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**WISCONSIN ASSOCIATION  
OF SCHOOL SUPERINTENDENT ASSISTANTS**

**CAMPAIGN FINANCE LAWS: WHAT  
SUPERINTENDENT ASSISTANTS NEED TO KNOW**

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*Presented by Kirk D. Strang\**

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## **Practice Areas**

- School and Higher Education Law
  - Labor and Employment
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## **Education**

- B.A., University of Wisconsin Madison
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Kirk has extensive experience in school and higher education law, as well as labor and employment law issues.

Kirk represents school districts, technical colleges, and other higher education institutions in all aspects of their operations. He advises school and higher education clients on all of the issues related to their status as governmental bodies, including open meetings, public records, search and seizure, and public contracting and bidding. He also advises schools and higher education institutions on the range of issues that are unique to educators and educational institutions, including pupil rights and discipline, pupil services, employment relations, administrator and teacher contracting, pupil transportation, regulation of co-curricular activities, open enrollment and residency, and other matters that are central to educational institutions' day to day operations.

Kirk also works with small and large private companies.

Kirk is also been recognized by Best Lawyers in America in education and labor law, and as a Wisconsin Super Lawyer in labor and employment law. He maintains an active labor and employment practice, advising employers on the full range of labor and employment relations issues, including collective bargaining and contract negotiations, claims of unfair and prohibited labor practices, family and medical leave, grievance and interest arbitration, employment policies and handbooks, unemployment and worker compensation, employment agreements, disability claims and accommodation, and other substantive areas that are central to human resources management and employment relations.

In addition to his transactional work, Kirk continues to practice at the agency, circuit court and appellate court levels, and has made multiple appearances before our Wisconsin Supreme Court.

Kirk regularly presents legal information to and training for groups around the state on education and labor and employment law issues. Kirk provides regular programming and training for the Wisconsin Association of School District Administrators (WASDA), the Association of Wisconsin School Administrators (AWSA), the Wisconsin Association of School Business Officials (WASBO), the Wisconsin Association of School Superintendents Assistants (WASSA), the Wisconsin School Attorneys Association (WSAA), and the Wisconsin Technical College District Boards Association (WTCDBA). He also actively and regularly participates in programs and seminars sponsored by our firm for clients and friends, and also provides programming and training for clients at their request.

Kirk is a contributing author of the State Bar of Wisconsin's treatise on "Public Sector Labor Law Relations in Wisconsin." He has also advised the School Administrators' Alliance on legislation and legislative issues affecting our public schools. Kirk also chaired the State Bar of Wisconsin's annual employment law program for 13 consecutive years.

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## **Credentials**

- 2013 Leader in the Law, Wisconsin Law Journal
- Wisconsin Super Lawyer
- Best Lawyers in America, Education Law and Labor Law - Management
- Member, State Bar of Wisconsin (Continuing Legal Education Committee, 1999-2005)
- Member, State Bar of Wisconsin (Board of Directors, Labor & Employment Law Section, 1998-2001)
- Wisconsin Academic Decathlon Board of Directors
- CESA Foundation Board of Directors
- Former President, Wisconsin School Attorneys Association
- General Counsel to the Wisconsin Technical College District Boards Association

**I. ELECTIONS COMMISSION AND ETHICS COMMISSION (2015 WISCONSIN ACT 118)**

This Act (effective June 30, 2016) replaced the Government Accountability Board (“GAB”) with two commissions: the Elections Commission and the Ethics Commission. The Elections Commission is responsible for administering and enforcing the election laws. The Ethics Commission is responsible for administering and enforcing the ethics, campaign finance, and lobbying laws.

**II. 2015 WISCONSIN ACT 261**

Wis. Stat. § 7.53(3)(a), which pertains to a school district clerk’s duties under the “Municipal canvass” statute, is amended to read:

In a common, union high or unified school district, the school district clerk shall appoint 2 qualified electors of the school district prior to the date of the election being canvassed who shall, with the school district clerk, constitute the school district board of canvassers. If the school district clerk is a candidate at the election being canvassed, the other 2 members of the board of canvassers shall designate a 3rd member to serve in lieu of the clerk for that election. The school district clerk shall appoint a member to fill any other temporary vacancy on the board of canvassers. The canvass shall begin no later than 9 a.m. on the Tuesday after the election, and shall continue, without adjournment, until completed. The board of canvassers may return defective returns to the municipal board of canvassers in the manner provided in s. 7.60 (3). If the board of canvassers meets before 4 p.m. on the Monday after the election and thereafter receives amended statements, tally sheets, and lists from a municipal clerk for provisional or absentee ballots that are eligible to be counted under s. 6.97 (4) or 7.515 (6) (b), the board of canvassers shall reconvene no later than 9 a.m. on the Tuesday after the election and shall adjust the returns accordingly. . . .

