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Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Elections, and Urban Affairs (SC-LEUA)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Labor, Elections and Urban Affairs

Clearinghouse Rule 09-013

Relating to the definition of the term "political purpose."
Submitted by Government Accountability Board.

May 10, 2010 Referred to Committee on Labor, Elections and Urban Affairs.

July 10, 2010 No action taken.



Adam Plotkin
Committee Clerk

Plotkin, Adam

From: Wahl, Andrea
Sent: Wednesday, June 09, 2010 9:19 AM
To: Plotkin, Adam
Subject: FW: Grass Roots Lobbying Draft Language
Attachments: Amend statutes in response to Citizens United.pdf; 09s04154 Grass Roots Lobbying CU.pdf

Found in CRule
09-013 folder

Andrea Wahl

Office of Representative Jeff Smith
 93rd Assembly District
 608-266-0660

From: Falk, Shane - GAB [mailto:Shane.Falk@wisconsin.gov]
Sent: Tuesday, June 08, 2010 3:22 PM
To: Wahl, Andrea
Cc: Kennedy, Kevin - GAB; Becker, Jonathan - GAB; Haas, Michael R - GAB; Winkler, Tommy - GAB
Subject: Re: Grass Roots Lobbying Draft Language

Andrea,

This email follows our telephone call today. I apologize for our office having not provided you with the attached grass roots lobbying draft language, as you requested last week. The first attachment is what Jon had proposed to a member or two of the Legislature, the LRB, and Legis Council, in February following the January 21 CU decision. The second attachment is the Assembly Substitute Amendment to SB 43 that was drafted, but not introduced last session. I have not reviewed the grass roots lobbying component of this draft closely, but I believe it parallels Jon's original proposal. As we discussed, you will consult with Legis Council regarding the propriety and ability to insert grass roots lobbying into 1.28, despite the scope of the rule and authorization arising from Chapter 11, not Chapter 13.

This also confirms that I discussed some additional timing issues with you regarding 1.28. Following our telephone call with Rep Smith last week, I was reminded of the fact that if any changes are authorized by the Board and resubmitted to the Legislature for review, the rule still would not be effective until the month after publication in the Administrative Register. We are already nearing mid-June. Any request for modification may toll committee review of the rule; however, a special GAB meeting would have to occur to review the request for modifications. Revisions may occur, but then the rule has to go back to the committees for final review with a 10 business day deadline. If the committees approve the rule, it still must be published in the Administrative Register. There are two publication dates each month. Assuming we do all the aforementioned, I envision a realistic deadline of July 12 (to meet July 15 deadline for submission to the LRB for the Administrative Register) for a committee approved rule that the GAB could quickly get to the LRB to publish in the end-of-month July register. Effective date of rule would be August 1 (which is prior to the 30 days preceding the primary) and cover both the primary and general election. Any scheduling delays or problems at any step would seriously jeopardize the rules implementation for this fall's elections. As we discussed, you will consult with Legis Council to further flush out these timing issues.

Thank you.

Shane W. Falk
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06/09/2010

Amend Section 9. of SS1 to SB 43 to read:

11.01 (16) (b) 2. A communication which is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate, other than a communication that is exempt from reporting under s. 11.29. A communication is susceptible of no other reasonable interpretation if it is made during the period beginning on the 60th day preceding a general, special, or spring election and ending on the date of that election or during the period beginning on the 30th day preceding a primary election and that includes a reference to or depiction of a clearly identified candidate and:

- i. Refers to the personal qualities, character, or fitness of that candidate;
- ii. Supports or condemns that candidate's position or stance on issues; or
- iii. Supports or condemns that candidate's public record.

Create a new section 11.39 **Independent expenditures by corporations and cooperatives.** (1) Notwithstanding any other provision of law, any corporation or association organized under ch. 185 or 193 may make a disbursement to advocate the election or defeat of any clearly identified candidate or candidates in any election or for a communication referred to in s. 11.01 (16) (b) 2 in accordance with this section. Every corporation and cooperative which desires to make disbursements during any calendar year in excess of \$25, which are to be used to advocate the election or defeat of any clearly identified candidate or candidates in any election or for a communication referred to in s. 11.01 (16) (b) 2. shall designate a depository account. All disbursements which are to be used to advocate the election or defeat of any clearly identified candidate or candidates in any election or for a communication referred to in s. 11.01 (16) (b) 2. shall be made through the depository account. The corporation shall appoint a treasurer and register with the board.

(2) The statement of registration shall include:

- (a) The name, street address, and mailing address of the corporation.
- (b) The name and mailing address of the treasurer and any other custodian of books and accounts of the separate segregated fund.
- (c) The name, mailing address, and position of the principal officers of the corporation.
- (d) The name, street address, mailing address, and account number of the depository account.

The statement shall be signed by an individual authorized to do so by the corporation or association. The appropriate filing officer shall be notified of any change to the registration information within 10 days of the change under s. 11.05 (5).

(3) Each registrant shall make full reports, upon a form prescribed by the board and signed by the fund treasurer, of all disbursements made and obligations incurred for a political purpose. Each report shall contain information covering the period since the last date covered on the previous report and include an itemized statement of every disbursement or incurred obligation exceeding \$20 in amount or value, together with the name and address of the person to whom the disbursement was made or obligation incurred, the date and specific purpose for which the disbursement was made or

obligation incurred, and the name and office of the candidate for whose election or defeat the disbursement was made or obligation incurred.

(4) Each registrant shall make full reports, upon a form prescribed by the board and signed by the fund treasurer, of all contributions received specifically for a political purpose. Each registrant formed for the express purpose of promoting political ideas, and which does not engage in business activities, shall make full reports of all contributions received. Each report shall contain the information required by s. 11.06 where applicable.

Amend 11.02 (Filing officer) to include and each corporation or association subject to s. 11.39.

Amend 11.055 (1) and (2) (Filing fees) to include a reference to a corporation or association required to register under 11.39 (1).

Amend 11.06 (1) (Financial report information) to read “Except as provided in ... and 11.39 (4), each registrant under s. 11.05 and 11.39 . . .”

Amend 11.06 (1) (j) to replace ~~committee~~ with registrant

Amend 11.06 (2) to replace ~~committee or group~~ with registrant.

Amend 11.06 (7) (oath of independent expenditure) to replace ~~committee~~ with registrant.

Amend 11.12 (1) (a) to read: “by or through an individual, committee registered under s. 11.05, or corporation or association registered under s. 11.39 . . .”

Amend 11.12 (6) (24 hour reporting) to read:

11.12 (6) Every individual or registrant who or which makes a disbursement or incurs an obligation of \$500 or more within 60 days of any election, to be used to advocate the election or defeat of any clearly identified candidate or candidates or for a communication referred to in s. 11.01 (16) (b) 2. shall, within 24 hours of such disbursement or obligation, inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the treasurer’s or individual’s next report.

Amend 11.20 (3) (c) and (d) (Filing requirements) to add corporation or association organized under ch. 185 or 193.

Amend 11.20 (4) and (4m) to to add corporation or association organized under ch. 185 or 193.

Amend 11.21 (16) (electronic filing) to read: “Require each registrant for whom the board serves as filing officer and who or which accepts contributions or makes disbursements in a total amount or value of \$20,000 or more . . .”

Amend 11.26 (4) (\$10,000 limit) to add after s. 11.05: “or to a corporation or association organized under ch. 185 or 193 and subject to a registration requirement under s. 11.39”.

Amend 11.30 (2) (b) and (d) to add corporation or association organized under ch. 185 or 193.

Delete section 12. of SS1 to SB43, since it is unconstitutional.

Create 13.62 (6m) to read:

13.62 **(6g)** “Grass roots lobbying” means paid advertising and any other activities conducted for the purpose of urging members of the general public to attempt to influence legislative or administrative action.

Create 13.682 to read:

13.682 **Grass roots lobbying.** (1) Any person, not a principal, who makes expenditures or incurs obligations in an aggregate amount exceeding \$500 in a calendar year for the purpose of engaging in grass roots lobbying shall, within 10 days after exceeding \$500, cause to be filed with the board a registration statement specifying the person’s name, address, the general areas of legislative and administrative action which the person is attempting to influence, the names of any agencies in which the person seeks to influence administrative action, and information sufficient to the nature and interest of the person. Such registration shall expire on December 31 of each even-numbered year.

(2) No later than the end of the 15th day after the date on which a person required to register under this section makes an expenditure or incurs an obligation for grass roots lobbying, the person shall report to the board, in such manner as the board may prescribe, each legislative proposal, budget bill subject, other legislative topic, and proposed administrative rule that is the subject of the grass roots lobbying.

