proposals passed, reform became a major issue in the negotiations surrounding the budget adjustment bill in 2002, and ultimately many provisions from the previous bills were added to the budget by the conference committee.

As passed, the campaign finance provisions are subject to a nonseverability clause [Section 9115 (2y)] stating that if any portion of the new campaign finance law is declared unconstitutional, all parts of the law would be void. The act also requires the Wisconsin Attorney General to bring a test case by September 28, 2002, to seek a declaratory judgment from the Wisconsin Supreme Court as to the constitutionality of the reform provisions [Section 9132 (4v)].

CAMPAIGN CONTRIBUTIONS AND DISBURSEMENTS

Registration. (Section 11.05, Wisconsin Statutes) The new law requires personal campaign committees to identify in their registration the name of the candidate they are working for and the office sought. Additionally, personal campaign committees and candidates are required to supply a telephone number and fax number or e-mail address (if any) with their registration.

Reporting. (Sections 11.06 and 11.12) Act 109 creates a "pre-reporting" requirement whereby special interest committees making communications advocating the election or defeat of a candidate must report the names of the candidates involved and the amount to be spent during the last 30 days of a campaign at least 31 days prior to the election.

Existing reporting requirements are expanded to include independent expenditures that include a reference to or a depiction of a candidate within 60 days prior to an election. Under Act 109, such expenditures must be reported within 24 hours of when they are obligated or made. Additional requirements are created for candidates for state office who are not accepting public financing from the Wisconsin Election Campaign Fund (WECF). If their total disbursements exceed 75% of the limit for the office they are seeking, they must make disbursement reports weekly between the primary date and 30 days prior to the general election, and daily reports thereafter. This enables the Elections Board to award supplemental grants to candidates based on the amounts being spent or obligated by opposing candidates who are not bound by the limits and by special interest committees in opposition to the candidates or in support of their opponents.

Individuals and committees supporting or opposing candidates for state office independently of a candidate are exempt from reporting requirements if they do not exceed \$1,000 in

disbursements and do not receive any contribution of more than \$100. Independent individuals and committees supporting or opposing candidates for local office are exempt if their disbursements do not exceed \$100.

Contributions. (Section 11.26) Act 109 maintains prevailing limits on individual contributions. Candidates not complying with spending limits either voluntarily or under the WECF grant program are placed under a contribution limit of 50% of the prevailing limit. Act 109 also introduced a cost of living indexing procedure for the statutory limits. Limits on committee contributions are modified slightly from the previous levels.

WISCONSIN ELECTION CAMPAIGN FUND

The Wisconsin Election Campaign Fund is a statutory mechanism for publicly funding campaigns for legislative and statewide offices (Section 11.50). The fund is currently supported by a voluntary \$1 checkoff on the individual income tax form, which does not affect the taxpayer's tax liability or refund. The state credits the fund with an amount equal to the checkoffs from general purpose revenue (GPR). Act 109 increases the amount of the WECF checkoff on state income tax forms from \$1 to an amount equal to the lesser of an individual's tax liability or \$20. The amount of the checkoff does affect a taxpayer's tax liability or refund, but the act provides a credit against tax liability equal to the amount of the checkoff. It also permits the fund to receive contributions that were formerly required by law to be given to charitable organizations or the school fund.

Candidates who accept public funding must abide by the spending limits attached to the grants, but the limits do not apply if the candidate has a major opponent and the opponent does not take public funding. With certain exceptions, Act 109 requires that candidates taking grants cannot accept contributions from committees other than political party committees if there is sufficient money in the fund to fully fund grant payments.

With certain exceptions, committee contributions are capped for most candidates for state office receiving a WECF grant at 40% of the applicable disbursement limit; for candidates for governor, the cap is 35%. Contributions from all committees, including political parties, are capped at 65% of the disbursement limit.

Act 109 provides certain restrictions on the conduct of state officers with regard to fund raising. Under the new law, no partisan state elected official may accept contributions between January of odd-numbered years and the enactment of the biennial budget act. Additionally, with certain exceptions, members of the legislature are prohibited from receiving any contribution at fund raisers in Dane County during a floorperiod, or a special or extraordinary session of the legislature.

Political action committees (PACs) are prohibited from contributing funds to another PAC unless, with certain exceptions, both are affiliated with the same organization.

Act 109 specifically outlaws so-called "pay to play" scenarios whereby members of the legislature promise to vote on or influence legislation in a certain way in exchange for campaign contributions.

The statutory disbursement limits for candidates receiving public funding are increased substantially by Act 109, and indexed for inflation.

FOR MORE INFORMATION

For a detailed description of Wisconsin's campaign finance law as it existed prior to 2001 Wisconsin Act 109 and more information on the major issues, refer to the LRB's *Wisconsin Brief* 01-9, "Campaign Finance in Wisconsin".