This modification first applies to elections taking place no earlier than six months after March 18, 2016.

**III. OVERHAUL OF STATE CAMPAIGN FINANCE LAW (2015 WISCONSIN ACT 117)**

Wis. Stat. Chapter 11 (“Campaign Financing”) contains provisions relating to campaign finance for state and local offices. 2015 Wisconsin Act 117, generally effective beginning January 1, 2016, repealed the existing Chapter 11 and replaced it with a new version.

A. Wis. Stat. § 11.0100 (“Construction”) states:

This chapter shall be construed to impose the least possible restraint on persons whose activities do not directly affect the elective process, consistent with the right

of the public to have a full, complete, and readily understandable accounting of those activities expressly advocating for or against candidates for office or for or against referendums. Nothing in this chapter may be construed to regulate issue discussion, debate, or advocacy; grassroots outreach or lobbying; nonpartisan voter registration or turnout efforts; or the rights of the media.

B. Definitions.

1. “Candidate.”

a. Under the new definition (Wis. Stat. § 11.0101(1)):

“Candidate” means an individual about whom any of the following applies:

(a) The individual takes any of the following affirmative actions to seek nomination or election to a state or local office:

1. Files nomination papers with the appropriate filing officer.
2. Is nominated as a candidate for state or local office by a caucus under s. 8.05 (1) or by a political party and the nomination is certified to the appropriate filing officer.
3. Receives a contribution, makes a disbursement, or gives consent for another person to receive a contribution or make a disbursement in order to bring about the individual’s nomination or election to a state or local office.

(b) The individual holds a state or local office and is the subject of a recall petition.

(c) The individual holds a state or local office.

b. Under the previous definition (Wis. Stat. § 11.01(1)):

“Candidate” means every person for whom it is contemplated or desired that votes be cast at any election held within this state, other than an election for national office, whether or not the person is elected or nominated, and who either tacitly or expressly consents

to be so considered. A person does not cease to be a candidate for purposes of compliance with this chapter or ch. 12 after the date of an election and no person is released from any requirement or liability otherwise imposed under this chapter or ch. 12 by virtue of the passing of the date of an election.

2. “Contribution.”

a. Under the new definition (Wis. Stat. § 11.0101(8)):

(a) “Contribution” means any of the following:

1. A gift, subscription, loan, advance, or transfer of money to a committee.
2. With the committee's consent under s. [11.1109](#), a transfer of tangible personal property or services to a committee, valued as provided under s. [11.1105](#).
3. A transfer of funds between committees.
4. The purchase of a ticket for a fundraising event for a committee regardless of whether the ticket is used to attend the event.

(b) “Contribution” does not include any of the following:

1. Services that an individual provides to a committee, if the individual is not specifically compensated for providing the services to the committee.
2. Any unreimbursed travel expenses that an individual incurs to volunteer his or her personal services to a committee.
3. The costs of preparing and transmitting personal correspondence.
4. Interest earned on an interest-bearing account.
5. Rebates or awards earned in connection with the use of a debit or credit card.

6. A loan from a commercial lending institution that the institution makes in its ordinary course of business.
7. The reuse of surplus materials or the use of unused surplus materials acquired in connection with a previous campaign for or against the same candidate, political party, or recall if the materials were previously reported as a contribution.
8. The cost of invitations, food, and beverages in connection with an event held in a private residence on behalf of a candidate committee.
9. Any communication that does not expressly advocate for the election or defeat of a clearly identified candidate.
10. A communication made exclusively between an organization and its members. In this subdivision, a member of an organization means a shareholder, employee, or officer of the organization, or an individual who has affirmatively manifested an interest in joining, supporting, or aiding the organization.
11. Any cost incurred to conduct Internet activity by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any computers, software, Internet domain names, Internet service providers, and any other technology that is used to provide access to or use of the Internet, but not including professional video production services purchased by the individual.
12. Any news story, commentary, or editorial by a broadcasting station, cable television operator, producer, or programmer, Internet site, or newspaper or other periodical publication, including an Internet or other electronic publication unless a committee owns the medium in which the news story, commentary, or editorial appears.