(3) The source of every printed advertisement, billboard, handbill, television, radio, or other electronic advertisement or communication which constitutes grass roots lobbying shall clearly appear thereon. Every such communication shall be identified by the words “Paid for by” followed by the name of the person making the payment, incurring the obligation, or assuming responsibility for the communication.

(4) Every person that is registered under this section shall, on or before July 31 and January 31, file with the board, in such manner as the board may prescribe, an expense statement covering the preceding reporting period. The statement shall contain the aggregate expenditures made and obligations incurred for the person’s grass roots lobbying effort for each legislative proposal, budget bill subject, other legislative topic, and proposed administrative rule that was the subject of the person’s grass roots lobbying.

Amend 13.75 (fees) to add 13.75 (6) Filing a registration statement under s. 13.682, \$375.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBs0415/4
JTK:cjs&nwn:md

ASSEMBLY SUBSTITUTE AMENDMENT ,
TO 2009 SENATE BILL 43

1 AN ACT *to renumber* 11.501 (10); *to amend* 11.05 (1), 11.06 (2), 11.06 (7), 11.12
2 (1) (a), 11.14 (1), 11.16 (1) (a), 11.21 (16), 11.30 (2) (a), 11.60 (1), 13.621 (1) (b),
3 13.621 (2), 13.621 (3), 13.68 (1) (a) 5., 13.685 (1), 13.685 (2), 13.685 (4), 13.685
4 (7), 13.69 (1), 13.69 (3) and 13.69 (6m); and *to create* 11.05 (14), 11.065, 11.30
5 (2) (dm), 13.62 (7) and (7m), 13.68 (1m), 13.682 and 13.75 (6) of the statutes;
6 **relating to:** creation of a simplified campaign finance registration and
7 reporting system for certain organizations, and disclosure of certain grass roots
8 lobbying and campaign finance activities under the lobbying regulation law.

Analysis by the Legislative Reference Bureau

This substitute amendment makes changes to the campaign finance law and the lobbying regulation law. The changes include:

Registration and reporting by certain organizations under campaign finance law

Currently, with limited exceptions, any entity other than an individual (a "committee") that makes or accepts contributions, makes or transfers disbursements (expenditures), or incurs obligations in connection with one or more elections for

state or local office in an amount or value exceeding \$25 cumulatively within a calendar year must register and file regular reports with the appropriate filing officer or agency. Unless a reporting exemption applies, the reports must include contributions received, disbursements and transfers made, and obligations incurred, as well as certain other income and total amounts in each category in each reporting period. If the amount or value from a single source or for a single purpose exceeds \$20 (for contributions cumulatively within a calendar year), the registrant must itemize the source or purpose and the amount or value. The terms "contribution," "disbursement," and "incurred obligation" are defined by law to include only transactions that are made for a "political purpose." The law defines a "political purpose" to include acts done for the purpose of influencing the election or nomination of an individual to state or local office. However, under current law, if a registrant is a committee that is not primarily organized for political purposes, the registrant need not report a disbursement or obligation unless the purpose is to make a contribution or to expressly advocate the election or defeat of a candidate. In addition, if such a registrant only makes disbursements or incurs obligations that are exempt from reporting, the registrant is exempt from registration.

This substitute amendment creates an additional, separate, simplified registration and reporting system that applies to organizations other than those that are subject to the current registration and reporting system and that make one or more expenditures independently of any candidate or political party for the purpose of making a communication to the general public expressly advocating the election or defeat of a clearly identified candidate exceeding \$750 in the aggregate within a calendar year. Under the substitute amendment, any such organization must file a simplified registration statement with the appropriate filing officer before making any such expenditure that will cause its total expenditures for the calendar year to exceed \$750. The registrant must provide the information specified by GAB and must disclose its name and address, the identity of its custodian of records, the address where the records are kept, and the name and address of a financial institution at which the organization's campaign depository account is maintained. The organization must also file an oath with the filing officer affirming its independence from any candidate or political party. Under the substitute amendment, the organization is prohibited from making any independent expenditure that is subject to a disclosure requirement except from the campaign depository account. The substitute amendment also requires the organization, upon registration, to file reports with the appropriate filing officer itemizing each independent expenditure made by the organization, the date of the expenditure, and the name of each candidate on whose behalf the expenditure is made, indicating whether the purpose is support of that candidate or opposition to the candidate's opponent or opponents together with the identity of any donor to the organization who made one or more donations in a calendar year in a cumulative amount of \$5,000 or more that were received by the organization outside the ordinary course of business or that were specifically earmarked by the donor to make one or more independent expenditures. The report must be made no later than 72 hours after the organization makes the expenditure and must be made electronically if the

organization's filing officer is GAB and if the organization makes independent expenditures in an amount or value exceeding \$20,000 within a calendar year.

Violators of registration and reporting requirements are subject to a forfeiture (civil penalty) of not more than \$500 for each violation. In addition, any person who is delinquent in filing a report is subject to a forfeiture of not more than \$50 or 1 percent of the annual salary of the office for which a candidate is being supported or opposed, whichever is greater, for each day of delinquency. Intentional violators of the registration requirements and persons who intentionally file false reports or statements may be fined not more than \$1,000 or imprisoned for not more than six months, or both, if the violation does not exceed \$100 in amount or value, and may be fined not more than \$10,000 or imprisoned for not more than three years and six months, or both, if the violation exceeds \$100 in amount or value.

Grass roots lobbying under lobbying regulation law

Under current law, any person who employs another person for the purpose of attempting to influence the state law-making process or the state administrative rule-making process by oral or written communication with an elective state official, state agency official, or legislative employee (principal) must register as a principal with GAB and file semiannual reports of its activities, unless the person is exempt from registration or reporting under one of several general exemptions. One exemption makes registration and reporting requirements inapplicable to communications through communications media to audiences made up principally of persons other than legislators or state agency officials. However, under another provision of the law, if a principal makes expenditures or incurs obligations for the purpose of attempting to influence state lawmaking or administrative rule making by oral or written communication with an elective state official, state agency official, or legislative employee and the expenditures or obligations also involve paid advertising or other activities conducted for the purpose of urging members of the general public to attempt to influence state lawmaking or administrative rule making, a principal must report the expenditures and obligations if the aggregate total amount of those expenditures and obligations exceeds \$500 during a six-month reporting period.

This substitute amendment creates a reporting requirement under the lobbying regulation law for any person other than a lobbying principal (person who employs a lobbyist) who makes expenditures or incurs obligations for the purpose of engaging in grass roots lobbying exceeding \$750 in a calendar year to register and to file biennial expense reports with GAB concerning the person's grass roots lobbying activities and to cause advertisements and other communications directed at the general public to disclose in the advertisement or communication the name of the person making the payment, incurring the obligation, or assuming responsibility for the advertisement or communication. Under the substitute amendment, "grass roots lobbying" is the urging of members of the general public to attempt to influence the state law-making process or the state administrative rule-making process. The substitute amendment requires each registrant to pay a biennial registration fee to GAB in the amount of \$375. Violators of the registration and reporting requirements are subject to a forfeiture (civil penalty) of not more than \$5,000 for each violation.

Any person who falsifies a statement required under the substitute amendment is subject to a fine of not more than \$1,000 or imprisonment in the county jail for not more than one year. Any registrant under the substitute amendment who files a statement that he or she does not believe is true is subject to a fine of not more than \$10,000 or imprisonment for not more than six years, or both.

The substitute amendment also provides that, if any principal who is currently required to file reports under the lobbying regulation law makes any expenditure or incurs any obligation in amount exceeding \$750 for the purpose of engaging in grass roots lobbying or making a grass roots lobbying communication, the principal must also report the date and amount of the expenditure or obligation, the name and address of the payee or the person to whom the obligation was incurred, the purpose of the expenditure or obligation, and the identity of any donor to the principal who made one or more donations to the principal in a calendar year in a cumulative amount of \$5,000 or more that were received by the principal outside the ordinary course of business or that were specifically earmarked by the donor to make a grass roots lobbying communication.

The substitute amendment also creates a new combined grass roots lobbying and campaign finance reporting requirement under the lobbying regulation law. Under the substitute amendment, any principal who is currently required to file reports and any other person who is required to register and file reports concerning its grass roots lobbying and who makes a “grass roots lobbying communication” during the period beginning on the 60th day preceding an election and ending on the date of the election must, within 24 hours after making the communication, file a report with GAB containing the amount of the expenditure or the obligation incurred to make the communication, the name of the payee or person to whom the obligation was incurred, the purpose of the expenditure or obligation, and the subject of the communication together with the identity of any donor to the principal or other organization who made one or more donations in a calendar year in a cumulative amount of \$5,000 or more that were received by the principal or other organization outside the ordinary course of business or that were specifically earmarked by the donor to make one or more grass roots lobbying communications. The substitute amendment provides that a “grass roots lobbying communication” includes a communication that is disseminated to the general public 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 candidate whose name appears on the ballot at the election, a reference to an office to be filled at the election, or a reference to a political party, and that is not required to be reported under the campaign finance law as an independent disbursement or expenditure.

