WISCONSIN STATE LEGISLATURE COMMITTEE HEARING RECORDS

2003-04
(session year)

Senate
(Assembly, Senate or Joint)

Committee on Education, Ethics and Elections (SC-EEE)

(Form Updated: 11/20/2008)

COMMITTEE NOTICES ...

➢ *Committee Reports* ... *CR*
**

➢ *Executive Sessions* ... *ES*
**

➢ *Public Hearings* ... *PH*
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➢ *Record of Comm. Proceedings* ... *RCP*
**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL ...

➢ *Appointments* ... *Appt*
**

Name:

➢ *Clearinghouse Rules* ... *CRule*
**

➢ *Hearing Records* ... *HR* *(bills and resolutions)*
****03hr_sb0012_SC-EEE_pt01**

➢ *Miscellaneous* ... *Misc*
**

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February 11, 2003

TO: Senate Committee on Education, Ethics and Election

FROM: Joe Murray
Director of Political Affairs

RE: Senate Bill 12

The Wisconsin REALTORS Association (WRA) is opposed to Senate Bill 12 in its current form. While the WRA could support several of the reform provisions proposed in SB 12, we believe the bill contains four constitutionally questionable provisions that would not survive a serious constitutional challenge.

As proposed, the Ellis-Erpenbach campaign finance reform bill includes genuine reform provisions that meet the constitutional test and provide significant progress in the debate over passage of meaningful campaign finance reform, including:

- Partial public funding (45%) of campaigns as an incentive to limit overall campaign spending;
- Raising the voluntary check-off from $1 to $5 to provide funding for partial state grants;
- Those applying for public grants must raise half of their qualifying contributions from individuals within the district;
- The prohibition on campaign fundraising for incumbents during the legislative session prior to passage of the two-year state budget;
- Allowing taxpayers to designate their check off for a "general" account or eligible political party of their choice;
- Requiring state Senate and Assembly candidates to raise 10% of the authorized disbursement level to qualify for a taxpayer financed grant.

These provisions (and others) would provide the incentive for candidates to voluntarily accept spending limits in exchange for a publicly funded grant. We also believe these proposals would encourage more challengers to run for public office with the increased spending limits for state Senate and Assembly.

Constitutional Problems

In its current form, however, we believe SB12 contains four constitutionally questionable provisions, including:

- Issue Advocacy
- Public Financing – matching grants
- PAC-to-PAC Transfers
- Additional Reporting Requirements

Issue Advocacy

Senate Bill 12 requires any political communication in the 60 days preceding an election (primary and general) to be regulated – including registration and financial reporting requirements for the individuals and organizations making the communication – if the communication contains a "reference to" a candidate at that election, an office to be filled at that election, or a political party.

SB12 would regulate political speech that does not in express terms advocate the election or defeat of a clearly defined candidate (issue advocacy). This bill prohibits any corporation from engaging in certain issue advocacy communications during the 60-day period prior to an election. By modifying the definition of "political purpose" to include issue advocacy communications that contain any "reference to" a candidate, an office, or a political party the legislation makes any expenditure on issue advocacy a "disbursement". Under Wisconsin law, corporations are flatly prohibited from making "contributions" and "disbursements" (11.38,stats).

The proposed legislation is a flat prohibition on political speech for many organizations since it applies to political communication that does not expressly advocate the election or defeat of a clearly defined candidate. The U.S. Supreme Court has concluded that certain forms of political communication must remain unregulated and, as a result, state and federal courts repeatedly and consistently have rejected any attempted regulation in this area.

We believe this provision is unconstitutional. The state may not regulate corporate issue advocacy under the campaign finance laws.

Public Financing-Matching Grants

Under SB 12, independent political activity – including independent expenditures and issue advocacy communications – will trigger certain increased public financing benefits for candidates participating in the proposed public financing program.

As noted, issue advocacy, by definition, does not expressly discuss or take a position on the election of any candidate. SB 12 requires registration and reporting for groups that engage in issue advocacy. We believe this is unconstitutional.

Campaign finance reform advocates argue that a Maine court decision upheld the concept of matching grants to candidates who are victims of independent expenditures and/or issue ads. The Maine decision upheld the matching grant provision for independent expenditures; no court has decided whether such grants can be tied to issue advocacy. SB 12 provides matching funds for both.

Moreover, the matching grant provision upheld in the Maine decision was capped at a certain level of overall funding as it relates to independent expenditures. SB 12 not only includes issue advocacy, the matching grant provision contained in the bill is not capped.

The lack of any overall cap on the amount of supplemental matching grants (notwithstanding the constitutional problem by including issue advocacy) a participating candidate could receive may impermissibly burden a nonparticipating candidate's First Amendment rights by making it virtually impossible for a candidate not to participate in the public financing program as proposed in SB 12. This raises a significant constitutional question: Are these two provisions impermissibly coercive? We believe they are.

PAC-to-PAC Transfers

Under SB 12, PAC-to-PAC transfers are prohibited except among affiliated labor organization PACs. The WRA believes this provision could be found unconstitutional in two ways.

First, the PAC-to-PAC prohibition may constitute a violation of the First Amendment guarantee of right to association. Second, because the bill prohibits PAC-to-PAC transfers for all organizations and committees except affiliated labor organizations, we believe this could violate the Equal Protection clause in the U.S. Constitution.