13. An expenditure of funds by a sponsoring organization for a political action committee's administrative or solicitation expenses.
14. An expenditure of funds by a sponsoring organization for an independent expenditure committee's administrative or solicitation expenses.
15. An expenditure of funds by a sponsor, as defined in s. [11.0705 \(1\)](#), for a conduit's administrative or solicitation expenses.

b. Under the previous definition (Wis. Stat. § 11.01(6)):

(a) “Contribution” means any of the following:

1. A gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, made for political purposes. In this subdivision "anything of value" means a thing of merchantable value.
2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.
3. A contract, promise or agreement, if legally enforceable, to make a gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business, for a political purpose.
4. A transfer of funds between candidates, committees, individuals or groups subject to a filing requirement under this chapter.
5. The purchase of a ticket for a meal, rally or other fund-raising event for a purpose under subd. [1.](#), whether or not actually utilized.
6. The distribution of any publication or advertising matter for any purpose under subd. [1.](#) other than by a registrant under s. [11.05](#), or as provided ins. [11.29](#).

7. A gift, subscription, loan, advance, or deposit of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, or a contract, promise or agreement, if legally enforceable, to make the same, made by a committee for a purpose authorized under s. [11.25 \(2\) \(b\)](#), or by an individual for a purpose authorized under s. [11.25 \(2\) \(b\)](#) if deposited in a campaign depository account.

(b) “Contribution” does not include any of the following:

1. Services for a political purpose by an individual on behalf of a registrant under s. [11.05](#) who is not compensated specifically for the services.
2. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. [\(a\) 1.](#) if no funds are raised with the knowledge of the host.
3. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers his or her personal services for political purposes.
4. The costs of preparation and transmission of personal correspondence, provided that the correspondence is not reproduced by machine for distribution.
5. Compensation or fringe benefits provided as a result of employment by an employer to regular employees or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.
6. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for

or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a contribution under s. [11.06](#).

7. A gift, subscription, loan, advance, or deposit of anything of value received by a committee or group not organized exclusively for political purposes that the group or committee does not utilize for political purposes.
8. Any cost incurred to conduct Internet activity for a political purpose by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. [11.06 \(13\)](#), but not including professional video production services purchased by the individual.
9. Any cost incurred for covering or carrying a news story, commentary, or editorial by a broadcasting station, cable television operator, producer, or programmer, Internet site, or newspaper or other periodical publication, including an Internet or other electronic publication except the cost of a news story that appears in a medium that is owned or controlled by a candidate, personal campaign committee of a candidate, support committee of a candidate that is authorized under s. [11.05 \(3\) \(p\)](#), or a political party.

3. “Disbursement.”

a. Under the new definition (Wis. Stat. § 11.0101(10)):

(a) “Disbursement” means any of the following:

1. An expenditure by a committee from the committee’s depository account.
2. The transfer of tangible personal property or services by a committee.
3. A transfer of funds between committees.

(b) “Disbursement” does not include any of the following:

1. A communication made exclusively between an organization and its members. In this subdivision, a member of an organization means a shareholder, employee, or officer of the organization, or an individual who has affirmatively manifested an interest in joining, supporting or aiding the organization.
2. A communication or Internet activity by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of computers, software, Internet domain names, Internet service providers, and any other technology that is used to provide access to or use of the Internet, but not including professional video production services purchased by the individual.
3. Any news story, commentary, or editorial by a broadcasting station, cable television operator, producer, or programmer, Internet site, or newspaper or other periodical publication, including an Internet or other electronic publication unless a committee owns the medium in which the news story, commentary, or editorial appears.
4. A nominal fee paid for a communication to the general public.
5. An expenditure of funds by a sponsoring organization for a political action committee’s administrative or solicitation expenses.
6. An expenditure of funds by a sponsoring organization for an independent expenditure committee's administrative or solicitation expenses.
7. An expenditure of funds by a sponsor, as defined in s. 11.0705 (1), for a conduit's administrative or solicitation expenses.

8. An expenditure of funds for a political action committee's fundraising and administrative expenses.
9. An expenditure of funds for an independent expenditure committee's fundraising and administrative expenses.
10. An expenditure of funds for a conduit's fundraising and administrative expenses.

b. Under the previous definition (Wis. Stat. § 11.01(7)):

(a) Disbursement” means any of the following:

1. A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business, made for political purposes. In this subdivision, "anything of value" means a thing of merchantable value.
2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.
3. A contract, promise, or agreement, if legally enforceable, to make a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business, for a political purpose.
4. An expenditure authorized under s. [11.25 \(2\)](#) [\(b\)](#) made from a campaign depository account.
5. Any payment for a communication to the general public for a political purpose by means of any broadcast, satellite communication, newspaper or other periodical publication, outdoor advertising facility, mass mailing, or mass telephoning to the general public, or any other form of advertising to the

general public, except communications over the Internet by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. [11.06 \(13\)](#).