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

1 **SECTION 1.** 11.05 (1) of the statutes is amended to read:

1 11.05 (1) COMMITTEES AND GROUPS. Except as provided in this section and s. 9.10
2 (2) (d), every committee other than a personal campaign committee, and every
3 political group subject to registration under s. 11.23 which makes or accepts
4 contributions, incurs obligations or makes disbursements in a calendar year in an
5 aggregate amount in excess of \$25 shall file a statement with the appropriate filing
6 officer giving the information required by sub. (3). In the case of any committee other
7 than a personal campaign committee, the statement shall be filed by the treasurer.
8 A personal campaign committee shall register under sub. (2g) or (2r).

9 **SECTION 2.** 11.05 (14) of the statutes is created to read:

10 11.05 (14) REGISTRATION BY CERTAIN ORGANIZATIONS MAKING INDEPENDENT
11 EXPENDITURES EXEMPT. If an organization described in s. 11.065 (1) (b) does not receive
12 any contributions, make any disbursements, or incur any obligations other than by
13 receiving donations that the organization uses solely to make independent
14 expenditures, as defined in s. 11.065 (1) (a), the organization is exempt from
15 registration under sub. (1).

16 **SECTION 3.** 11.06 (2) of the statutes is amended to read:

17 11.06 (2) DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS. Notwithstanding
18 sub. (1), if a disbursement is made or obligation incurred by an individual other than
19 a candidate or by a committee or group which is not primarily organized for political
20 purposes, and the disbursement does not constitute a contribution to any candidate
21 or other individual, committee or group, the disbursement or obligation is required
22 to be reported only if the purpose is to expressly advocate the election or defeat of a
23 clearly identified candidate or the adoption or rejection of a referendum and only if,
24 in the case of a disbursement, the disbursement does not constitute an independent
25 expenditure that is reportable under s. 11.065 (5). The exemption provided by this

1 subsection shall in no case be construed to apply to a political party, legislative
2 campaign, personal campaign or support committee.

3 **SECTION 4.** 11.06 (7) of the statutes is amended to read:

4 11.06 (7) (a) Every committee, other than a personal campaign committee or
5 an organization described in s. 11.065 (1) (b), which, and every individual, other than
6 a candidate, who, desires to make disbursements during any calendar year, which
7 are to be used to advocate the election or defeat of any clearly identified candidate
8 or candidates in any election shall before making any disbursement, except within
9 the amount authorized under s. 11.05 (1) or (2), file with the registration statement
10 under s. 11.05 a statement under oath affirming that the committee or individual
11 does not act in cooperation or consultation with any candidate or agent or authorized
12 committee of a candidate who is supported, that the committee or individual does not
13 act in concert with, or at the request or suggestion of, any candidate or any agent or
14 authorized committee of a candidate who is supported, that the committee or
15 individual does not act in cooperation or consultation with any candidate or agent
16 or authorized committee of a candidate who benefits from a disbursement made in
17 opposition to a candidate, and that the committee or individual does not act in
18 concert with, or at the request or suggestion of, any candidate or agent or authorized
19 committee of a candidate who benefits from a disbursement made in opposition to a
20 candidate. A committee which or individual who acts independently of one or more
21 candidates or agents or authorized committees of candidates and also in cooperation
22 or upon consultation with, in concert with, or at the request or suggestion of one or
23 more candidates or agents or authorized committees of candidates shall indicate in
24 the oath the names of the candidate or candidates to which it applies.

25 **SECTION 5.** 11.065 of the statutes is created to read:

1 **11.065 Registration and reporting by certain organizations.** (1) In this
2 section:

3 (a) “Independent expenditure” means an expenditure made by an organization
4 for the purpose of making a communication to the general public expressly
5 advocating the election or defeat of a clearly identified candidate which is made
6 without cooperation or consultation with a candidate or political party, or any
7 authorized committee or agent of a candidate or political party, and which is not
8 made in concert with, or at the request or suggestion of, any candidate, or any
9 authorized committee or agent of a candidate or political party.

10 (b) “Organization” means any person other than an individual or a committee.

11 (2) Any organization that makes one or more independent expenditures
12 exceeding \$750 in amount or value within a calendar year shall file a registration
13 statement with the appropriate filing officer before making any independent
14 expenditure that will cause the total independent expenditures of the organization
15 for the calendar year to exceed \$750. Together with its registration statement, the
16 organization shall file an oath in the form prescribed by the board that is
17 substantially similar to the oath required under s. 11.06 (7). If an organization
18 determines that it will no longer make independent expenditures exceeding \$750 in
19 amount or value within a calendar year, the organization may terminate its
20 registration by filing a termination statement with the appropriate filing officer in
21 the form prescribed by the board.

22 (3) Each organization that is subject to a registration requirement under sub.
23 (2) shall designate and maintain a custodian of its records. Each such organization
24 shall maintain a campaign depository account at a financial institution, as defined
25 in s. 705.01 (3), that is authorized to transact business in this state. After the first

1 \$750 in amount or value of total independent expenditures made within a calendar
2 year, no such organization may make any additional independent expenditure
3 except from the campaign depository account.

4 (4) A registration statement under sub. (2) shall be filed on a form prescribed
5 by the board. The statement shall include the name and mailing address of the
6 organization, the identity of the custodian of the organization's records and the
7 address where the records are kept, and the name and address of the financial
8 institution at which the organization's campaign depository account is maintained.

9 (5) Each organization that is required to register under sub. (2) and has not
10 filed a termination statement under sub. (2) shall file reports with the appropriate
11 filing officer itemizing each independent expenditure made by the organization, the
12 date of the expenditure, and the name of any candidate on whose behalf the
13 expenditure is made, indicating whether the purpose is support of that candidate or
14 opposition to the candidate's opponent or opponents together with the identity of any
15 donor to the organization who made one or more donations in a calendar year in a
16 cumulative amount of \$5,000 or more that were received by the organization outside
17 the ordinary course of business or that were specifically earmarked by the donor to
18 make one or more independent expenditures. The organization shall make the
19 report required by this subsection with respect to each independent expenditure
20 made by the organization and each reportable donation received by the organization
21 no later than 72 hours after the expenditure is made or the donation is received.
22 More than one independent expenditure or donation may be itemized in a single
23 report. Donations included on one report need not be included on any other report
24 in the same calendar year unless the amount changes. This subsection does not

1 apply with respect to any disbursement that is reported by the organization under
2 s. 11.12 (6).

3 **SECTION 6.** 11.12 (1) (a) of the statutes is amended to read:

4 11.12 (1) (a) No contribution may be made or received and no disbursement
5 may be made or obligation incurred by a person or committee, except within the
6 amount authorized under s. 11.05 (1) and (2), in support of or in opposition to any
7 specific candidate or candidates in an election, other than through the campaign
8 treasurer of the candidate or the candidate's opponent, or by or through an individual
9 or committee registered under s. 11.05 and filing a statement under s. 11.06 (7) or
10 an organization described in s. 11.065 (1) (b).

11 **SECTION 7.** 11.14 (1) of the statutes is amended to read:

12 11.14 (1) Except as authorized in sub. (3), except as provided for organizations
13 under s. 11.065 (3), and except as required by s. 11.16 (5), all funds received by a
14 campaign or committee treasurer, group treasurer, candidate or other individual
15 shall be deposited in a single separate campaign depository account designated in
16 accordance with s. 11.16 (3). Except as authorized in sub. (3), the depository account
17 shall be established by every candidate no later than the time prescribed in s. 11.10
18 (1), and by every other individual or treasurer no later than the 5th business day
19 after becoming subject to a registration requirement under s. 11.05 and before
20 making any disbursement. The depository account may be established with any
21 financial institution as defined in s. 705.01 (3) which is authorized to transact
22 business in this state. The individual or treasurer shall deposit all funds received
23 in the campaign depository account no later than the 5th business day commencing
24 after receipt. This subsection does not apply to a contributor committee or group
25 which is exempt from registration under s. 11.05 (8).

