



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director

TO: REPRESENTATIVE TERESE BERCEAU

FROM: ^{JKR} Jessica Karls-Ruplinger, Deputy Director

RE: LRB-2251/2, Relating to Campaign Finance

DATE: November 12, 2015

This memorandum provides background information on Wisconsin's campaign finance law and describes LRB-2251/2, a bill relating to campaign finance.

OVERVIEW OF THE BILL

Briefly, the bill makes the following changes to campaign finance law:

- Definition of "Political Purposes": Amends the definition of "political purposes" to codify recent court decisions and expands the definition of "political purposes" to include certain mass communications.
- Registration: Shortens the registration deadline, applies registration filing fees to candidates, requires a registration statement to contain information about certain mass communications, and defines "residual funds" that may be disposed of when a registrant terminates its registration.
- Reporting: Requires additional content in campaign finance reports, changes a reporting deadline, deletes a provision relating to the U.S. Postal Service, requires filing officers to provide reporting forms electronically, lowers the monetary threshold for electronic filing, adds another element to the reporting exception for indirect disbursements, increases the monetary threshold for 48-hour reporting, and requires 24-hour reporting for certain mass communications.
- Electioneering Communications: Creates specific reporting requirements for electioneering communications.
- Social Welfare Organizations: Creates specific registration and reporting requirements for social welfare organizations.

- Attributions: Requires communications to include a telephone number and email address and information about any bill or resolution referenced in the communication.
- Campaign Contributions: Codifies the dollar amounts of contribution limits that apply under current law for certain state offices, repeals aggregate contribution limits, creates limits on contributions to committees and political parties, prohibits corporate contributions to candidates, and repeals certain exceptions for expenses related to recount or recall.
- Coordination: Prohibits coordination on communications made for "political purposes" and electioneering communications.
- Charitable Organizations: Prohibits donations from a registrant's treasury to charitable organizations that receive gifts made for the purpose of influencing public opinion or election outcomes.
- Nonresident Committees: Replaces references to the Secretary of State with the Government Accountability Board (GAB) in certain provisions relating to nonresident committees.
- Criminal Penalties: Increases a \$1,000 fine for misdemeanor violations to \$10,000 and increases the monetary threshold that triggers a Class I felony for certain violations.

Each of the changes is described in more detail below.

BACKGROUND

Wisconsin's campaign finance law is governed by ch. 11, Stats. It generally requires a committee¹ that, or individual who, engages in activity for "political purposes" involving an election for state or local office to comply with registration and reporting requirements. The statutes define "political purposes" broadly to include an act that has the purpose of influencing the election of any individual to state or local office.

In addition, Wisconsin law limits the amount that an individual or committee may contribute to a candidate for state or local office; limits the amount that an individual or committee may contribute to certain committees; and prohibits corporations from making contributions to candidates and making independent expenditures.

Recent court decisions have held unconstitutional, and enjoined enforcement of, several provisions of Wisconsin's campaign finance law. The U.S. Court of Appeals for the Seventh Circuit held unconstitutional: (1) the ban on corporate independent expenditures; and (2) the

¹ Under current law, a "committee" is any person (other than an individual) and any combination of two or more persons, permanent or temporary, that makes or accepts contributions or makes disbursements, whether or not engaged in activities that are exclusively political.

limit on how much a corporation may spend to solicit contributions to a separate segregated fund.² The Seventh Circuit and the U.S. District Court for the Eastern District of Wisconsin enjoined enforcement of aggregate contribution limits. Lastly, the Seventh Circuit and the Wisconsin Supreme Court adopted a narrow interpretation of the definition of “political purposes.”³

DEFINITION OF “POLITICAL PURPOSES”

Under **current law**, communications that are made for “political purposes” are generally subject to registration and reporting requirements. An act is for “political purposes” when it is done for the purpose of: (1) influencing the election or nomination for election of any individual to state or local office; (2) influencing the recall from or retention in office of an individual holding a state or local office; (3) payment of expenses incurred as a result of a recount at an election; or (4) influencing a particular vote at a referendum.

