

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on  
Campaigns &  
Elections  
(AC-CE)

File Naming Example:

Record of Comm. Proceedings ... RCP

- > 05hr\_AC-Ed\_RCP\_pt01a
- > 05hr\_AC-Ed\_RCP\_pt01b
- > 05hr\_AC-Ed\_RCP\_pt02

*Published Documents*

> Committee Hearings ... CH (Public Hearing Announcements)

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> Committee Reports ... CR

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> Executive Sessions ... ES

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> Record of Comm. Proceedings ... RCP

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*Information Collected For Or  
Against Proposal*

> Appointments ... Appt

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> Clearinghouse Rules ... CRule

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> Hearing Records ... HR (bills and resolutions)

> **03hr\_sb0012\_AC-CE\_pt01**

> Miscellaneous ... Misc

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# *Wisconsin Democracy Campaign*

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210 NORTH BASSETT STREET • SUITE 215 • MADISON, WI 53703 • 608-255-4260

April 1, 2003

TO: Members of Assembly Campaigns and Elections Committee

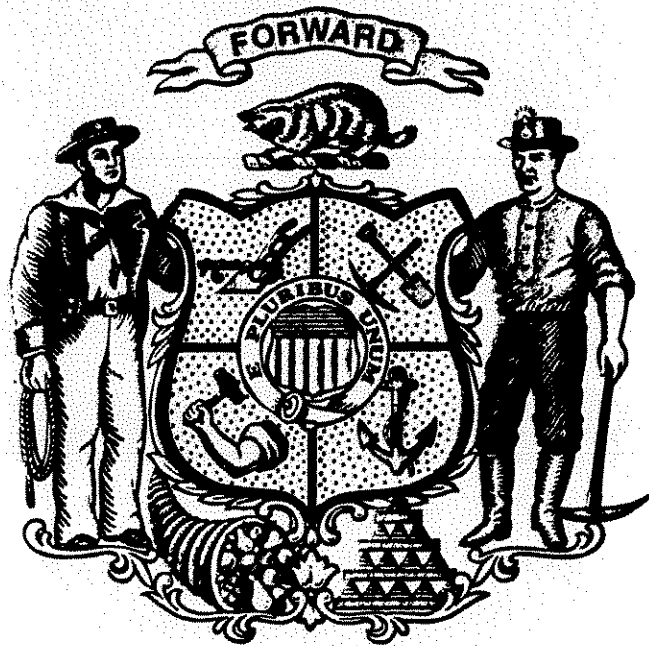
FROM: Mike McCabe, Executive Director

SUBJECT: Wisconsin Democracy Campaign endorsement of Impartial Justice bill

The Wisconsin Democracy Campaign has formally endorsed the soon-to-be-introduced Impartial Justice bill dealing with state Supreme Court races, and we urge you to take prompt action to approve the legislation.

Our endorsement of this judicial reform bill represents a change of heart of sorts for our organization. In the past, the WDC's board of directors voiced general support for the concept of judicial reform, but did not formally endorse the specific legislation. We did not actively advocate for legislative action on past versions of the Impartial Justice bill, instead focusing solely on comprehensive reform legislation that applies to all state offices.

We remain committed to comprehensive reform and have formally endorsed Senate Bill 12 – the Ellis-Erpenbach campaign reform bill. But recent events have highlighted growing concerns unique to the Supreme Court and raise new questions about the independence of the judiciary. These current circumstances prompted us to rethink our position on the Impartial Justice bill, and we now believe legislative action on judicial reform is not only warranted but is indeed essential.



## Richard, Rob

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**From:** Common Cause In Wisconsin/Jay Heck [ccwisjwh@itis.com]  
**Sent:** Monday, December 15, 2003 10:50 AM  
**To:** Undisclosed-Recipient;  
**Subject:** Reform Legislators and CC/WI United on Doyle's Issue Ad Initiative

Ellis, Erpenbach, Freese and CC/WI United Against Timing  
of Governor's Sham Issue Ad Legislation Proposal

As reported on Friday, CC/WI criticized the timing of Governor Jim Doyle's proposal to strip the sham issue ad provision from the bipartisan, comprehensive campaign finance reform legislation, Senate Bill 12, sponsored by Sen. Mike Ellis (R-Neenah) and Jon Erpenbach (D-Middleton) which has been primarily advocated for and strongly supported by CC/WI.

Doyle had proposed to have campaign ads masquerading as issue advocacy within 30 days of an election disclosed and regulated, based on the U.S. Supreme Court's historic decision last week upholding the major provisions of the McCain-Feingold law which requires ads depicting a candidate within 60 days of the general election and 30 days of a primary election be considered campaign ads subject to regulation and disclosure.