1 **SECTION 8.** 11.16 (1) (a) of the statutes is amended to read:

2 11.16 (1) (a) No disbursement may be made or obligation incurred by a
3 candidate, or by any other person or committee to advocate the election or defeat of
4 a clearly identified candidate, other than an individual who, or a committee which,
5 has registered under s. 11.05 and filed an oath under s. 11.06 (7) or by an organization
6 described in s. 11.065 (1) (b), except by the campaign treasurer of the candidate or
7 other agent designated by the candidate and acting under his or her authority.

8 **SECTION 9.** 11.21 (16) of the statutes is amended to read:

9 11.21 (16) Require each registrant for whom the board serves as filing officer
10 and who or which accepts contributions in a total amount or value of \$20,000 or more
11 during a campaign period to file each campaign finance report that is required to be
12 filed under this chapter in an electronic format, and require each organization that
13 is required to register under s. 11.065 (2) for whom the board serves as filing officer
14 and which makes one or more independent expenditures, as defined in s. 11.065 (1)
15 (a), in a total amount or value exceeding \$20,000 within a calendar year to file each
16 report that is required to be filed under s. 11.065 (5) in an electronic format, and
17 accept from any other registrant, and from any other organization that is required
18 to register under s. 11.065 (2), for whom the board serves as a filing officer any
19 campaign finance report that is required to be filed under this chapter in an
20 electronic format. A registrant who or which becomes subject to a requirement to file
21 reports in an electronic format under this subsection shall initially file the
22 registrant's report in an electronic format for the period which includes the date on
23 which the registrant becomes subject to the requirement. To facilitate
24 implementation of this subsection, the board shall specify, by rule, a type of software
25 that is suitable for compliance with the electronic filing requirement under this

1 subsection. The board shall provide copies of the software to registrants and
2 organizations that are required to register under s. 11.065 (2) at a price fixed by the
3 board that may not exceed cost. Each registrant and each organization that is
4 required to register under s. 11.065 (2) who or which files a report under this
5 subsection in an electronic format shall also file a copy of the report with the board
6 that is recorded on a medium specified by the board. The copy shall be signed by an
7 authorized individual and filed with the board by each such registrant and
8 organization no later than the time prescribed for filing of the report under this
9 chapter. The board shall provide complete instructions to any registrant and each
10 organization that is required to register under s. 11.065 (2) who or which files a report
11 under this subsection. In this subsection, the “campaign period” of a candidate,
12 personal campaign committee or support committee begins and ends with the
13 “campaign” of the candidate whose candidacy is supported, as defined in s. 11.26 (17),
14 and the “campaign period” of any other registrant and each organization that is
15 required to register under s. 11.065 (2) begins on January 1 of each odd-numbered
16 year and ends on December 31 of the following year.

17 **SECTION 10.** 11.30 (2) (a) of the statutes is amended to read:

18 11.30 (2) (a) The source of every printed advertisement, billboard, handbill,
19 sample ballot, television or radio advertisement or other communication which is
20 paid for by or through any contribution, disbursement or incurred obligation shall
21 clearly appear thereon. This paragraph does not apply to communications for which
22 reporting is not required under s. 11.06 (2) or any communication that is financed
23 with an independent expenditure, as defined in s. 11.065 (1) (a).

24 **SECTION 11.** 11.30 (2) (dm) of the statutes is created to read:

1 11.30 (2) (dm) An organization that is required to file an oath under s. 11.065
2 (2) shall include in each communication that is financed with an independent
3 expenditure, as defined in s. 11.065 (1) (a), the words “Paid for by” followed by the
4 name of the organization and the statement “Not authorized by any candidate or
5 political party or their respective agents”.

6 **SECTION 12.** 11.501 (10) of the statutes, as created by 2009 Wisconsin Act 89,
7 is renumbered 11.01 (11m).

8 **SECTION 13.** 11.60 (1) of the statutes is amended to read:

9 11.60 (1) Any person, including any committee ~~or~~, group, or organization
10 described in s. 11.065 (1) (b), who violates this chapter may be required to forfeit not
11 more than \$500 for each violation.

12 **SECTION 14.** 13.62 (7) and (7m) of the statutes are created to read:

13 13.62 (7) “Grass roots lobbying” means urging members of the general public
14 to attempt to influence legislative or administrative action.

15 **(7m)** “Grass roots lobbying communication” means all of the following:

16 (a) A communication made for the purpose of grass roots lobbying.

17 (b) A communication that is disseminated to the general public, and that is
18 made during the period beginning on the 60th day preceding an election and ending
19 on the date of that election, and that includes a reference to a candidate whose name
20 is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at that election,
21 a reference to an office to be filled at that election, or a reference to a political party,
22 and that is not subject to a reporting requirement under ch. 11 as an independent
23 disbursement, as defined in s. 11.01 (11m), or an independent expenditure, as
24 defined in s. 11.065 (1) (a).

25 **SECTION 15.** 13.621 (1) (b) of the statutes is amended to read:

1 13.621 (1) (b) Except as provided in ~~s. ss. 13.682 and~~ 13.68 (1) (a) 5., news or
2 feature reporting, paid advertising activities or editorial comment by working
3 members of the press, and the publication or dissemination thereof by a newspaper,
4 book publisher, regularly published periodical, radio station or television station.

5 **SECTION 16.** 13.621 (2) of the statutes is amended to read:

6 13.621 (2) STATE AGENCY LOBBYING ACTIVITIES. An agency which files a
7 statement under s. 13.695 and an official of the agency who is named in the
8 statement are not subject to s. 13.625, 13.63, 13.64, 13.65 ~~or~~ 13.68, or 13.682 except
9 as provided in s. 13.695.

10 **SECTION 17.** 13.621 (3) of the statutes is amended to read:

11 13.621 (3) PERFORMANCE OF PUBLIC OFFICIAL DUTIES. An elective state official,
12 local official, tribal official, or employee of the legislature is not subject to s. 13.63,
13 13.64, 13.65, 13.68, 13.682, or 13.695 when acting in an official capacity.

14 **SECTION 18.** 13.68 (1) (a) 5. of the statutes is amended to read:

15 13.68 (1) (a) 5. Lobbying expenditures made and obligations incurred for paid
16 advertising and any other activities conducted for the purpose of ~~urging members of~~
17 ~~the general public to attempt to influence legislative or administrative action~~ grass
18 roots lobbying shall be included in the aggregate total, if the total amount of all such
19 lobbying expenditures made and obligations incurred exceeds \$500 during the
20 reporting period. If any lobbying expenditure is made or any obligation is incurred
21 by a principal that exceeds \$750 in a reporting period for a purpose described in this
22 subdivision or to make a grass roots lobbying communication, the principal shall also
23 report the date and amount of the expenditure or obligation, the name and address
24 of the payee or person to whom the obligation was incurred, the specific purpose of
25 the expenditure or obligation, and the identity of any donor to the principal who

1 earmarked his or her donation specifically to make a grass roots lobbying
2 communication.

3 **SECTION 19.** 13.68 (1m) of the statutes is created to read:

4 13.68 (1m) GRASS ROOTS LOBBYING COMMUNICATIONS BY PRINCIPAL. Each principal
5 that is registered under s. 13.64 and that makes a grass roots lobbying
6 communication described in s. 13.682 (5) shall also file the reports required under
7 s. 13.682 (5).

8 **SECTION 20.** 13.682 of the statutes is created to read:

9 **13.682 Grass roots lobbying. (1)** Any person other than a principal who
10 makes expenditures or incurs obligations in an aggregate amount exceeding \$750 in
11 a calendar year for the purpose of engaging in grass roots lobbying shall, within 10
12 days after exceeding \$750, cause to be filed with the board a registration statement
13 in the form prescribed by the board specifying the person's name, address, the
14 general areas of legislative and administrative action the person is attempting to
15 influence, the names of any agencies in which the person seeks to influence
16 administrative action, and information sufficient to identify the nature and interest
17 of the person. The registration shall expire on December 31 of each even-numbered
18 year.

19 **(2)** No later than the end of the 15th day after the date on which a person who
20 is required to register under sub. (1) makes an expenditure or incurs an obligation
21 for the purpose of grass roots lobbying, the person shall report to the board, in the
22 manner prescribed by the board, each legislative proposal, budget bill subject, other
23 legislative topic, and proposed rule that is the subject of the grass roots lobbying and
24 that was not identified by the person in a previous report during the same biennial
25 period ending on December 31 of each even-numbered year.

1 (3) Every person who causes to be disseminated any printed advertisement,
2 billboard communication, or television, radio, or other electronic advertisement or
3 communication that constitutes grass roots lobbying shall ensure that the source of
4 the advertisement or communication clearly appears thereon. The person shall also
5 ensure that each such advertisement or communication is identified by the words
6 “Paid for by” followed by the name of the person making the payment, incurring the
7 obligation, or assuming responsibility for the advertisement or communication.