Specifically, acts that are for “political purposes” include the following: (1) the making of a communication that expressly advocates the election, defeat, recall, or retention of a clearly identified candidate or a particular vote at a referendum; and (2) the conduct of or attempting to influence an endorsement or nomination to be made at a convention of political party members or supporters concerning, in whole or in part, any campaign for state or local office.

In recent cases, the U.S. Court of Appeals for the Seventh Circuit and the Wisconsin Supreme Court adopted a narrow interpretation of the definition of “political purposes.” Under that interpretation, the definition of “political purposes,” as applied to speakers other than candidates, candidate committees, and political party committees, is limited to: (1) express advocacy, which uses certain “magic words” articulated in *Buckley v. Valeo*⁴; and (2) the functional equivalent of express advocacy, which are communications that are “susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.”⁵

The **bill** amends the definition of “political purposes” by: (1) limiting the application of parts of the “political purposes” definition in current law to candidates, legislative campaign

² Under current law, a corporation may establish and administer a separate segregated fund and solicit contributions from individuals to the fund to be used by the corporation to support or oppose candidates, but the corporation may not make any contribution to the fund.

³ The court decisions are discussed in more detail later in this memorandum.

⁴ In *Buckley*, the U.S. Supreme Court, in footnote 52 of its decision, stated that communications that expressly advocate the election or defeat of a candidate “[contain] express words of advocacy of election or defeat, such as ‘vote for,’ ‘elect,’ ‘support,’ ‘cast your ballot for,’ ‘Smith for Congress,’ ‘vote against,’ ‘defeat,’ [or] ‘reject.’” [424 U.S. 1, 44 (1976).]

⁵ *Wisconsin Right to Life v. Barland (Barland II)*, 751 F.3d 804, 820 and 834 (7th Cir. 2014) (quoting *Federal Election Commission (FEC) v. Wisconsin Right to Life*, 551 U.S. 449 (2007)); and *State ex rel. Two Unnamed Petitioners v. Peterson*, 2015 WI 85, ¶ 67.

committees, personal campaign committees⁶, support committees, and political parties; and (2) expanding the definition to include certain mass communications.

Specifically, under the bill, an act made for a "political purpose," and thus generally subject to registration and reporting requirements, includes any of the following:

- Express Advocacy: The making of a communication in reference to a clearly identified candidate that expressly advocates the election, defeat, recall, or retention of that candidate and that clearly relates to that candidate's campaign.
- Convention Nomination: The conduct of or attempting to influence an endorsement or nomination to be made at a convention of political party members or supporters concerning, in whole or in part, any campaign for state or local office.
- Mass Communications:
 - A mass communication⁷ that is made during the period beginning on the 60th day preceding an election and ending on the date of that election and that includes a reference to a clearly identified candidate whose name is certified to appear on the ballot at that election.
 - Any mass communication that a reasonable person would consider as advocating for or against a particular candidate, nominee, or referendum.
- Acts by Candidates and Certain Committees: In the case of a candidate, legislative campaign committee, personal campaign committee, support committee, or political party, an act done for the purpose of: (1) influencing the election or nomination for election of any individual to state or local office; (2) influencing the recall from or retention in office of an individual holding a state or local office; (3) payment of

⁶ Under current law, a "personal campaign committee" is a committee that is formed or operates for the purpose of influencing the election or reelection of a candidate and that acts with the cooperation of or upon consultation with the candidate or the candidate's agent or that operates in concert with or pursuant to the authorization, request, or suggestion of the candidate or the candidate's agent.