CC/WI believes that pulling the issue ad provision (which we support) out of the comprehensive package of reforms contained in Senate Bill 12 is premature and would take the wind out of the sails of broader reform which we believe can be secured and enacted in the wake of the McCain-Feingold decision.

Senator Ellis is in complete agreement with our position on this matter as is the other primary sponsor of Senate Bill 12, Senator Erpenbach who stated his agreement with Ellis and CC/WI on Friday evening on Wisconsin Public Television's "Here and Now" public affairs program. Another key pro-reform legislator, Rep. Stephen Freese (R-Dodgeville), agrees with the CC/WI, Ellis, Erpenbach position on Doyle's initiative and his opinion is very important as Chair of the Assembly Committee on Campaigns and Elections which any campaign finance reform measure must clear in order to be considered by the full state Assembly.

Ellis, Erpenbach and Freese all voted for a sham issue ad bill devised by CC/WI--Senate Bill 2, which passed overwhelmingly in the State Senate in January, 2001 and failed by a single vote to pass in the Assembly in March of 2001. That legislation had to stand alone as it was initiated in the Legislature's Joint Committee for the Review of Administrative Rules (JCRAR) in May of 2000 to respond to the Wisconsin Supreme Court's 1999 invitation to write a clear definition of what constitutes "express" (or campaign) advocacy as opposed to genuine issue advocacy--a definition which Wisconsin law still lacks. Under the rules of the Legislature, a JCRAR measure must be considered separately by the Legislature. So, the Governor's stand-alone initiative on issue ads is a very different kind of proposal.

Furthermore Doyle failed to consult and secure any agreement with Senator Ellis, Senator Erpenbach, Representative Freese or CC/WI before making the decision to go ahead with his issue ad proposal on Friday. Such unilateral action is not helpful in the quest for agreement on campaign finance reform.

You can read about the Governor's issue ad proposal and Ellis, Freese and CC/WI's criticism of the initiative in the Milwaukee Journal Sentinel and Appleton Post-Crescent articles below:

"Doyle Urges Limits on Campaign Issue Ads"  
Milwaukee Journal Sentinel - December 13, 2003  
<http://www.jsonline.com/news/state/dec03/192288.asp>

"Doyle Seeks to Ban Phony Campaign Ads"

Appleton Post-Crescent - December 13, 2003

[http://www.wisinfo.com/postcrescent/news/archive/local\\_13670122.shtml](http://www.wisinfo.com/postcrescent/news/archive/local_13670122.shtml)

On Sunday, The Capital Times of Madison joined the Milwaukee Journal Sentinel, Wisconsin State Journal, Appleton Post-Crescent, Green Bay Press-Gazette, Oshkosh Northwestern, Sheboygan Press and other Wisconsin newspapers calling on the Legislature to consider Senate Bill 12 as soon as possible. You can read The Capital Times editorial (which cites CC/WI) here:

Editorial: "Panzer, Gard Should Allow Reform"

The Capital Times - December 14, 3003

<http://www.madison.com/captimes/opinion/editorial/63312.php>

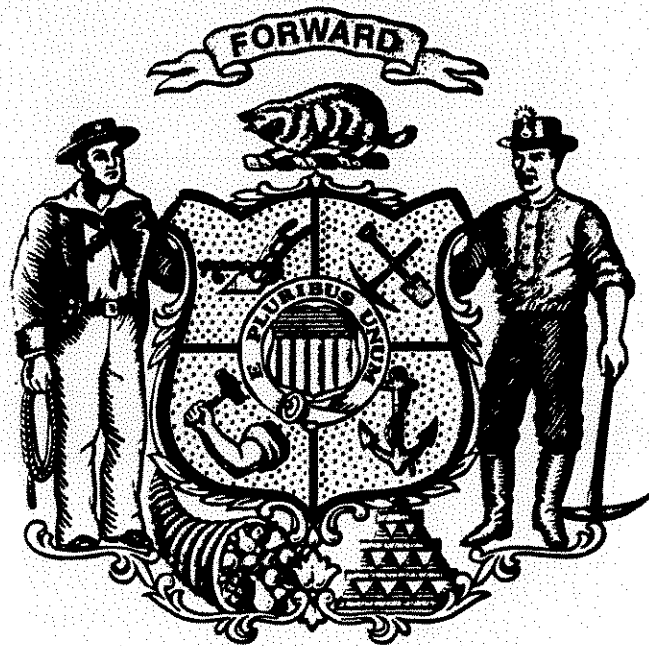
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Want Good Government? Join Common Cause In Wisconsin!