8 (4) Every person who is required to register under sub. (1) shall, on or before
9 July 31 and January 31, file with the board, in the manner prescribed by the board,
10 an expense statement covering the preceding reporting period. The statement shall
11 contain the aggregate expenditures made and obligations incurred by the person for
12 the purpose of grass roots lobbying for each legislative proposal, budget bill subject,
13 other legislative topic, and proposed administrative rule that was the subject of grass
14 roots lobbying by the person and the identity of any donor to the person who made
15 one or more donations in a calendar year to the person in a cumulative amount of
16 \$5,000 or more that were received by the principal outside the ordinary course of
17 business or that were specifically earmarked by the donor to make a grass roots
18 lobbying communication.

19 (5) Each principal that is registered under s. 13.64 and each person who is
20 required to register under sub. (1), who makes any grass roots lobbying
21 communication during the period beginning on the 60th day preceding an election
22 and ending on the date of that election, shall file a report with the board containing
23 the amount of the expenditure made or obligation incurred by the person or principal
24 for the purpose of making the communication, the name of the payee or person to
25 whom the obligation was incurred, the purpose of the expenditure or obligation, and

1 the subject of the communication together with the identity of any donor to the
2 principal or other organization who made one or more donations in a calendar year
3 in a cumulative amount of \$5,000 or more that were received by the principal or other
4 organization outside the ordinary course of business or that were specifically
5 earmarked by the donor to make one or more grassroots lobbying communications.
6 The principal or other person shall make the report required by this subsection with
7 respect to each grass roots lobbying communication made by the principal or other
8 person and each reportable donation received by the principal or other organization
9 no more than 24 hours after the communication is made or the donation is received.
10 More than one grass roots lobbying communication or donation may be itemized in
11 a single report. Donations included on one report need not be included on any other
12 report in the same calendar year unless the amount changes.

13 **SECTION 21.** 13.685 (1) of the statutes is amended to read:

14 13.685 (1) The board shall prescribe forms and instructions for preparing and
15 filing license applications under s. 13.63 (1), registration applications under ~~s. ss.~~
16 13.64 and 13.682 (1) and the statements required under ss. 13.68, 13.682 (4), and
17 13.695.

18 **SECTION 22.** 13.685 (2) of the statutes is amended to read:

19 13.685 (2) The board shall prepare and publish a manual setting forth
20 recommended uniform methods of accounting and reporting for use by persons who
21 are required to provide information under s. 13.68 (4) or to file statements under s.
22 13.68, 13.682 (4), or 13.695.

23 **SECTION 23.** 13.685 (4) of the statutes is amended to read:

24 13.685 (4) The board shall, by rule, define what constitutes a “topic” for
25 purposes of ss. 13.67 and 13.682 (2), and 13.68 (1) (bn).

1 **SECTION 24.** 13.685 (7) of the statutes is amended to read:

2 13.685 (7) Beginning with the 3rd Tuesday following the beginning of any
3 regular or special session of the legislature and on every Tuesday thereafter for the
4 duration of such session, the board shall, from its records, submit to the chief clerk
5 of each house of the legislature, for distribution to the legislature under s. 13.172 (2),
6 a report of the names of lobbyists licensed under s. 13.63 and the names of officers
7 and employees of agencies filed under s. 13.695 who were not previously reported,
8 the names of the principals or agencies whom they represent and the general areas
9 of legislative and administrative action which are the object of their lobbying activity,
10 and the names of the registrants under s. 13.682 and the general areas of legislative
11 and administrative action which are the subject of their grass roots lobbying activity.
12 Such reports shall be incorporated into the journal of the senate and a copy filed in
13 the office of the chief clerk of the assembly. The board shall also notify the chief clerk
14 of each house that a copy of each statement which is required to be filed under ss.
15 13.68, 13.682 (4), and 13.695 is available upon request. Such copy shall be open to
16 public inspection but shall not be incorporated in the journal unless the chief clerk
17 so orders. The board shall include in its biennial report under s. 15.04 (1) (d), a
18 summary of the statements it has received under ss. 13.68 and 13.695.

19 **SECTION 25.** 13.69 (1) of the statutes is amended to read:

20 13.69 (1) Except as provided in sub. (2m), any principal violating ss. 13.61 to
21 13.68 and any person who is required to register under s. 13.682 (1) who violates s.
22 13.682 or a rule of the board promulgated under those sections may be required to
23 forfeit not more than \$5,000. In the case of a partnership, each of the partners is
24 jointly and severally liable for any forfeiture imposed under this subsection.

25 **SECTION 26.** 13.69 (3) of the statutes is amended to read:





State Capitol:
(608) 266-0660
PO Box 8953, Madison, WI 53708

STATE REPRESENTATIVE
JEFF SMITH

FAX: (608) 282-3693
Toll-free: (888) 534-0093
Email: rep.smith@legis.wi.gov

93RD ASSEMBLY DISTRICT

June 9, 2010

Judge Gordon Myse, Chair
Wisconsin Government Accountability Board
212 E. Washington Ave., 3rd floor
Madison, WI 53707

Dear Judge Myse,

I write regarding Clearinghouse Rule 09-013, relating to the definition of the term "political purpose." This rule was referred to the Assembly Committee on Elections and Campaign Reform on May 13, 2010.

Pursuant to Wisconsin Statute 227.19(4)(b)1.a, I am writing to request a meeting with the agency to review the proposed rule.

I understand this request will extend the review period of the committee until July 12, 2010. Please feel free to contact me with any questions.

Sincerely,

Representative Jeff Smith
Chair, Committee on Elections and Campaign Reform

CC: Kevin Kennedy
Patrick Fuller
Members, Assembly Committee on Elections and Campaign Reform
Senator Spencer Coggs

JS/ajw



WISCONSIN STATE LEGISLATURE



Spencer Coggs



State Senator

June 9, 2010

Judge Gordon Myse, Chair
Wisconsin Government Accountability Board
212 E. Washington Ave., 3rd floor
Madison, WI 53707

Dear Judge Myse,

I write regarding Clearinghouse Rule 09-013, relating to the definition of the term "political purpose." This rule was re-referred to the Senate Committee on Labor, Elections, and Urban Affairs on May 10, 2010.

Pursuant to Wisconsin Statute 227.19(4)(b)1.a, I am requesting a meeting with the Government Accountability Board to review the proposed rule.

I understand this request will extend the review period of the committee until July 9, 2010. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Spencer Coggs".

Senator Spencer Coggs
Chairman, Committee on Labor, Elections, and Urban Affairs

CC: Kevin Kennedy
Rob Marchant
Members, Senate Committee on Labor, Elections, and Urban Affairs
Representative Jeff Smith

SC/ajp



Clearinghouse Rule 09-013

NOTICE OF PROPOSED ORDER ADOPTING RULE

WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD

The Wisconsin Government Accountability Board proposes an order to amend GAB 1.28, Wis. Adm. Code, relating to the definition of the term “political purpose.”

1. Statute Interpreted: s. 11.01 (16), Stats.
2. Statutory Authority: ss. 5.05 (1) (f) and 227.11 (2) (a), Stats.
3. Explanation of agency authority: Under the existing statute, s. 11.01(16), Stats., an act is for “political purposes” when by its nature, intent or manner it directly or indirectly influences or tends to influence voting at an election. Such an act includes support or opposition to a person’s present or future candidacy. Further, s. 11.01(16)(a)(1), Stats., provides acts which are for “political purposes” include but are not limited to the making of a communication which expressly advocates the election, defeat, recall or retention of a clearly identified candidate. Under the existing rule, GAB 1.28(2)(c), provides that the campaign finance regulations under ch. 11 of the Wisconsin Statutes apply to making a communication that contains one or more specific words “or their functional equivalents” with reference to a clearly identified candidate that expressly advocates the election or defeat of that candidate and that unambiguously relates to the campaign of that candidate.

Under the existing statute, s. 11.01(16), Stats. and rule, GAB 1.28, individuals and organizations that do not spend money to expressly advocate the election or defeat of a clearly identified candidate, or to advocate a vote “Yes” or vote “No” at a referendum, are not subject to campaign finance regulation under ch.11 of the Wisconsin Statutes. The term “expressly advocate” initially was limited to so-called “magic words” or their verbal equivalents. The Wisconsin Supreme Court, in *WMC v. State Elections Board*, 227 Wis.2d 650 (1999), opined that if the Government Accountability Board’s predecessor, the Elections Board wished to adopt a more inclusive interpretation of the term “express advocacy,” it could do so by way of a rule. The Wisconsin Court of Appeals, in *Wisconsin Coalition for Voter Participation, Inc. v. State Elections Board*, 231 Wis.2d 670 (Wis. Ct. App. 1999), further opined:

“And while, as plaintiffs point out, “express advocacy” on behalf of a candidate is one part of the statutory definition of “political purpose,” it is not the only part. Under s. 11.01(16), Stats., for example, an act is also done for political purpose if it is undertaken “for the purpose of influencing the election . . . of any individual.”