⁷ The bill defines "mass communication" as a message that is disseminated by means of one or more communications media, a mass electronic communication, a mass distribution, or a mass telephoning. "Mass communication" does not include a bona fide poll conducted for the purpose of objectively identifying or collecting data concerning the attitudes or preferences of electors. Under current law, "communications media" means newspapers, periodicals, commercial billboards, and radio and television stations, including community antenna television stations. The bill expands the definition of "communications media" to also include Internet sites maintained by the newspapers, periodicals, commercial billboards, and radio and television stations. In addition, the bill defines "mass electronic communication," "mass distribution," and "mass telephoning" as follows:

- Mass Electronic Communication: the transmission of 500 or more pieces of substantially identical material by means of electronic mail, facsimile transmission, or social media.
- Mass Distribution: the distribution of 500 or more pieces of substantially identical material.
- Mass Telephoning: the making of 500 or more telephone calls conveying a substantially identical message.

expenses incurred as a result of a recount at an election; or (4) influencing a particular vote at a referendum.

REGISTRATION

Under **current law**, a committee that, or individual who, makes or accepts contributions, or makes disbursements, in a calendar year exceeding \$300 in the aggregate must file a registration statement with GAB or a local filing officer. The registration statement includes certain information about the registrant.

Generally, the **bill** shortens the registration deadline, applies registration filing fees to candidates, requires a registration statement to contain information about certain mass communications, and defines "residual funds" that may be disposed of when a registrant terminates its registration. These changes are described in more detail below.

Registration Deadline

Under **current law**, a committee or individual subject to a registration requirement must file a registration statement no later than the **fifth business day** commencing after receiving the first contribution exceeding \$300 and before making any disbursement exceeding \$300.

The **bill** requires a committee or individual subject to a registration requirement to file a registration statement no later than **48 hours** after receiving the first contribution exceeding \$300 and before making any disbursement exceeding \$300.

Filing Fee

A committee that, or individual who, is required to register with GAB must pay an annual filing fee of \$100. Under **current law**, the filing fee does not apply to: (1) a candidate or personal campaign committee; or (2) any registrant that does not make disbursements exceeding a total of \$2,500.

The **bill** deletes the exception for candidates and personal campaign committees, thus requiring them to pay the annual filing fee. However, the bill retains the exception for registrants that do not make disbursements exceeding \$2,500.

Mass Communications

The **bill** requires a registrant to include additional information on its registration statement if the registrant makes a mass communication during the period beginning on the 60th day preceding an election and ending on the date of that election and the mass communication includes a reference to a clearly identified candidate whose name is certified to appear on the ballot at that election. Specifically, such a registrant, on its registration statement, must disclose certain information about any disbursement for such a mass communication made prior to registration.

Residual Funds at Termination

Whenever a registrant disbands or determines that obligations will no longer be incurred, and contributions will no longer be received nor disbursements made during a calendar year, and the registrant has no outstanding incurred obligations, the registrant must file a termination report. The report must indicate a cash balance on hand of zero at the end of the reporting period and must indicate the disposition of residual funds. Residual funds may be used for any political 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. **Current law** does not define "residual funds."

Under the **bill**, "residual funds" includes any assets transferred to the registrant and having a value of \$1,000 or greater.

REPORTING

Under **current law**, a committee that, or individual who, is subject to a registration requirement must generally report all contributions received by the registrant and all contributions or disbursements made by the registrant.

Generally, the **bill** requires additional content in a campaign finance report, changes a reporting deadline, deletes a provision relating to the U.S. Postal Service, requires filing officers to provide reporting forms electronically, lowers the monetary threshold for electronic filing, adds another element to the reporting exception for indirect disbursements, increases the monetary threshold for 48-hour reporting, and requires 24-hour reporting for certain mass communications. These changes are described in more detail below.

Contents of Report

Under **current law**, each report must contain certain information, including: (1) an itemized statement giving the date, full name, and street address of each contributor who has made a contribution exceeding \$20; (2) the occupation and name and address of the principal place of employment of each individual who has made cumulative contributions exceeding \$100 for the calendar year; (3) an itemized statement of every disbursement exceeding \$20, together with the name and address of the person to whom the disbursement was made; and (4) a statement of cumulative totals for the calendar year of contributions made, contributions received, and disbursements made.