Call 608/256-2686, reply to this message, or visit the CC/WI website:

[www.commoncause.org/states/wisconsin](http://www.commoncause.org/states/wisconsin)

Jay Heck, executive director





## WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: SENATOR JON ERPENBACH  
FROM: Ronald Sklansky, Senior Staff Attorney  
RE: Senate Bill 12  
DATE: February 26, 2004

This memorandum summarizes and compares specified provisions of 2003 Senate Bill 12 and a proposed substitute amendment (LRBs0270/4).

### **A. ISSUE ADS**

Senate Bill 12 imposes registration and financial reporting requirements upon an individual or a group that makes a communication 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 is certified to appear on the ballot at the election, a reference to an office to be filled at that election, or a reference to a political party. A registrant making this type of communication must include in a registration statement a report containing the information relating to any incurred obligation or disbursement made for the purpose of making the communication prior to registration. The registrant also must file a registration statement under s. 11.06, Stats., which includes an itemized statement of each contributor making a contribution in excess of \$20 in one year. Because issue ad activity is defined as conduct engaged in for a political purpose, a corporation may not make a contribution or disbursement in connection with this activity. [See SECTIONS 11, 15, and 24 of Senate Bill 12 and s. 11.38, Stats.]

The substitute amendment provides that if a person makes a communication financed with a noncandidate election expenditure exceeding \$500 in the aggregate with respect to an election, that person must file a report with the Elections Board. The person would not, by this activity alone, be required to meet general registration and reporting requirements under ch. 11, Stats. A "noncandidate election expenditure" is defined to mean an expenditure for the purpose of making a communication during the period beginning on the 30th day preceding a primary election and the date of the election at which the office is filled or, if no primary is held, during the period beginning on the 60th day preceding an election at which an office is filled and the date of that election; that contains a reference to a clearly identified candidate for an office specified to be filled at that election; and that is made independently of

the candidate. The report must include information regarding the person making the expenditure, the name of each candidate identified in each communication, a statement as to whether the communication is intended to support or oppose any candidate, and the total amount or value of the expenditure and cumulative total expenditures made by the person with respect to that election. This activity generally is not an act for "political purposes" if the communication does not expressly advocate the election, defeat, recall, or retention of a clearly identified candidate or a particular result at a referendum. This treatment of issue ads appears to have at least the following consequences:

1. A corporation would be allowed to make noncandidate election expenditures.
2. The Elections Board would be unable, by interpreting the term "political purposes" through the rule-making process, to impose upon a person or committee making a noncandidate election expenditure the requirement to register and report the source of contributions for the noncandidate election expenditure.

[See SECTIONS 9, 15, 17, and 48 of the substitute amendment and ss. 11.05, 11.06 and 11.38, Stats.]

### **B. CONDUITS**

Senate Bill 12 limits conduit transfers to amounts not to exceed the limits on committee contributions to candidates. [See SECTION 90 of Senate Bill 12.]

The substitute amendment removes the conduit restriction contained in Senate Bill 12. [See SECTION 85 of the substitute amendment.]

### **C. SOLICITATION OF LOBBYISTS**

Senate Bill 12 provides that no elective state official, and no personal campaign committee of an elective state official, may solicit a lobbyist or a principal to arrange for another person to make a campaign contribution to that official or campaign committee or to another elective state official or the personal campaign committee of that official. [See SECTION 167 of Senate Bill 12.]

The substitute amendment removes the solicitation provision contained in Senate Bill 12.

### **D. TRANSFER OF FUNDS**

Senate Bill 12 repeals s. 11.05 (7), Stats. This statute in part provides that an individual who has received funds that originally were not intended for political purposes in connection with an election for state office may nevertheless use these funds for the purpose of making contributions or disbursements in connection with an election for state office, if, as soon as this intent changes, the individual becomes a registrant and fully complies with financial reporting requirements, including the disclosing of the source of contributions. The repeal of this statute in Senate Bill 12 would leave a person with the general requirement in s. 11.05 (6), Stats., providing that no person subject to a registration requirement may make any contribution or disbursement from property or funds received prior to the date of registration. [See SECTIONS 27 to 29 of Senate Bill 12.]



The substitute amendment eliminates the repeal of s. 11.05 (7), Stats., thus allowing previously accumulated funds to be used as contributions or disbursements in connection with an election for state office after a person has become a registrant under ch. 11, Stats.