* * *

“Contrary to plaintiffs’ assertions, then, the term “political purposes” is not restricted by the cases, the statutes or the code to acts of express

advocacy. It encompasses many acts undertaken to influence a candidate's election—including making contributions to an election campaign.”

The United States Supreme Court, in *McConnell et al. v. FEC et al.*, (No.02-1674), in a December 10, 2003 opinion, has said that Congress and state legislatures may regulate political speech that is not limited to “express advocacy.” Specifically, the *McConnell* Court upheld, as facially constitutional, broader federal regulations of communications that (1) refer to a clearly identified candidate; (2) are made within 60 days before a general election or 30 days before a primary election; and (3) are targeted to the relevant electorate. The *McConnell* Court further opined:

“Nor are we persuaded, independent of our precedents, that the First Amendment erects a rigid barrier between express advocacy and so-called issue advocacy. That notion cannot be squared with our longstanding recognition that the presence or absence of magic words cannot meaningfully distinguish electioneering speech from a true issue ad Indeed, the unmistakable lesson from the record in this litigation . . . is that *Buckley's* magic-words requirement is functionally meaningless Not only can advertisers easily evade the line by eschewing the use of magic words, but they would seldom choose to use such words even if permitted. And although the resulting advertisements do not urge the viewer to vote for or against a candidate in so many words, they are no less clearly intended to influence the election.”

In *Federal Election Comm'n. v. Wisconsin Right To Life, Inc.* (No. 06-969)(June 25, 2007), a United States Supreme Court case, Chief Justice Roberts writing for the majority, opined that an ad is the functional equivalent of express advocacy, if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate, i.e. mentions an election, candidacy, political party, or challenger; takes a position on a candidate's character, qualifications, or fitness for office; condemns a candidate's record on a particular issue.

The revised rule will more clearly specify those communications that may not reach the level of “magic words” express advocacy, yet are subject to regulation because they are the functional equivalent to express advocacy, for “political purposes,” and are susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate

4. Related statute(s) or rule(s): s. 11.01(16), Stats., and GAB 1.28, Wis. Adm. Code.

5. Plain language analysis: The revised rule will subject to regulation communications that are “susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” The revised rule will subject communications meeting this criteria to the applicable campaign finance regulations and requirements of ch. 11, Stats.

6. Summary of, and comparison with, existing or proposed federal regulations: The United States Supreme Court upheld regulation of political communications called “electioneering communications” in its December 10, 2003 decision: *McConnell et al. v. Federal Election Commission, et al.* (No.02-1674) and pursuant to its June 25, 2007 decision of: *Federal Election Commission (FEC) v. Wisconsin Right to Life, Inc. (WRTL II)*, (No.06-969and 970).

The *McConnell* decision is a review of relatively recent federal legislation – The Bipartisan Campaign Reform Act of 2002 (BCRA) – amending, principally, the Federal Election Campaign Act of 1971 (as amended). A substantial portion of the *McConnell* Court’s decision upholds provisions of BCRA that establish a new form of regulated political communication – “electioneering communications” – and that subject that form of communication to disclosure requirements as well as to other limitations, such as the prohibition of corporate and labor disbursements for electioneering communications in ss. 201, 203 BCRA. BCRA generally defines an “electioneering communication” as a broadcast, cable, or satellite advertisement that “refers” to a clearly identified federal candidate, is made within 60 days of a general election or 30 days of a primary and if for House or Senate elections, is targeted to the relevant electorate.

In addition, the Federal Election Commission (FEC) promulgated regulations further implementing BCRA (generally 11 CFR 100-114)and made revisions incorporating the *WRTL II* decision by the United States Supreme Court (generally 11 CFR Part 104, 114.) The FEC regulates “electioneering communications.”

7. Comparison with rules in adjacent states:

Illinois has a rule requiring a nonprofit organization to file financial reports to the State Board of Elections if it: 1) is not a labor union; 2) has not established a political committee; and 3) accepts or spends more than \$5,000 in any 12-month period in the aggregate:

- A) supporting or opposing candidates for public office or questions of public policy that are to appear on a ballot at an election; and/or
- B) for electioneering communications.

In addition, the same rule mandates all the same election reports of contributions and expenditures in the same manner as political committees and the nonprofit organizations are subject to the same civil penalties for failure to file or delinquent filing. (See Illinois Administrative Code, Title 26, Chapter 1, Part 100, s. 100.130).

Iowa prohibits direct or indirect corporate contributions to committees or to expressly advocate for a vote. s. 68A.503(1), Iowa Stats. Iowa does allow corporations to use its funds to encourage registration of voters and participation in the political process or to publicize public issues, but provided that no part of those contributions are used to expressly advocate the nomination, election, or defeat of any candidate for public office.

s. 68A.503(4), Iowa Stats. Iowa does not have any additional rules further defining indirect corporate contributions or expressly advocating for a vote.

Michigan prohibits corporate and labor contributions for political purposes (s. 169.254, Mich. Stats.) and requires registration and reporting for any independent expenditures of \$100.01 or more (s. 169.251, Mich. Stats.) Michigan does not have any additional rules defining political purposes.

Minnesota statutes prohibit direct and indirect corporate contributions and independent expenditures to promote or defeat the candidacy of an individual. s. 211B.15(Subd. 3), Minn. Stats. A violation of this statute could subject the corporation to a \$40,000.00 penalty and forfeiture of the right to do business in Minnesota. A person violating this statute could receive a \$20,000.00 penalty and up to 5 years in prison. Minnesota does not have any additional rules defining indirect influence on voting.

8. Summary of factual data and analytical methodologies: Adoption of the rule was primarily predicated on federal and state statutes, regulations, and case law. Additional factual data was considered at several Government Accountability Board public meetings, specifically the expenditures on television advertisements, and the actual transcripts for the same, as aired during a recent Wisconsin Supreme Court race.

9. Analysis and supporting documentation used to determine effect on small businesses: The rule will have no effect on small business, nor any economic impact.

10. Effect on small business: The creation of this rule does not affect business.

11. Agency contact person: Shane W. Falk, Staff Counsel, Government Accountability Board, 212 E. Washington Avenue, 3rd Floor, P.O. Box 2973, Madison, Wisconsin 53701-2973; Phone 266-2094; Shane.Falk@wisconsin.gov

12. Place where comments are to be submitted and deadline for submission: Government Accountability Board, 212 E. Washington Avenue, 3rd Floor, P.O. Box 2973, Madison, Wisconsin 53701-2973, no later than March 30, 2009.

FISCAL ESTIMATE: The creation of this rule has no fiscal effect.

INITIAL REGULATORY FLEXIBILITY ANALYSIS: The creation of this rule does not affect business.

TEXT OF PROPOSED RULE:

Pursuant to the authority vested in the State of Wisconsin Government Accountability Board by ss. 5.05(1)(f) and 227.11(2)(a), Stats., the Government Accountability Board hereby amends GAB 1.28, Wis. Adm. Code, interpreting s. 11.01(16), Stats., as follows:

GAB 1.28 Scope of regulated activity; election of candidates.

(1) Definitions. As used in this rule:

(a) "Political committee" means every committee which is formed primarily to influence elections or which is under the control of a candidate.

(b) "Communication" means any printed advertisement, billboard, handbill, sample ballot, television or radio advertisement, telephone call, e-mail, internet posting, and any other form of communication that may be utilized for a political purpose.

(c) "Contributions for political purposes" means contributions made to 1) a candidate, or 2) a political committee or 3) an individual who makes contributions to a candidate or political committee or incurs obligations or makes disbursements for political purposes ~~the purpose of expressly advocating the election or defeat of an identified candidate.~~

(2) Individuals other than candidates and ~~committees~~ persons other than political committees are subject to the applicable ~~disclosure-related and recordkeeping-related~~ requirements of ch. 11, Stats., ~~only~~ when they:

(a) Make contributions or disbursements for political purposes, or

(b) Make contributions to any person at the request or with the authorization of a candidate or political committee, or

(c) Make a communication for a political purpose.