6. Any payment for the purchase or rental of an electronic-mail address list made at the direction of a registrant for a political purpose.
  7. Any payment for an electronic-mail address list that is transferred to a registrant for a political purpose.
- (b) “Disbursement” does not include any of the following:
1. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. [\(a\) 1](#), if no funds are raised with the knowledge of the host.
  2. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers his or her personal services for political purposes.
  3. The costs of preparation and transmission of personal correspondence, provided that the correspondence is not reproduced by machine for distribution.
  4. Compensation or fringe benefits provided as a result of employment by an employer to regular employees or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.
  5. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for

or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a disbursement under s. [11.06](#).

6. A communication or Internet activity by an individual acting in his or her own behalf, or acting in behalf of another person if the individual is not compensated specifically for those services, including the cost or value of any equipment and services identified in s. [11.06 \(13\)](#), but not including professional video production services purchased by the individual.
7. Any cost incurred in covering or carrying a news story, commentary, or editorial by a broadcasting station, cable television operator, programmer or producer, Internet site, or newspaper or other periodical publication, including an Internet or electronic publication, except the cost of a news story that appears in a medium that is owned or controlled by a candidate, personal campaign committee of a candidate, support committee of a candidate that is authorized under s. [11.05 \(3\) \(p\)](#), or a political party.
8. A nominal fee paid for a communication to the general public.

4. “Obligation.”

- a. Under the new definition (Wis. Stat. § 11.0101(23)):

“Obligation” means any express agreement to make a disbursement, including all of the following:

- (a) A loan or loan guarantee.
- (b) A promise or a payment to purchase, rent, or lease tangible personal property.
- (c) A promise or a payment for a service that has been or will be performed.

b. Under the previous definition (Wis. Stat. § 11.01(11)):

“Incurred obligation” means every express obligation to make any contribution or disbursement including every loan, guarantee of a loan or other obligation or payment for any goods, or for any services which have been performed or are to be performed in the future, incurred by a candidate, committee, individual or group for political purposes.

5. “Recall committee” (Wis. Stat. § 11.0101(27)): a committee formed for the purpose of supporting or opposing the recall of any of the following an incumbent elective official holding a state or local office.

6. “Referendum committee” (Wis. Stat. § 11.0101(28)): an entity that satisfies each of (a), (b), and (c) below:

(a) It satisfies either of the following:

1. It has the major purpose of making expenditures to support or defeat a referendum, as specified in the entity’s organizational or governing documents, the entity’s bylaws, resolutions of the entity’s governing body, or registration statements filed by the entity under this chapter.

2. It uses more than 50 percent of its total spending in a 12-month period on expenditures made to support or defeat a referendum. In this subdivision, total spending does not include a committee’s fundraising or administrative expenses

(b) It is organized by any person, other than an individual, or by any permanent or temporary combination of 2 or more persons unrelated by marriage.

(c) It does not receive contributions or make disbursements or contributions for the purpose of influencing or attempting to influence a candidate’s nomination or election.

C. Determination of filing officer and duty to file (Wis. Stat. § 11.0102).

(1) Each committee and conduit required to register and report . . . shall have and shall file each registration statement and report required . . . with one filing officer as follows:

...

(b) Subject to pars. (c) and (d), a candidate committee for a candidate seeking local office shall file with the clerk of the most populous jurisdiction for which the candidate seeks office.

...

(d) A candidate committee for a candidate for school board member shall file with the school district clerk.

(e) A recall committee . . . shall file with the filing officer for candidates for that office.

...

(g) A referendum committee acting to support or oppose a school district referendum shall file with the school district clerk.

D. Filing officer duties (Wis. Stat. § 11.0102(3)).

(3) Each filing officer, other than the [ethics] commission, shall do all of the following:

(a) Obtain the forms and manuals prescribed by the [ethics] commission under s. [11.1304 \(1\)](#) and [\(3\)](#) and election laws provided by the [ethics] commission under s. [7.08 \(4\)](#).

(b) Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.

