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2013 Wisconsin Act 153 Revises Portions of Wisconsin's Campaign Finance and Lobbying Laws

Made effective March 29, 2014, the 2013 Wisconsin Act 153 revises portions of Wisconsin's campaign finance and lobbying laws. Highlights of the new law include:

Lobbyist Campaign Contributions

Under current state law, a lobbyist registered with the Government Accountability Board (the G.A.B.) may make a campaign contribution to a candidate for partisan elective state office¹ only between June 1 and the general election during the official's re-election year. Moreover, contributions to legislative candidates may only be made if the state legislature has concluded its final floorperiod and is not in special or extraordinary session.

Under Act 153, a lobbyist is now permitted to "personally make" campaign contributions beginning on the first day that nomination papers can be circulated for either a general or special election.² In the case of a fall general election, this date is April 15 of an even year.

Increased PAC and Conduit Solicitation Expense Amount

Under current law, a corporation or association that sponsors a political action committee (PAC) or conduit may not spend more than \$500 annually on combined solicitation expenses. Act 153 greatly increases the amount that can be spent by a sponsoring organization on soliciting contributions to a PAC or conduit.

Act 153 increases the annual solicitation amount to the greater of either \$20,000 or 20 percent of the amount of contributions made to the PAC or conduit in the previous year.³ Moreover, it is no longer a combined limit. Instead, a sponsoring organization now has separate \$20,000 / 20% solicitation amounts—one for a PAC, one for a conduit.

Redirection of Stale Conduit Funds

Act 153 establishes a process for the redirection of conduit funds contributed by a member who cannot be located.⁴ While the wording of this section is sloppy and imprecise given the structure of most conduits, stale conduit funds should now be able to be redirected to the conduit's sponsoring organization, a related PAC or the conduit's administrative account.

¹ "Partisan elective state office" means the office of governor, lieutenant governor, secretary of state, state treasurer, attorney general, state senator or state representative. Wis. Stat. § 13.62(11p).

² See Section 23 / 13.625(1)(c)(intro.).

³ See Section 21m / 11.38(1)(a)3.

⁴ See Section 15 / 11.185.

In order for stale conduit funds to be redirected:

- The funds must have been held by the conduit for a least 24 consecutive months;
- The conduit member who owns the funds has not made contact with the conduit during that time; and, either:
 - The surviving spouse or executor of the estate of a deceased contributor authorizes the redirection of the contribution; or,
 - The conduit has made at least ten good faith attempts to contact the contributor and has documented each attempt. Attempts to contact may include any combination of phone calls, texts, faxes, e-mails and letters or postcards sent via U.S. mail. All ten contacts may not occur with one 30-day period.

A conduit must include the redirection of any stale conduit funds in its report for that reporting period. The report must include all of the following:

- The contributor's name and address, as well as occupation if the funds are in excess of \$100;
- The dates on which the contributions were received;
- The date on which the contributions are redirected; and,
- Whether the contribution is redirected to the sponsoring organization, a related PAC or the conduit's administrative account.

Registration and Reporting Requirements

Act 153 increases the thresholds at which committees, groups and individuals must register with the G.A.B. and file reports. The new law also provides an additional day to file reports of late contributions and disbursements and simplifies electronic filing. The changes to electronic filing affect all registrants. Changes to registration and reporting requirements affect:

- PACs (including nonresident PACs), legislative campaign committees and parties, but not personal campaign committees;
- Referendum groups; and,
- Individuals who sponsor independent expenditures.

Registration Thresholds

Act 153 requires registration if accepted contributions, incurred obligations or disbursements exceed the following in a calendar year:

- Committee: \$300⁵
- Individual: \$300⁶
- Referendum Group: \$2,500⁷

Reporting of Late Contributions and Disbursements

Act 153 requires the reporting of late contributions and disbursements within 48 hours, rather than within 24 hours as under current law.⁸

A committee or individual receiving contributions of \$500 or more from a single contributor within 15 days of a primary or general election must report the contribution within 48 hours, if it is not included in the pre-primary or pre-election report. In addition, a committee or individual making disbursements of more than \$20 to advocate for the election or defeat of a clearly identified candidate within 15 days of a primary or general election must report the disbursement within 48 hours, if it is not in the pre-primary or pre-election report.

⁵See Section 5 / 11.05(1); Section 12 / 11.07(1).

⁶See Section 6 / 11.05(2).

⁷See Section 17 / 11.23(1).

⁸See Section 13 / 11.12(5); Section 14 / 11.12(6).

Electronic Filing

Every registrant who accepts contributions of at least \$20,000 during a two-year campaign period must file reports electronically. Under current law and G.A.B. requirements, registrants must also file a signed paper copy of the report.

Act 153 removes the G.A.B.'s authority to require paper filing and allows electronic filings only.⁹ Accordingly, the new law requires the G.A.B.'s electronic campaign finance reporting system to accept electronic signatures. However, a registrant is permitted to file the report's signature page with the G.A.B. rather than submitting an electronic signature.

Volunteer Internet Activity And Media Exemption

Act 153 recognizes the role of the Internet and electronic communications in the dissemination of information, by both individuals and media entities. The new law modernizes the regulation of Internet activities and updates the state's media exemption from campaign finance regulation.

Voluntary Individual Internet Activity

Act 153 establishes an exemption from state campaign finance law for individuals who engage in Internet activity for a political purpose.¹⁰ Under the new law, an individual's costs related Internet activity are not contributions or disbursements under the campaign finance statutes. Act 153 defines Internet activity to include:

- Sending or forwarding emails;
- Linking to another person's Internet site or providing another means of direct access;
- Blogging;
- Creating, maintaining or hosting an Internet site;
- Payment by a person for a nominal fee for the use of an Internet site operated by another person; and,
- Any other form of communication distributed over the Internet.

An individual engaged in Internet activity will lose the exemption if he or she is being compensated to act on behalf of another person. Acting on behalf of another is permitted as long as no compensation is provided. In addition, while the cost or value of any equipment and services used by the individual is exempted from campaign finance regulation, video production costs are not. Exempted costs include: computers; software; Internet domain names; Internet services providers; and, technology that is used to provide access to or use the Internet.

The cost of obtaining an e-mail address list is a disbursement that must be reported, if the purchase or rental is made at the direction of a registrant for a political purpose or the list is transferred to a registrant for a political purpose.

Media Exemption

While current law contains a media exemption, it does not identify which entities qualify for it. Act 153 specifically exempts media activities via broadcasting stations, cable television operators or producers, Internet sites, and newspapers or other periodical publications, including Internet or electronic publications.¹¹ Any coverage by these entities of news stories, interviews with candidates, editorial comment and editorials are neither contributions nor disbursements under state campaign finance law provided that it is not made by a candidate or political party.

⁹See Section 16 / 11.21(16).

¹⁰See Section 1 / 11.01(6)(b)8. and 9.; Section 2 / 11.01(7)(a)5. to 7.; Section 3 / 11.01(7)(b)6. to 8.; Section 4 / 11.01(12m); and, Section 11 / 11.06(13).

¹¹See Section 20 / 11.30(4m).