The **bill** requires additional information in the report. Specifically, the report must also include a copy of a financial institution statement, corresponding to the end of the reporting period, for the campaign depository account and any other account to which contributions are deposited and from which disbursements are made.

Reporting Deadline

Under **current law**, continuing reports must be received by the filing officer: (1) no earlier than January 1 and no later than January 31; and (2) no earlier than July 1 and no later than July 20.

The **bill** changes the January 31 deadline to January 20.

Receipt of Financial Report

Under **current law**, a registrant complies with a report's filing deadline if: (1) the filing officer receives the report at his or her office by the deadline; or (2) the report is sent using the U.S. Postal Service, by first class mail, with sufficient prepaid postage, and addressed to the filing officer, no later than the deadline.

The **bill** deletes the second option, relating to the U.S. Postal Service.

Prescribed Forms

GAB and each local filing officer must furnish to each registrant the prescribed forms for making reports and statements. Under **current law**, forms must be sent by first class mail not earlier than 21 days and not later than 14 days prior to the applicable filing deadline.

Under the **bill**, GAB and each local filing officer must provide the prescribed forms electronically or, at the registrant's request, by first class mail, within the time period provided in current law.

Electronic Filing

Under **current law**, GAB must require each registrant for whom GAB serves as filing officer and who or which accepts contributions in a total amount or value of \$20,000 or more during a campaign period to file each campaign finance report in an electronic format.

The **bill** lowers the \$20,000 threshold in this provision to \$10,000.

Exception for Indirect Disbursements

Under **current law**, if a disbursement is made by an individual (other than a candidate) or by a committee that is not primarily organized for political purposes and the disbursement is not a contribution to a candidate or other individual or committee, the disbursement is not required to be reported unless the purpose is to expressly advocate the election or defeat of a clearly identified candidate.

Under the **bill**, this reporting exception only applies if another element is satisfied. Specifically, for the exception to apply, the disbursement may not be made for the purpose of making a mass communication that is made during the period beginning on the 60th day preceding an election and ending on the date of that election and that includes a reference to a clearly identified candidate whose name is certified to appear on the ballot at that election.

48-Hour Reporting

Under **current law**, if any disbursement of more than \$20 cumulatively is made to advocate the election or defeat of a clearly identified candidate by an individual or committee later than 15 days prior to a primary or election in which the candidate's name appears on the ballot, the individual or treasurer of the committee must, within 48 hours of making the disbursement, report certain information relating to the disbursement if the disbursement is: (1) made without cooperation or consultation with a candidate, candidate's agent, or candidate's committee and not in concert with or at the request or suggestion of a candidate, candidate's agent, or candidate's committee; and (2) not included in a preprimary or preelection report.

The **bill** changes the \$20 threshold in this provision to a \$300 threshold.

Mass Communications

The **bill** creates an additional reporting requirement for any mass communication that is made during the period beginning on the 60th day preceding an election and ending on the date of that election and that includes a reference to a clearly identified candidate whose name is certified to appear on the ballot at that election.

Specifically, under the bill, if any registrant makes a disbursement of more than \$300 cumulatively to make such a mass communication later than 60 days prior to a primary or other election, the registrant must, within 24 hours of making the disbursement, report certain information relating to the disbursement if the disbursement is made: (1) without cooperation or consultation with a candidate, candidate's agent, or candidate's committee; and (2) not in concert with or at the request or suggestion of a candidate, candidate's agent, or candidate's committee.

ELECTIONEERING COMMUNICATIONS

Current law does not contain provisions relating to electioneering communications.