(c) Make all of the following available, without charge, to any committee required to file reports or statements with the officer:

1. Forms prescribed by the [ethics] commission for the making of reports and statements. The filing officer shall notify the committee that all forms are available on the [ethics] commission's Internet site. Whenever a filing officer sends a form or notice of the filing requirements under this chapter to the treasurer of a candidate committee, the filing officer shall also send a notice to the candidate.

2. Upon request, copies of manuals under par. (a).

**NOTE:** the previously existing requirement that “[f]orms shall be sent by 1st class mail not earlier than 21 days and not later than 14 days prior to the applicable filing deadline” has been removed.

(d) The filing officer shall provide copies of manuals and election laws to persons other than a committee under par. (c) at cost.

- (e) Notify the [ethics] commission, in writing, of any facts within the filing officer's knowledge or evidence in the officer's possession, including errors or discrepancies in reports or statements and delinquencies in filing which may be grounds for civil action or criminal prosecution. The [ethics] commission may transmit a copy of the notification submitted under this paragraph to the district attorney.

**NOTE:** the previously existing requirement to “[n]otify the board and the district attorney, or the attorney general . . . .” has been modified.

- (f) Make available a list of delinquents for public inspection.
- (g) Compile and maintain on an electronic system a current list of all reports and statements received by or required of and pertaining to each committee registered under this chapter.

**NOTE:** the requirement to maintain “on an electronic system” is new.

- (h) Make the reports and statements filed with the officer available for public inspection and copying, commencing as soon as practicable but not later than the end of the 2nd day following the day during which they are received.
- (i) Upon the request of any person, permit copying of any report or statement described under par. (g) at cost.
- (j) Determine whether each report or statement required to be filed under this chapter has been filed in the form and by the time prescribed by law, and whether it conforms on its face to the requirements of this chapter. The officer shall immediately send to any committee that is delinquent in filing, or that has filed otherwise than in the proper form, a notice that the committee has failed to comply with this chapter. Whenever a candidate committee has appointed an individual other than the candidate as campaign treasurer, the [ethics] commission [officer] shall send the notice to both the candidate and the treasurer of the candidate committee.

E. Registration overview.

- 1. Candidates for local office (Wis. Stat. § 11.0202).

Each candidate, through his or her candidate committee, shall file a registration statement with the appropriate filing officer giving the information required under s. 11.0203 as soon as practicable after the

individual qualifies as a candidate under s. 11.0101(1). A candidate who receives no contributions, makes no disbursements, and incurs no obligations shall file the registration statement as provided in this subsection, but need not designate a campaign depository account until the first contribution is received, disbursement is made, or obligation is incurred. Wis. Stat. § 11.0202(1)(b)

2. Recall committee.

Under Wis. Stat. § 9.10(2)(d), no petition may be offered for filing for the recall of an officer unless the petitioner first files a registration statement under s. 11.0902 with the filing officer with whom the petition is filed. The petitioner shall append to the registration a statement indicating his or her intent to circulate a recall petition, the name of the officer for whom recall is sought and, in the case of a petition for the recall of a city, village, town, town sanitary district, or school district officer, a statement of a reason for the recall which is related to the official responsibilities of the official for whom removal is sought. No petitioner may circulate a petition for the recall of an officer prior to completing registration. The last date that a petition for the recall of an officer may be offered for filing is 5 p.m. on the 60th day commencing after registration. After the recall petition has been offered for filing, no name may be added or removed. No signature may be counted unless the date of the signature is within the period provided in this paragraph.

a. Registration; timing (Wis. Stat. § 11.0902).

- (1) Every recall committee that makes or accepts contributions, makes disbursements, or incurs obligations to support or oppose a recall in a calendar year in an aggregate amount in excess of \$2,000 shall file a registration statement giving the information required by s. 11.0903.
- (2) A recall committee that triggers the registration requirement under sub. (1) shall file the registration statement no later than the 10th business day commencing after receipt of the first contribution by the recall committee exceeding the amount specified under sub. (1), before making any disbursement exceeding that amount, and before incurring obligations exceeding that amount.

3. Referendum committee (Wis. Stat. § 11.0802).
  - (1) Every referendum committee that makes or accepts contributions, makes disbursements, or incurs obligations for the purpose of influencing a particular vote at a referendum in a calendar year in an aggregate amount in excess of \$10,000 shall file a registration statement . . . .
  - (2) A referendum committee that triggers the registration requirement under sub. (1) shall file the registration statement no later than the 10th business day commencing after receipt of the first contribution by the referendum committee exceeding the amount specified under sub. (1), before making any disbursement exceeding that amount, and before incurring obligations exceeding that amount.