(3) A communication is for a "political purpose" if either of the following applies:

(a) The communication contains ~~containing~~ terms such as the following or their functional equivalents with reference to a clearly identified candidate ~~that expressly advocates the election or defeat of that candidate and that unambiguously relates to the campaign of that candidate:~~

1. "Vote for;"
2. "Elect;"
3. "Support;"
4. "Cast your ballot for;"
5. "Smith for Assembly;"
6. "Vote against;"
7. "Defeat;" or
8. "Reject."

(b) The communication is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. A communication is susceptible of no other reasonable interpretation if it is made during the period beginning on the 60th day preceding a general, special, or spring election and ending on the date of that election or during the period beginning on the 30th day preceding a primary election and that includes a reference to or depiction of a clearly identified candidate and:

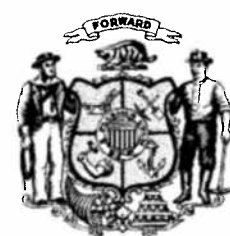
1. Refers to the personal qualities, character, or fitness of that candidate;
2. Supports or condemns that candidate's position or stance on issues; or
3. Supports or condemns that candidate's public record.

(4) Consistent with s. 11.05 (2), Stats., nothing in sub. (1) or (2) should be construed as requiring registration and reporting, under ss. 11.05 and 11.06, Stats., of an individual whose only activity is the making of contributions.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.(22), Stats.



WISCONSIN STATE LEGISLATURE



6/9/10

Clearinghouse Rule 09-13

- committee jurisdiction ends 6/12/10 (Saturday)
+ 30 days (to extend jurisdiction)
7/12/10 (M)
- effect by September 7, 2010

(b) 30 days preceding primary election - 8/8/10
effect by August 1, 2010 → publication in July 2010

Option #1: extend the review period for + 30 days
- request meeting with GAB, in writing
- public notice of committee hearing and send copy to GAB

Option #2: committee requests modifications and agency agrees to consider making modifications, in writing - "parlay" in committee jurisdiction

Option #3: GAB submits germane modification to committee during its review period - + 10 days jurisdiction
→ when scope of rule

Option #4: GAB may recall rule (may resubmit with germane modifications)

Option #5: GAB makes germane modification to rule following review period

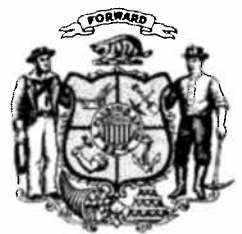
Option #6: committee objects to rule - 1 of 6 reasons → JCRAR

germane - within scope of rule - if promulgated, court may find invalid b/c not germane

statutory authority - if promulgated, court may find no statutory authority



WISCONSIN STATE LEGISLATURE



Ken Walsh - 4/405-1060
Jeff Renk
Carrie
Jim

Jeff Renk - extend

- request mtg. via letter
- extend 30 days
- have to meet to waive extra time
- request modifications
- unlimited for them, we get 10 to review
- Assembly action would bring it back

- want to add grassroots lobbying
 - GAB doesn't have statutory authority
 - non-germane changes
- request germane modification

germane - remove sections

non-germane - move to Ch. 13 +
create grassroots

Options

- ① move 2/3 to lobbying section
- not feasible
- ② expand sub 1 to character + fitness in relation to record
- ③ delete 2/3 entirely
- not feasible
- ④ let it go and let the court process work it out
- ⑤ X-session
- ⑥ withdraw + re-write rule
- ⑦ request modifications + GAB sits on it

Kevin, Shane, Andrea, Ron, Mike, Carrie
Fri. 6/25 10a

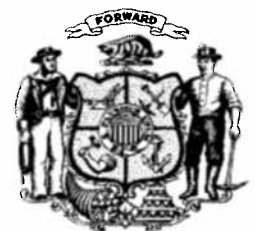
- rule will get legally challenged no matter what
- don't want to object
- 2/3 constitutional under CFR + tax implications for c4s

problems

keep 2/3, let TRO, friends know story, look OK publicly



WISCONSIN STATE LEGISLATURE



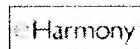
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Political opposites protest ad rules

They file joint suit over new restrictions

By Jason Stein of the Journal Sentinel

Posted: Aug. 1, 2010 | (33) COMMENTS

Madison — An unlikely duo of a hard-line conservative group and a liberal organization together have brought a lawsuit to block a new state rule regulating political issue ads and messages that took effect Sunday.

Wisconsin Club for Growth and One Wisconsin Now said in a lawsuit filed in federal court in Madison that the state agency behind the rule overstepped its authority and violated their constitutional right to free speech.

The rule by the Government Accountability Board requires groups that air ads or make communications heaping praise on or criticizing political candidates to disclose where they get their money and how they spend it - even if those groups don't specifically urge their audience to vote for or against the candidate.

"Club for Growth and One Wisconsin Now . . . are virtually at opposite ends of the ideological spectrum," the complaint reads. "Yet, they are united on one fundamental principle: The First Amendment guarantees the right to express - as freely and effectively as possible - their views on public issues and public officials as well as candidates for state public office."

Mike Wittenwyler, a Madison attorney for the groups, said his clients will seek a quick decision from a federal judge before the law requires them to register on Aug. 13 and make disclosures about their messages and ads on Aug. 16.

Kevin Kennedy, director of the nonpartisan Accountability Board, said the agency spent more than a year taking input from the public and drafting the rule. The six former judges who sit on the board considered whether the rule was constitutional and unanimously approved it, he said.

"It wasn't something that was pulled out of thin air," he said. "It was carefully considered."

The rule does not put any limits on what regulated groups can say, how much money they can raise or spend or who can donate to them.

But the rule erases the current distinction between state-regulated ads that explicitly call for the election or defeat of a candidate and ads that in the past escaped regulation because they don't contain "magic words" such as "vote for" or "vote against."

Now these issue ads or other types of messages also are subject to disclosure rules if they run in the 30 days before a primary election or the 60 days before a November general or spring election.

The rule was passed in March by the board, which administers state elections, and passed its final hurdle after the Democrat-controlled Legislature did not object to it.

Odd bedfellows

The plaintiffs, which include One Wisconsin Now executive director Scot Ross and Club for Growth board member Eric O'Keefe, argue the Accountability Board had no authority to make the rule under state law and is violating the First Amendment allowing free speech by requiring financial disclosure from groups that aren't explicitly telling citizens how to vote. The law, they said, also is overly broad because it requires disclosure not just for expensive television ad campaigns but for Internet-only campaigns and anything else that costs more than \$25 to disseminate.

Club for Growth's mission of supporting fiscal conservatives with heavy advertising and other tactics often puts it at odds with Democrats.

One Wisconsin Now currently has a website, the Scott Walker Failure Files, that criticizes the record of

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Milwaukee County executive and GOP gubernatorial candidate Scott Walker. The liberal group doesn't run large advertising campaigns, relying instead on doing research on candidates such as Walker that it distributes on its website and shares with the news media. Until now, the group has not had to disclose its sources of funding for such efforts, beyond saying that its money comes from like-minded individuals and labor unions.

"This law would regulate the Internet in a way that it's never been regulated before," Ross said of the rule. "We would have to hire new staff just to put out a press release to talk about issues we've been talking about for years."

But Mike McCabe, executive director of the Wisconsin Democracy Campaign, said the lawsuit was "baseless and frivolous." The Accountability Board was within the bounds of state law and the recent U.S. Supreme Court decision in the Citizens United case in requiring the responsibility of disclosure from groups that exercise their free speech rights, he said.

"The bottom line is that the Supreme Court ruled that (groups) can spend whatever they want but they can't do it secretly," he said.

Ross said that even "clean government" groups such as the Democracy Campaign, which releases statements critical of political candidates' fund raising from special interest groups, could find itself subject to the new rule.

McCabe said the rule narrowly applied only in the run-up to elections. It wouldn't affect groups such as his and the League of Women Voters that seek only to educate voters and that, as a certain kind of nonprofit, already are prohibited by federal law from seeking to elect candidates, he said.

Wisconsin Right to Life also is considering suing the Accountability Board to block the rule, said Susan Armacost, lobbying and political director for the abortion-opponent group, which is not part of the lawsuit filed by the other groups. Armacost said the rule would place potentially harsh criminal penalties - up to and including felonies - on those who fail to follow the rule.

"It is absolutely chilling to free speech," she said.

33 Comments

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frostybambi - Aug 01, 2010 9:17 PM

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Citizens have a right to know who funds special interests groups and if their message is supporting a candidate. Lack of regulation has been a backdoor around Wisconsin Democracy Campaign efforts to list donors funding political candidates. If a citizen didn't want to be exposed for supporting a special interest view they could donate to special interest groups avoiding campaign disclosure rules. This also allowed citizens opportunity to exceed campaign donation limits by giving to special interest groups.

