

MEMORANDUM

TO: Interested Parties

FROM: Mike Wittenwyler / Zach Bemis
Godfrey & Kahn, S.C.

DATE: September 25, 2019

SUBJECT: Upcoming Congressional Elections Involving Partisan Elective State Officials:
Restrictions on Lobbyist Contributions

Recent retirements and resignations within the Wisconsin congressional delegation will result in upcoming elections involving candidates who are also partisan elective state officials. State law imposes limitations on when lobbyists may make personal contributions to partisan elective state officials. Lobbyists may make personal contributions to candidates for national office who are also partisan elective state officials only during the period between the first day for circulation of nomination papers and the day of the general or special election, unless the legislature has not concluded its final floor period or is in special or extraordinary session.

As a result, a lobbyist should not contribute to a state legislator running for federal office until the window is open for contributions to state legislators. There is no exception for special elections before the lobbyist contribution window opens.

7th Congressional District Special Election

Governor Evers recently called a special election to fill the vacancy in the 7th Congressional District created by the resignation of Representative Sean Duffy. The special election will take place on January 27, 2020, and the primary will be held on December 30, 2019.¹ The first day for circulation of nomination papers was September 23, 2019 and the last day to file nomination papers is December 2, 2019.²

This special election will likely involve candidates who also currently serve as partisan elective state officials.³ In this special election, state law prohibits lobbyists from making personal contributions to a candidate who is also a candidate for legislative office.⁴

¹ Governor Evers, Executive Order #46.

² *Id.*

³ “Partisan elective state office” means the office of governor, lieutenant governor, secretary of state, state treasurer, attorney general, state senator or state representative to the assembly. Wis. Stat. § 13.62(11p).

Although, state law allows lobbyists to make personal contributions between the first day authorized by law for the circulation of nomination papers and the general election – “the contribution window” – that window is only open for candidates for legislative office (i.e., state legislators) if the legislature has concluded its final floor period and is not in special or extraordinary session.⁵ For this special election, the contribution window is September 23, 2019 to January 27, 2020, however the legislature’s final scheduled floor period is May 13, 2020. Accordingly, the contribution window will not open for lobbyists in connection with this special election.

A registered Wisconsin lobbyist may do any of the following during this special election:

- Discuss campaign contributions with candidates.
- Deliver federal political action committee (“PAC”) and other permissible contributions to federal candidates.
- Attend a candidate’s fundraising event.
- Endorse a candidate.
- Solicit or bundle contributions for a candidate when done as a volunteer activity and in compliance with federal law.
- Contribute personal funds to a political party committee.

Note that a federal PAC sponsored by a Wisconsin lobbying principal may contribute to candidates in this special election and sponsor fundraising events for them, subject to contribution limits.

5th Congressional District General Election

Rep. Jim Sensenbrenner has announced his intent to retire from his position representing the 5th Congressional District at the end of the current term. The next congressman for this seat will be determined during the fall 2020 general election. This election will also likely involve partisan state elective officials.⁶

Lobbyists may make contributions and provide support to candidates for this election in a similar manner detailed above, with the exception that the “contribution window” for personal contributions from lobbyists opens April 15, 2020 and closes November 3, 2020. In this election, lobbyists may make personal contributions to candidates who are partisan elective state officials after May 13, 2020, the final floor period, so long as the legislature is not in special or extraordinary session. Accordingly, a lobbyist must wait at least until after May 13 to make a personal contribution in connection with this election to a candidate who is also a state legislator.

⁴ Wis. Stat. § 11.0101(1) defines “candidate” to include an individual who holds a state or local office.

⁵ Wis. Stat. § 13.625(1m)(b)1.

⁶ Wisconsin State Senator Scott Fitzgerald has announced his intent to participate in the Republican Party primary for this congressional seat and has indicated his intent to retain his seat in the state senate while campaigning for this national office.