F. Reporting.

The Act contains reporting changes that apply generally, as well as reporting requirements specific to candidates, recall committees, and referendum committees.

1. Reporting; general (Wis. Stat. § 11.0103):
  - (1) Report must be complete.
    - (a) Each committee and conduit required to register under this chapter shall be subject to the reporting requirements applicable to that committee or conduit. Each committee and conduit required to file a report under this chapter shall make a good faith effort to obtain all required information.
    - (b) Failure to receive a form or notice from a filing officer does not exempt a committee or conduit from a reporting requirement under this chapter.
  - (2) Contributions; when received; when reported.
    - (a)
      1. A contribution is received by a candidate committee for purposes of this chapter when it is under the control of the candidate or the treasurer or agent of the candidate.

2. A contribution is received by a committee for purposes of this chapter when it is under the control of the treasurer or agent of the committee.
- (b) Unless it is returned or donated within 15 days of receipt under par. (a), a contribution must be reported as received on the date received.
- (3) Contents of report; filing dates; certification; short form; contents.
  - (a) A committee shall begin each report filed under this chapter with the first contribution received, disbursement made, or obligation incurred during the reporting period, and shall include all contributions received, disbursements made, and obligations incurred as of the end of:
    1. The 15th day preceding the primary or election in the case of the preprimary and preelection report.
    2. The last day of the immediately preceding month in the case of a continuing report required under this chapter.
    3. The 22nd day following the special election in the case of a postelection report required under this chapter.
  - (b) Each committee shall ensure that each report is filed with the appropriate filing officer on the dates designated in this chapter. In the event that any report is required to be filed under this chapter on a nonbusiness day, a committee may file the report on the next business day thereafter.
  - (c)
    1. Except as provided in subd. 2., the committee's treasurer shall certify to the correctness of each report filed under this chapter.
    2. Either the candidate or the treasurer of the candidate's committee shall certify to the correctness of each report filed under this chapter.
  - (d) The commission shall prescribe a simplified, short form for compliance with this section by a committee treasurer who has not engaged in any financial transaction since the last date included on the treasurer's preceding report.

- (4) Preprimary and preelection reports; inactivity.
- (a) A contribution made or accepted, a disbursement made, or an obligation incurred to support or oppose a candidate at a primary that is made, accepted, or incurred during the period covered by the preprimary report is considered to be made, accepted, or incurred to support or oppose that candidate at the primary, regardless of whether the candidate is opposed at the primary.
  - (b) A contribution made or accepted, disbursement made, or obligation incurred to support or oppose a candidate at an election that is made, accepted, or incurred during the period covered by the preelection report is considered to be made, accepted, or incurred to support or oppose that candidate at the election, regardless of whether the candidate is opposed at the election.
  - (c)
    - 1.
      - a. Except as provided in subd. 2., a committee that makes or accepts a contribution, makes a disbursement, or incurs an obligation to support or oppose a candidate at a primary during the period covered by the preelection report, but does not engage in such activity during the period covered by the preprimary report, is not required to file a preprimary report.
      - b. Except as provided in subd. 2., a committee that makes or accepts a contribution, makes a disbursement, or incurs an obligation to support or oppose a candidate at an election during the period covered by the report that follows the preelection report, but does not engage in such activity during the period covered by the preelection report, is not required to file a preelection report.
    - 2. A candidate committee that makes or accepts a contribution, makes a disbursement, or incurs an obligation to support or oppose a candidate at a primary during the period covered by the preprimary report shall file both the preprimary and preelection reports, regardless of whether the candidate

committee engages in such activity during the period covered by the preelection report.

- (5) Nonresident reporting. Notwithstanding the reporting requirements that would otherwise apply under this chapter, but subject to the applicable thresholds for submitting reports, a committee that does not maintain an office or a street address in this state shall submit reports on a form prescribed by the commission of all disbursements made and obligations incurred with respect to an election for a state or local office in this state and contributions from sources in this state.

2. Reporting exemptions: limited activity (Wis. Stat. § 11.0104).

(1)

- (a) Except as provided in par. (b), any committee which does not anticipate accepting or making contributions, making disbursements, or incurring obligations, and any conduit which does not anticipate accepting or releasing contributions, in an aggregate amount exceeding \$2,000 in a calendar year may file an amended registration statement with the appropriate filing officer indicating that fact. The committee or conduit shall certify the amended registration in the manner required under s. [11.0103 \(3\) \(c\)](#) and shall include the information required to be reported by that committee or conduit on its continuing reports.
- (b) In no case may a candidate committee file an amended registration under this section covering any period ending sooner than the date of the election in which the candidate committee is participating.