The **bill** creates specific reporting requirements for electioneering communications. Under the bill, "electioneering communication" means any communication that: (1) refers to a clearly identified candidate who will appear on the ballot for election or nomination for election; (2) is made within the 60 days preceding the day on which the primary or election involving the candidate is held, including the day of the primary or election; and (3) is targeted to the relevant electorate.⁸

⁸ Under the bill, "electioneering communication" does not include: (1) a communication, other than an advertisement, appearing in a news story, commentary, or editorial distributed through the facilities of any legitimate news organization, unless the facilities are controlled by any political party, political committee, or candidate; (2) a communication made solely to promote a candidate debate or forum that is made by or on behalf

The bill requires any committee making a disbursement of \$300 or more on an electioneering communication to submit statements to GAB providing all of the following information:

- The dates on which the committee made the disbursement.
- The name and address of the person who received the disbursement.
- The purpose for making the disbursement.
- The amount spent for each electioneering communication made by the committee.
- The name of any candidate affected by the disbursement, the office that the candidate seeks, and whether the electioneering communication supports or opposes that candidate.
- The name of every person who donated \$300 or more to the committee in the year prior to submitting such statements.
- Whether the committee coordinated or consulted with, or received the consent of the candidate or candidate's agent, regarding the disbursement.

Under the bill, a committee required to provide statements to GAB must do so no later than 48 hours after making a disbursement for an electioneering communication.

SOCIAL WELFARE ORGANIZATIONS

The bill creates specific registration and reporting requirements for social welfare organizations that are organized under Section 501 (c) (4) of the Internal Revenue Code.

Under the bill, if a social welfare organization is engaged in acts for political purposes, the organization must register and report the percentage of its total expenditures during the reporting period that are paid as disbursements for the purpose of influencing: (1) the election or nomination for election of any individual to state or local office; or (2) the recall from or retention in office of an individual holding a state or local office.

In addition, the bill provides that if the total amount of the social welfare organization's disbursements for political purposes exceeds \$5,000 in a calendar year, the organization must include in its report an itemized statement of every disbursement exceeding \$300 in amount or value, together with the name and address of the person to whom the disbursement was made and the date and specific purpose for which the disbursement was made. The organization must make reports on forms prescribed by GAB and signed by the appropriate individual in the organization.

of a person sponsoring the debate or forum; or (3) a communication made exclusively between an organization and its members.

ATTRIBUTIONS

Under **current law**, the source of every printed advertisement, billboard, handbill, sample ballot, television or radio advertisement, or other communication that is paid for by or through any contribution or disbursement must clearly appear on the communication. Every communication paid for or reimbursement by a committee or individual must be identified by the words "Paid for by" followed by the name of the committee or individual making the payment or reimbursement and, in the case of a committee, the name of the treasurer or other authorized agent of such committee.

The **bill** also requires every communication to include the telephone number and email address of the committee or individual. In addition, for any communication in which a specific state or local bill or resolution is referenced, the committee or individual must identify the number assigned to the bill or resolution, the house of the Legislature or local unit of government in which the bill or resolution was introduced, and the year in which the bill or resolution was introduced.

CAMPAIGN CONTRIBUTIONS

Current law limits the amount that an individual or committee can contribute to a candidate and the amount that an individual or committee can contribute to certain committees. It also prohibits a corporation from making contributions to candidates and making independent expenditures.

Generally, the **bill** codifies the dollar amounts of contribution limits that apply under current law for certain state offices, repeals aggregate contribution limits, creates limits on contributions to committees and political parties, prohibits corporate contributions to candidates, and repeals certain exceptions for expenses related to recount or recall. These changes are described in more detail below.

Committee Contributions to Candidates

Under **current law**, a committee may not make contributions to a candidate for Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, State Superintendent, or Supreme Court Justice in excess of four percent of the disbursement level⁹ specified for each office in state statute. The calculation results in the following contribution limits for: (1) Governor, \$43,128; (2) Lieutenant Governor, \$12,939; (3) Attorney General, \$21,560; and (4) Secretary of State, State Treasurer, State Superintendent, and Supreme Court Justice, \$8,625.