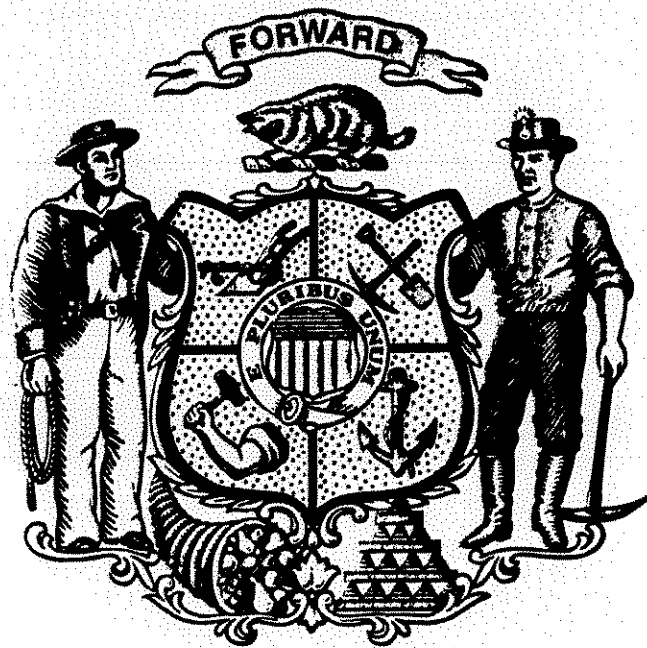
**E. FUNDING**

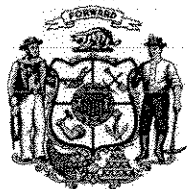
Senate Bill 12 creates a sum sufficient appropriation equal to the amounts required to make full payments of grants which candidates qualify to receive from the Wisconsin Election Campaign Fund. [See SECTION 179 of Senate Bill 12.]

The substitute amendment removes the sum sufficient appropriation contained in Senate Bill 12 and creates a provision by which a taxpayer may receive a tax credit, up to the amount of the person's state tax liability, for all amounts contributed to the Public Integrity Endowment. The endowment is designed to supplement the assets of the Wisconsin Election Campaign Fund. [See SECTIONS 166 and 180 of the substitute amendment.]

If I can be of any further assistance in this matter, please feel free to contact me.

RS:ksm:wu





STATE OF WISCONSIN  
LIEUTENANT GOVERNOR  
BARBARA LAWTON

March 4, 2004

All Wisconsin State Senators and all Wisconsin State Representatives  
State Capitol  
Madison, Wisconsin 53702

Dear Colleagues,

Those of you who knew me before I took office, know that I have been a long-time student and proponent of campaign finance reform, and more specifically of public financing of campaigns. As spokesperson earlier for "Citizens for a Clean Elections Option" —the panel led by former Chief Justice Nathan Heffernan—and as a statewide candidate and now officeholder, I have had the privilege of listening to Wisconsin voters on this issue for seven years.

I am deeply disturbed by the recently announced substitute amendment to Senate Bill 12, which is less a "compromise" and more honestly the demise, one more time, of campaign finance reform in Wisconsin. This product of backroom negotiations, held with special interest representatives outside the public's view, serves little more purpose than to crush the shards of remaining public trust in elected state officials.

When the State Governing Board of Common Cause in Wisconsin (CC/WI) voted unanimously to support what they call "the compromise version," it became clear that CC/WI had lost necessary critical distance from the subjects of its analysis. CC/WI placed itself at the center of negotiations with special interests on this amendment, moving far from view of an ideal, exhibiting no memory of what is essential to the definition of reform. They reiterated what they have protested for years: we should not "make perfect the enemy of the good."

From a reform point of view, there was indeed nothing perfect in SB 12. But the substitute amendment is not benign, as CC/WI would have you believe. The politically sophisticated voters of Wisconsin understand that something is awry when, in 2002, those who spent nearly \$4,000,000 to sway public opinion in the elections that year didn't have to identify themselves to us. Even the most cynical among us asks, please, that those who would do bidding on the legislation being debated at least wear nametags.

The substitute amendment renders the Wisconsin State Elections Board powerless to require registration and reporting of the source of contributions to these groups funding so-called issue ads, laying out a red carpet to corporate contributors turned away by federal election law. For anyone to trumpet the neutering of a state agency charged with maintaining the integrity of our elections as "leaving it a better place than we are now," is to engage in conscious delusion of Wisconsin citizens.

Furthermore, the substitute amendment allows candidates to engage lobbyists as campaign fundraisers and does nothing to stem free-flowing conduits, erasing the attempt to bring them in line with committee contributions to candidates.

The good people of Wisconsin deserve better: no other issue provides a more propitious opportunity for all of us to check our partisan histories at the door and engage in respectful, honest debate as we work to construct a plan for campaign finance reform that puts our voting constituents first.

I respectfully ask you to reject this counterfeit incarnation of campaign finance reform, and to agree to begin anew with the sincere resolve to restore our status as a leader of all states in clean government. I look forward to working with you.

Truly yours,

Barbara Lawton  
Lieutenant Governor