

Wisconsin Democracy Campaign

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TO: Dan Rossmiller

FROM: Paul Uebelher
Wisconsin Democracy Campaign

SUBJECT: Amendment to Substitute Amendment to Senate Bill 104
relating to reporting of independent expenditures

Dan, you invited suggestions to improve the Substitute Amendment to SB 104 and there are a couple issues that we want to bring to the attention of Sen. George. These suggested changes have also been provided to Sen. Ellis.

The highlighted provision on page 17 of the substitute amendment to SB 104 (attached) that gives groups making independent disbursements the choice of either reporting an entire expenditure on the day when the first communication financed by the expenditure is made *or report each day on which a communication is made the "proportionate amount of the expenditure attributable to the cost of the communication or communications made on that day."*

In practical terms, this means that if a group makes a \$100,000 ad buy, it doesn't have to report the expenditure when the ads are booked (and the obligation is incurred). Rather, the group only has to disclose the expenditure when the ads actually clear. So if \$2,000 worth of ads air today, \$2,000 would be reported, not the entire \$100,000 incurred obligation. Then if \$5,000 worth of ads air tomorrow, another \$5,000 of the \$100,000 media buy would be reported. This "trickle" reporting is a sharp departure from Wisconsin's tradition of requiring reporting as soon as an obligation is incurred, and also would make administration of the matching grant system in SB 104 much more cumbersome at best and unworkable at worst.

The sub to SB 104 takes a very different approach to disclosure of issue ads and reporting of independent disbursements than either SB 62 (the Voters First bill) or the original SB 104. We believe there is a simple and straightforward change that could be made to the language in the sub to SB 104 that would enhance disclosure, give candidates who are entitled to matching grants some ability to plan a response, and make a matching grant system more workable from an administrative standpoint. We suggest:

In Section 37 of the substitute amendment to SB 104, delete 11.065 (b) found on lines 14-21 on page 17.

The sub to SB 104 also contains a provision that allows groups making independent disbursements to play games on whether their expenditures are made for a candidate or against the favored candidate's opponent. This is important because when there are more than two candidates – in a primary, for instance – groups would always want to claim they are making independent disbursements *against* a candidate, even if the communication is clearly aimed to aid one particular candidate. That's because if an independent group claims to be opposing a candidate, that would trigger a matching grant to that candidate. But if the group claimed to be supporting a candidate, that would trigger a matching grant to all the other eligible candidates. So the special interest groups will always claim to be opposing a candidate to minimize the matching money spent against them (and thus deprive some deserving candidates the resources to respond to special interest campaigns that disadvantage them). To make sure independent groups honestly characterize their intentions and to ensure that candidates get the matching grants they deserve, we suggest the following amendment:

In Section 80 of the sub to SB 104, keep section 11.27 (1) the way it is in current law. Delete the new language found on lines 10 and 11 of page 36 that reads: This subsection does not apply to any information reported by a person making an independent expenditure under s. 11.065 (2).

We hope Sen. George will make these modifications to the sub to SB 104. I can be reached at 255-4260 or uebelher@wisdc.org

1 the aggregate, that person shall file a report with the board. The report shall be made
2 whenever the person makes one or more communications financed or to be financed
3 with independent expenditures exceeding \$2,000 in the aggregate and whenever the
4 person makes one or more additional communications financed or to be financed with
5 independent expenditures exceeding \$2,000 in the aggregate that are not identified
6 in a previous report under this subsection. Reports required under this subsection
7 shall be filed within 7 days after the date that communications financed with
8 independent expenditures exceeding \$2,000 in the aggregate that are not identified
9 in a previous report are made, or if communications are made within 15 days of the
10 date of a spring primary or election or within 15 days of a September or special
11 primary or general or special election, within 24 hours after the date that
12 communications financed with independent expenditures exceeding \$2,000 in the
13 aggregate that are not identified in a previous report are made.

14 (b) If a person makes or incurs an obligation to make a single independent
15 expenditure for the purpose of financing communications that are to be made on
16 more than one day, the person may report the entire expenditure under par. (a) for
17 the day on which the person makes the first communication financed by the
18 expenditure, or the person may report for each day on which the person makes one
19 or more communications financed by the expenditure the proportionate amount of
20 the expenditure attributable to the cost of the communication or communications
21 made on that day.

22 (2) Each report filed under sub. (1) shall contain the following information:

23 (a) The name of each candidate who is identified in each communication
24 financed by an independent expenditure.

1 if authorized under this subsection to contribute more than the amount specified to
2 the candidate's own campaign, up to the amount of the limitation.

3 **SECTION 78.** 11.26 (12m) of the statutes is amended to read:

4 **11.26 (12m)** For purposes of ~~this section~~ subs. (1) and (4), a contribution of
5 money received from a conduit identified in the manner prescribed in s. 11.06 (11)
6 (a) shall be considered a contribution received from the original contributor.

7 **SECTION 79.** 11.265 of the statutes is repealed.

8 **SECTION 80.** 11.27 (1) of the statutes is amended to read:

9 **11.27 (1)** No person may prepare or submit a false report or statement to a filing
10 officer under this chapter. This subsection does not apply to any information
11 reported by a person making an independent expenditure under s. 11.065 (2).

12 **SECTION 81.** 11.31 (1) (intro.) of the statutes is amended to read:

13 **11.31 (1) SCHEDULE.** (intro.) The following levels of disbursements are
14 established with reference to the candidates listed below. The levels are subject to
15 adjustment under subs. (1m) and (9). Except as provided in sub. (2), such levels do
16 not operate to restrict the total amount of disbursements which are made or
17 authorized to be made by any candidate in any primary or other election.

18 **SECTION 82.** 11.31 (1) (a) to (d) of the statutes are amended to read:

19 **11.31 (1) (a)** Candidates for governor, ~~\$1,078,200~~ \$2,000,000.

20 **(b)** Candidates for lieutenant governor, ~~\$323,475~~ \$500,000.

21 **(c)** Candidates for attorney general, ~~\$539,000~~ \$700,000.

22 **(d)** Candidates for secretary of state, state treasurer, ~~justice~~ or state
23 superintendent, ~~\$215,625~~ \$250,000.

24 **SECTION 83.** 11.31 (1) (de) of the statutes is created to read:

25 **11.31 (1) (de)** Candidates for justice, \$300,000.