We have a right to know who funds Pro Life where as a consumer I would not purchase any goods or services from a company supporting their organization. Look at what is going on in MN with red dot supporting GOP where their stores are being boycotted. Pro Life like to picket, follow the rules to stay off private land where they sue everyone for their rights. Well there are Pro Choice people as well that have their right to free speech that want no part of any company supporting Pro Life and will gladly stay off any property of any business without the need to sue supporting Pro Life.

One tweak overlooked in the rules was perhaps designation box on political campaigns requiring disclosure if individuals donating to campaigns were giving their own money or were passing through money from their companies. Employees do have a right to support their political views which do not necessarily concede with that of their employers. If employees are donating their own money their companies should not be seen as being for or against the views of an employee. Trust but verify. Corporations donating should also have to disclose if shareholders were given a choice in their support of any political party.

Judge Butler election fiasco was a wake up call for reform. Telling half truths about a seated WI Supreme Court Judge promotes no snitching rule to keep lady justice from doing her job. Judge Gableman standing fast to remain on the states high court is ugly.

billyv10 - Aug 01, 2010 9:25 PM

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The Social Democrats have good reason to block/curtail free speech. It's difficult to engage in social engineering and it's difficult to take over whole segments of the private economy while people still have the right to exercise free speech. Why do you all think Feingold is so opposed to free speech? Pretty obvious.

Hey Frosty, no mention of the power of unions. Geez, wonder why. Didn't they give nearly a half trillion dollars to candidates including Obama during the last election? The Social Democrats are the

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first to fold when it comes to free speech because their positions require a compliant public.

delafield - Aug 01, 2010 9:30 PM

» Report abuse 4 1

Who is the "Club for Growth"?

Club for Growth and the Republican Party's main agenda is to give more tax cuts to the rich, start more wars in the Middle East, and eliminate Social Security for senior citizens.

Club for Growth is financed by the crooked Wall Street bankers who stole trillions of dollars from American taxpayers. It's also financed by the same two multi-billionaire brothers (Charles and David Koch of Koch Industries) who also finance the "Teabag Party".

Another Club for Growth goal is to continue AWOL Bush's mission to outsource millions of good paying American jobs to China, India, and Vietnam.

:(

bringbackcapitalism - Aug 01, 2010 9:52 PM

» Report abuse 1 7

typical delafield crap. go back into your basement you troll.

bringbackcapitalism - Aug 01, 2010 9:55 PM

» Report abuse 1 3

oh yeah delafield you forgot to mention BP, maybe you can find more research on that for your next \$tupid post.

tazzy1 - Aug 01, 2010 10:00 PM

» Report abuse 2 1

SCOTTY WALKER for dog catcher.

JohnOCWI - Aug 01, 2010 10:32 PM

» Report abuse 2 3

50 bucks if someone can give me an example of JSO every saying "hard-line liberal".

These labels are not benign they are left-leaning literary tools to illegitimimize conservatives as out of the mainstream.

John Casper - Aug 01, 2010 10:40 PM

» Report abuse 2 1

billyv, afaik, only 12% of the U.S. workforce belongs to a union.

That is why the GOP wants the border with Mexico kept open. It keeps up that free flow of inexpensive labor.

hunterangler60 - Aug 01, 2010 10:40 PM

» Report abuse 3 0

Money talks, democracy walks!

If people or corporations want to influence elections, why should they not identify who they are? Are they that cowardly? Would they not fund the ad if they were identified? If the answer to the last question is "no", it says it all.

marinerx - Aug 01, 2010 10:42 PM

» Report abuse 1 0

Im glad this law passed! It exposes everyone alike.

John Casper - Aug 01, 2010 10:46 PM

» Report abuse 2 1

John OCWI, I'm worried I might be a liberal.

I agree with Ron Paul (R-TX) who wants the U.S. military out the Middle East.

I agree with Rep. Paul calling for an Audit of the Federal Reserve HR1207 in part, because back in 2008 Bernanke and Paulson gave \$8 TRILLION to Wall Street in the form of loans, guarantees, and capital injections.
http://www.nomiprins.com/

Duffy has big cash lead; Lassa catching up
Marshfield News Herald | Jul 20, 2010

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Walker To Speak on O'Donnell Collapse/Buildii Inspections

Page 1 of 5

To put that number in perspective, we have already wasted around \$3 trillion in nation-building in Iraq. I am guessing the nation-building in Afghanistan will cost about the same. The trust fund for Social Security is around \$2.6 trillion.

Are Rep. Paul and I liberals?

I always believed President Reagan that the benefits from tax cuts for Americans with ultra high net worth would eventually trickle down. I do not believe that any more.

Am I a liberal?

I always believed Newt Gingrich when he said NAFTA would help the U.S. economy. Now I believe that it was a very serious mistake to export jobs to countries that do not enforce child labor laws, environmental law, and OSHA types of regulations.

Am I a liberal?

I believe that this country needs investment in the REAL economy, the part that makes stuff, the part that creates jobs. I believe that tax breaks for Americans with ultra high net worth to invest in the PAPER economy, collateralized debt obligation and credit swaps, aka casino capitalism, is a mistake. I believe that drains investment from the REAL economy.

Am I a liberal?

In December Obama will cut/privatize Social Security, because Wall Street needs to pillage it. I think that's a really terrible idea.

Am I a liberal?

JohnOCWI - Aug 01, 2010 10:52 PM » Report abuse 0 1

I don't know what the heck you are, I don't even know who you are.

I was talking about JSO, as yes it's liberal.

BTW Ron Paul said we deserved 9/11

Annie500 - Aug 01, 2010 11:04 PM » Report abuse 1 2

It seems it is the Democrats and Obama are the ones that do not want to secure the borders and want amnesty for all. The Dems are also against I.D. for voting. The only photo I.D. hurts are the dead, fictional, redundant and the fraudulent. Bush had made the Unions rules for disclosing were donations went stricter, but the Dems loosened them up again. As Ann Coulter has said "There may be some bad Republicans but there are NO good Democrats".

GfidRay - Aug 01, 2010 11:28 PM » Report abuse 1 1

John Casper, you're an American that thinks like most rational citizens.

The Annies of the world, well that's another matter.

Green Goddess - Aug 02, 2010 12:13 AM » Report abuse 1 1

Billy: You're mischaracterizing the Democrats, spreading falsities, as usual.

Green Goddess - Aug 02, 2010 12:14 AM » Report abuse 1 2

Del: I call them the Banksters and Corporatists.

Green Goddess - Aug 02, 2010 12:16 AM » Report abuse 1 1

Bring: Del is not a troll. This is an open and free blog. You don't own it.

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Green Goddess - Aug 02, 2010 12:17 AM » Report abuse 1 1

Good one Tazzy!

Green Goddess - Aug 02, 2010 12:18 AM » Report abuse 1 2

John OC: Conservatives ARE out of the mainstream.

Green Goddess - Aug 02, 2010 12:20 AM » Report abuse 1 1

John C: Love your post at 10:46 PM.

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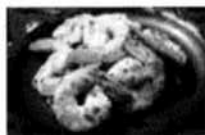
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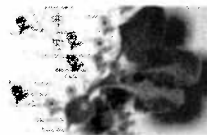
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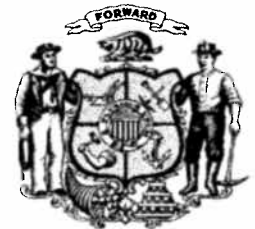
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WISCONSIN STATE LEGISLATURE



-- The conservative Club for Growth and liberal One Wisconsin Now have joined forces in a federal lawsuit seeking to overturn new disclosure rules that place the same requirements on issue ads around election time like as currently exist for other political spots.

The suit, filed Saturday in the Western District of Wisconsin, claims the new rules violate the plaintiffs' rights with "astonishing overbreadth" and subjects "political speech, even personal e-mail communications, to regulation that has never been – and cannot be – subject to campaign finance regulation."

The Government Accountability Board approved the rules earlier this year to require groups running so-called issue ads within 30 days of the primary or 60 days of a general or spring election to disclose how they were financed.

The suit, which seeks an injunction barring enforcement of the regulations, says the GAB overstepped its authority in promulgating the rules on its own by broadening the definition of "political purpose" under state statutes and Wisconsin law gives the agency no authority to regulate speech outside of express advocacy.

*See the suit:

http://www.wispolitics.com/1006/PLD_001_01_2010_07_31_Complaint.pdf

*See the suit with all exhibits (211 pages):

http://www.wispolitics.com/1006/2010_07_31_Complaint_with_Exhibits_A_through_I.pdf