



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3811/1
TKK:jld:jm

2011 ASSEMBLY BILL 685

March 8, 2012 – Introduced by Representatives HEBL, JORGENSEN, ROYS, C. TAYLOR, BERCEAU, TURNER, PASCH, RICHARDS, BEWLEY, POPE-ROBERTS and KESSLER, cosponsored by Senators HOLPERIN, S. COGGS and C. LARSON. Referred to Committee on Judiciary and Ethics.

1 **AN ACT** *to create* 757.19 (2) (h) of the statutes; **relating to:** judicial
2 disqualification based on campaign financial support.

Analysis by the Legislative Reference Bureau

Current law requires a supreme court justice and a judge in the court of appeals, in circuit court, and in municipal court (judge) to disqualify himself or herself from a civil or criminal action or proceeding (action) under certain circumstances, including when a judge is related to any party or counsel to the action, when a judge is a party or a material witness in the action, when a judge has a significant financial or personal interest in the outcome of the action, and when a judge determines that he or she cannot, or it appears he or she cannot, act in an impartial manner.

This bill requires a judge to disqualify himself or herself from an action if, as a candidate for judicial office and within the past four years, the judge received campaign financial support of \$1,000 or more from a party to the action. The bill specifies that financial support includes campaign contributions, independent contributions made on behalf of the judge, and independent contributions made against the judge's opponent. In the event that a judge must disqualify himself or herself under the condition established in the bill, the judge may disclose the reason for disqualification and ask the parties and the lawyers of the parties to consider whether to waive disqualification. If the party who is opposed to the party who

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provided campaign financial support to the judge waives disqualification, the judge may participate in the action.

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

1 **SECTION 1.** 757.19 (2) (h) of the statutes is created to read:

2 757.19 (2) (h) 1. In this paragraph:

3 a. "Candidate" has the meaning given in s. 11.01 (1).

4 b. "Contribution" has the meaning given in s. 11.01 (6).

5 c. "Party" includes an immediate family member of a party, a party's business
6 or business partner or associate, an attorney or law firm representing a party, and
7 a partner or associate of the attorney or law firm representing a party.

8 2. When a judge has received, as a candidate for judicial office and within the
9 past 4 years, campaign financial support from a party to the action or proceeding in
10 an amount of \$1,000 or more. In this subdivision, "campaign financial support"
11 includes campaign contributions, independent contributions made on behalf of the
12 judge, and independent contributions made against the judge's opponent.

13 3. A judge who is required to disqualify himself or herself under this paragraph
14 may disclose on the record the basis of the judge's disqualification and may ask the
15 parties and their lawyers to consider, out of the presence of the judge, whether to
16 waive disqualification. If, following disclosure under this subdivision, the party who
17 is opposed to the party that provided campaign financial support to the judge
18 determines that the judge should not be required to disqualify himself or herself and
19 if the parties and the lawyers of the parties all agree, the parties may waive
20 disqualification of the judge and the judge, if willing, may participate in the action