- (2) Upon receipt of a properly executed amended registration by a committee or conduit, the appropriate filing officer shall suspend the requirement imposed upon that committee or conduit by this chapter to file continuing reports. An indication of limited activity under this section is effective only for the calendar year in which it is granted, unless the committee or conduit alters its status before the end of such year or files a termination report under s. [11.0105](#).

- (3) An indication of limited activity made under sub. (1) may be revoked. If revoked, the committee or conduit shall comply with the reporting requirements applicable to the committee or conduit under this chapter as of the date of revocation, or the date that aggregate contributions, disbursements, or obligations for the calendar year

exceed \$2,000. If the revocation is not timely, the committee or conduit violates s. [11.1201](#).

(4) A committee or conduit that files an amended registration statement under sub. [\(1\)](#) is not required to file a termination report under s. [11.0105](#).

(5) If a committee or conduit files an amended registration statement under sub. [\(1\)](#) and within 60 days thereafter receives and accepts an unanticipated contribution, the committee or conduit shall do one of the following within 60 days after receipt of the unanticipated contribution:

(a) File an amended registration statement. An amended registration statement supersedes the previous registration statement. The individual who certifies to the accuracy of the registration statement shall also certify that the amended registration statement is filed on account of the receipt of unanticipated contributions and the failure to file a correct registration statement was not intentional.

(b) Return the contribution to the contributor or donate the contribution to the common school fund or to a charitable organization.

3. Reporting exemptions: dissolution of committee or conduit and termination reports (Wis. Stat. § 11.0105).

(1)

(a) Except as provided in par. [\(b\)](#) and s. [11.0104 \(4\)](#), whenever any committee or conduit dissolves or determines that obligations will no longer be incurred, contributions will no longer be received or, in the case of a conduit, accepted and released, and disbursements will no longer be made during a calendar year, and the committee has no outstanding incurred obligations, the committee or conduit shall file with the appropriate filing officer a termination report that indicates a cash balance of zero at the end of the reporting period. The committee or conduit shall certify the termination report in the manner required under s. [11.0103 \(3\) \(c\)](#) and the committee shall include the information required to be reported by that committee on its continuing reports.

- (b) In no case may a candidate committee file a termination report covering any period ending sooner than the date of the election in which the candidate committee is participating.
  - (2) A committee to which s. [11.0102 \(2\)](#) applies shall pay the fee imposed under that subsection with a termination report filed under this section.
  - (3) The committee shall include in the termination report filed under this section the manner in which residual funds were disposed. Residual funds may be used for any purpose not prohibited by law, returned to the donors in an amount not exceeding the original contribution, or donated to a charitable organization or the common school fund.
  - (4) If a committee files a termination report under sub. [\(1\)](#) and within 60 days thereafter receives and accepts an unanticipated contribution, the committee shall do one of the following within 60 days after receipt of the unanticipated contribution:
    - (a) File an amended termination report. An amended report supersedes the previous report. The individual who certifies to the accuracy of the report shall also certify to a statement that the amended report is filed on account of the receipt of unanticipated contributions and the failure to file a correct termination report was not intentional.
    - (b) Return the contribution to the contributor or donate the contribution to the common school fund or to a charitable organization.
- G. Specific reporting requirements for candidates, referendum committees, and recall committees are listed under Wis. Stats. §§ 11.0204, 11.0804, and 11.0904.
- H. Advocacy.
1. The Act contains provisions requiring political action committees, independent expenditure committees, and “other persons” to report certain instances of “express advocacy.” Wis Stats. §§ 11.0505, 11.0605, and 11.1001. Reports required to be made by these entities must be made to the ethics commission.
  2. Under Wis Stat. § 11.0101(11), “express advocacy” means a communication that contains terms such as the following with reference to a clearly identified candidate and that unambiguously relates to the election or defeat of that candidate:

- (a) “Vote for”
- (b) “Elect”
- (c) “Support”
- (d) “Cast your ballot for”
- (e) “Smith for ... (an elective office)”
- (f) “Vote against”
- (g) “Defeat”
- (h) “Reject”
- (i) “Cast your ballot against”

3. As noted above, Wis. Stat. § 11.0100 (“Construction”) provides as follows:

This chapter shall be construed to impose the least possible restraint on persons whose activities do not directly affect the elective process, consistent with the right of the public to have a full, complete, and readily understandable accounting of those activities expressly advocating for or against candidates for office or for or against referendums. *Nothing in this chapter may be construed to regulate issue discussion, debate, or advocacy; grassroots outreach or lobbying; nonpartisan voter registration or turnout efforts; or the rights of the media.* (Emphasis added).