⁹ The disbursement levels for state and local offices in state statute are used to calculate certain contribution limits, and, under prior law, a candidate who received a grant from the Wisconsin Election Campaign Fund could not make total disbursements from his or her campaign treasury exceeding the disbursement level for his or her office. The Wisconsin Election Campaign Fund was repealed by 2011 Wisconsin Act 32.

The **bill** deletes the disbursement levels and the four percent calculation for contribution limits. The bill also codifies the dollar amounts of the contribution limits that apply under current law for candidates for Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, State Superintendent, and Supreme Court Justice.

Aggregate Contribution Limits

Under **current law**, an individual may not contribute more than \$10,000 per calendar year to any combination of the following recipients: (1) candidates for state and local offices; and (2) individuals who or committees that are required to register under the state campaign finance law, including political party and legislative campaign committees. In 2014, the U.S. District Court for the Eastern District of Wisconsin enjoined enforcement of this aggregate limit.¹⁰ In that case, the parties stipulated to the injunction after the U.S. Supreme Court held a similar aggregate limit in federal law unconstitutional in *McCutcheon v. FEC*.¹¹

In addition, under **current law**, a candidate may not accept more than: (1) 65 percent of the disbursement level, described above, for the office for which he or she is a candidate from all committees combined, including any political party and legislative campaign committees; and (2) 45 percent of the total disbursement level for the office for which he or she is a candidate from all committees combined, excluding political party and legislative campaign committees. In 2014, the U.S. District Court for the Eastern District of Wisconsin issued a preliminary injunction that prohibits GAB from enforcing these aggregate limits. Later, in October 2015, the court held that these aggregate limits are unconstitutional.¹²

The **bill** repeals these aggregate contribution limits.

Individual Contributions to Committees and Political Parties

The **bill** creates limits on contributions to committees and political parties. Specifically, under the bill, no individual may make contributions in excess of \$10,000 in any calendar year to any committee that makes electioneering communications or that has as its major purpose expressly advocating the election or defeat of a clearly identified candidate. In addition, no individual may make contributions in excess of \$10,000 in any calendar year to a political party.

Corporate Contributions

Under **current law**, a corporation may not make any campaign contribution or independent expenditure, except through a separate segregated fund. Specifically, a corporation is prohibited from making any contribution or disbursement, directly or indirectly,

¹⁰ *Young v. Vocke*, Case No. 13-CV-635. In an earlier case, the U.S. Court of Appeals for the Seventh Circuit held this aggregate limit unconstitutional as applied to contributions to committees that make only independent expenditures. [*Wisconsin Right to Life v. Barland*, 664 F.3d 139, 155 (7th Cir. 2011).]

¹¹ 134 S.Ct. 1434 (2014).

¹² *CRG Network v. Barland*, Case No. 14-CV-719.

either independently or through any political party, committee, candidate, or individual, for any purpose other than to promote or defeat a referendum.

In addition, under current law, if a corporation utilizes a separate segregated fund to make a campaign contribution or independent expenditure, it may not spend annually more than \$20,000 or 20 percent of the amount of contributions received in the previous year by the fund, whichever is greater, to solicit contributions to the fund.

In 2014, the U.S. Court of Appeals for Seventh Circuit held unconstitutional: (1) the ban on corporate independent expenditures, consistent with the *Citizens United v. FEC*¹³ decision, in which the U.S. Supreme Court held a similar ban in federal law unconstitutional; and (2) the limit on how much a corporation can spend to solicit contributions to a separate segregated fund.¹⁴

Under the **bill**, a corporation may make independent expenditures, but a corporation may not make campaign contributions, except through a separate segregated fund. Specifically, the bill provides that a corporation may not make any contribution or disbursement directly or indirectly through any political party, committee, or individual, to a candidate, legislative campaign committee, personal campaign committee, support committee, or political party.

In addition, the bill repeals the limit on how much a corporation may spend to solicit contributions to a separate segregated fund.