I. Additional changes.

- 1. Continuing reports are now due January 15th and July 15th.
- 2. An individual who holds a state or local elective office may establish a second candidate committee for the purpose of pursuing a different state or local office. Wis. Stat. § 11.0202(2)(d).
- 3. Under the Act, most of the contribution limits have doubled over what was previously allowed. Under Wis. Stat. § 11.1101 (“Contribution limits”), the limits for contributions to candidates for local office are as follows:

- a. An individual or candidate committee may contribute the greater of: (1) \$500; or (2) two cents times the number of inhabitants of the jurisdiction or district, but not more than \$6,000.
  - b. A political action committee may contribute the greater of: (1) \$400; or (2) two cents times the number of inhabitants of the jurisdiction or district, but not more than \$5,000.
- 4. Candidate committees no longer must include employer name or address for contributions over \$100. Wis. Stat. § 11.0204(1)(3). They must, however, include the occupation, if any, of each individual contributor whose cumulative contributions to the candidate committee for the calendar year are in excess of \$200.
  - 5. Previously, a committee was not required to itemize receipts of \$20 or less; this is no longer the case. However, under Wis. Stat. Sec. 11.1108 (“Anonymous contributions”), a committee may accept an anonymous contribution that does not exceed \$10.

**IV. FEES FOR ELECTION RECOUNTS (2015 WISCONSIN ACT 36)**

As noted in a Wisconsin Legislative Council Act memorandum, this Act, effective July 3, 2015, “makes several changes [in Wis. Stat. § 9.01 (“Recount”)] relating to vote margins for recount fees and the fee amount charged for a recount. Under the Act, there are two possible recount fee scenarios: (1) a requester may receive a free recount; or (2) a requester may be required to pay a fee equal to the actual cost of the recount. The Act lowers the vote margin at which a requester receives a free recount, eliminates the \$5 per ward or municipality fee; and requires a fee refund if the recount alters the outcome of the election.”

**V. VARIOUS ELECTION LAW CHANGES (2015 WISCONSIN ACT 37)**

- A. Effective July 3, 2015, this Act clarifies that a school board must adopt a resolution for a bond referendum no less than 70 days prior to the referendum election. Consequently, a school district must make a decision on whether it will run a bond referendum election earlier in order to ensure that the referendum question appears on the primary or regular election ballot. Wis. Stat. § 67.05(6a)(a)2.a. As a practical matter, this change aligns the bond referendum statute with the revenue limit referendum statute and ballot question statutes that govern all referendum elections.
- B. Under Wisconsin law, write-in votes are counted if no candidates have been certified to appear on the election ballot or if a candidate certified to appear on the ballot dies or withdraws before the election. Wis. Stat. § 7.50(2)(em). Further,

write-in votes may be counted for a candidate who files a registration statement under [Wis. Stat. Chapter 11]. This Act adds the requirement that such a registration statement be filed by “no later than noon on the Friday immediately preceding the election.”

- C. Wis. Stat. § 120.06 (“Election of school board members”) has been modified as follows:

“The primary and spring elections for school board members shall be conducted by the election officials for state and municipal elections. In a school board election or referendum held in conjunction with a state, county, municipal, or judicial election, the polling places for the state, county, municipal, or judicial election shall be the polling places for the school board election or referendum, and the municipal election hours shall apply. If no state, county, municipal, or judicial election is held on the day of the school board election or referendum, the school board may select the polling places to be used. . . .” Wis. Stat. § 120.06(9)(a).

- D. Removal of “sticker” language.

1. Under “Elector intent,” Wis. Stat. § 7.50(1)(d) of the statutes has been amended to read: “. . . If an elector does not designate a preference and makes a mark ~~or affixes a sticker~~ opposite candidates of more than one recognized political party or opposite a candidate in the independent candidates’ column and a candidate of a recognized political party, no votes cast by the elector for any candidate for partisan office are valid. Votes for other candidates and votes on ballot questions, if any, shall be counted if otherwise valid.
2. Under “Elector intent,” Wis. Stat. § 7.50(2)(j) of the statutes is amended to read: “If an elector writes in ~~or pastes a sticker in the position~~ an individual for an office, it is a vote for that office, even if the elector writes in ~~or the sticker indicates~~ the name of a different office.”