Legal Fees and Other Expenses Relating to Recount or Recall

Under **current law**, a contribution is not subject to contribution limits if the contribution is utilized to pay: (1) legal fees and other expenses incurred as a result of a recount at an election; or (2) legal fees and other expenses incurred in connection with the circulation, offer to file, or filing, or with the response to the circulation, offer to file, or filing, of a petition to recall an officer prior to the time a recall primary or election is ordered, or after that time if incurred in contesting or defending the order.

The **bill** generally repeals these exceptions, except that it retains the exception for **legal fees** incurred as a result of a recount. In addition, the bill specifically states that the contribution limits apply to contributions used to pay legal fees and other expenses incurred in connection with a recall petition, as described in item (2), above.

COORDINATION

Under **current law**, a communication that is coordinated between a committee, or individual, and a candidate may be treated as an in-kind contribution to that candidate. In addition, a committee that coordinates with a candidate could be deemed a subcommittee of the

¹³ 558 U.S. 310 (2010).

¹⁴ *Barland II*, 751 F.3d 804, 831-832 (7th Cir. 2014).

candidate's personal campaign committee. Earlier this year, the Wisconsin Supreme Court adopted a narrow interpretation of "political purposes," as described above, and, in doing so, held that the coordination provisions in current law only apply to the coordination of express advocacy or its functional equivalent.¹⁵

The **bill** prohibits coordination on communications made for political purposes and electioneering communications. Specifically, it provides that no person may make a disbursement for a political purpose or for an electioneering communication that is coordinated with a candidate, personal campaign committee, candidate's agent, legislative campaign committee, or political party committee.

Under the bill, a disbursement is coordinated if the candidate, personal campaign committee, candidate's agent, legislative campaign committee, or political party committee exercises control over, or engages in substantial discussions or negotiations with the person making the disbursement regarding, any of the following: (1) the communication's content; (2) the communication's timing; (3) the location, form, or intended audience of the communication; or (4) the number or frequency of communications.

CHARITABLE ORGANIZATIONS

Under **current law**, a registrant may make a donation to a charitable organization or the common school fund from the registrant's campaign treasury. A "charitable organization" is any organization described in Section 170 (c) (2) of the Internal Revenue Code and also includes the United States, any state, territory, or possession, the District of Columbia, and any political subdivision thereof, when a gift is made exclusively for public purposes. "Charitable organization" does not include any private organization conducting activities for political purposes.

The **bill** provides that "charitable organization" also does not include an organization that receives a gift made for the purpose of influencing public opinion or an election outcome.

NONRESIDENT COMMITTEES

Under **current law**, every nonresident committee that makes contributions or disbursements, and every nonresident individual that makes disbursements, to support or oppose the election or nomination of a candidate exceeding \$300 cumulatively in a calendar year within this state must file certain information with the Secretary of State. In addition, if a nonresident committee or individual fails to appoint or maintain a registered agent in this state, the Secretary of State is the agent and representative of such committee or individual upon whom any process, notice, or demand may be served.

The **bill** replaces the Secretary of State with GAB in these provisions.

¹⁵ *State ex rel. Two Unnamed Petitioners v. Peterson*, 2015 WI 85, ¶ 75.

CRIMINAL PENALTIES

Under **current law**, whoever intentionally violates specified provisions of campaign finance law is guilty of a Class I felony. The penalty for a Class I felony is a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months or both. Whoever intentionally violates any provision of campaign finance law that is not specified as a Class I felony is guilty of a misdemeanor and may be fined not more than \$1,000 or imprisoned not more than six months or both. In addition, for certain provisions, a violation is a Class I felony if it involves an amount that exceeds \$100 and a misdemeanor if it involves an amount that does not exceed \$100.

The **bill** increases the \$1,000 fine for a misdemeanor violation to \$10,000. In addition, the bill increases the \$100 threshold that triggers the Class I felony for certain violations to \$1,000.

EFFECTIVE DATE AND INITIAL APPLICABILITY

The bill, if enacted, takes effect on January 1, 2017, and first applies to contributions received, disbursements made, and obligations incurred on or after January 1, 2017.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

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