In addition to the constitutional problems with this provision, the WRA opposes this provision because it is simply unfair. Why have labor affiliated PACs been singled out for special treatment and business and trade association PACs (including the WRA) prohibited from affiliated transfers? Even the Conference Committee report allowed affiliated business and trade association PACs to transfer within their organization.

Additional Reporting Requirements

Under SB 12, reporting requirements for PACs and individuals engaged in independent political activities are expanded. The bill requires PACs and individuals involved in independent expenditures and/or issue advocacy within 60 days of an election to file additional reports within 24 hours after a reportable transaction occurs.

As we noted before, issue advocacy does not expressly discuss or take a position on the election of any candidate. Because the additional reporting requirements under this section, once again, include issue advocacy, we believe this section is constitutionally impermissible.

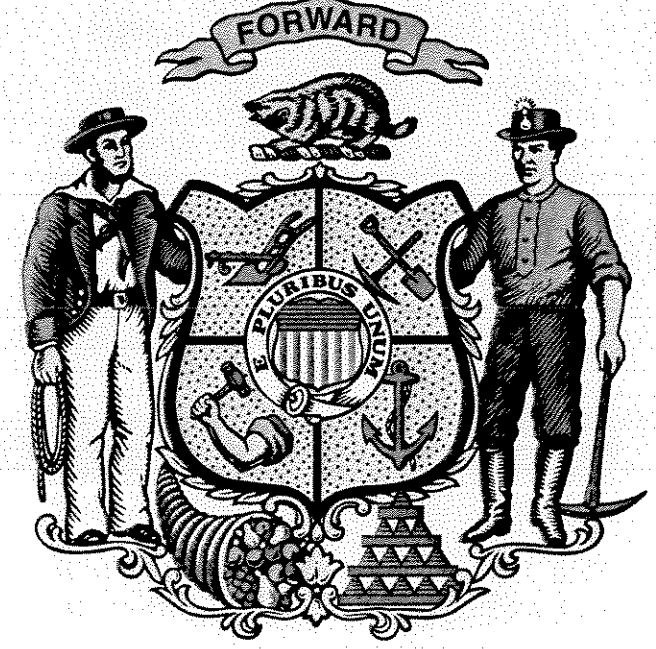
Further, because this section treats independent groups and individuals differently from incumbents for the purpose of additional reporting, we believe this may well raise equal protection problems.

Conclusion

The WRA supports campaign finance reform that reflects a comprehensive, equitable and practical approach to changing the way elections are funded and regulated in Wisconsin. Any proposal that seeks to reform the current system should include the following elements:

- Improve the quality and speed of contribution and expenditure disclosure in a constitutionally acceptable manner;
- Strictly limit PAC-to-PAC transfers for all groups, while allowing transfers among PACs affiliated with the same organization;
- Eliminate legislative campaign committees;
- Increase the amount of public financing grants for participating candidates;
- Give publicly-financed candidates an ability to respond to non-candidate spending;
- Increase certain contribution limits;
- Maintain the existing rules on conduit contributions.

Finally, we urge the committee to work with both sides of the political isle to fashion a comprehensive proposal that strikes a balance between Democrats, Republicans, and third party candidates, who often operate very differently than the major political parties. The legislature must avoid advantaging any political player or party over another.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CWAG

Coalition of Wisconsin Aging Groups

Memo

To: Members – Senate Committee on Education, Ethics and Elections

From: Tom Frazier

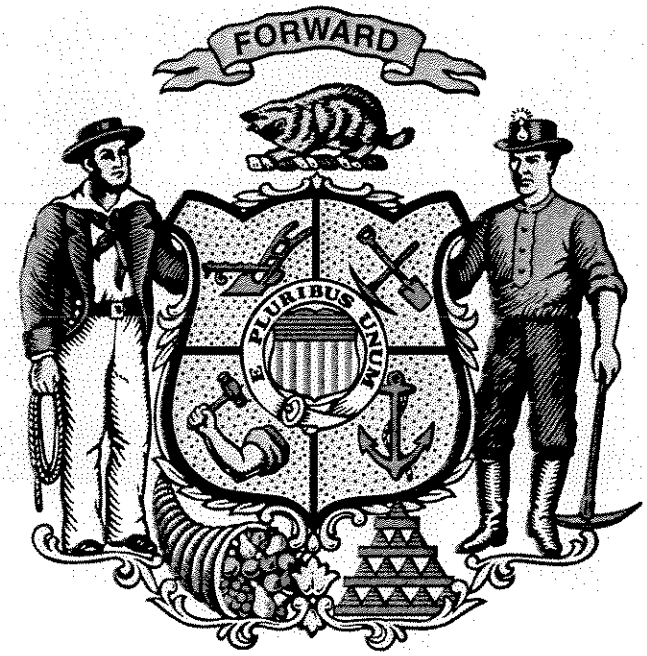
Date: February 12, 2003

Re: Campaign Finance Reform

I am writing to urge you to act quickly to pass campaign finance reform and, specifically SB12, proposed, on a bipartisan basis, by Senator Mike Ellis and Senator Jon Erpenbach.

While the budget deficit is rightfully the major focus, it should not be an excuse to delay separate campaign finance reform legislation. Many people believe that the issues are related. I believe that swift approval of campaign finance reform would be a major step in restoring good government and the faith of Wisconsin citizens in their government.

Please do not delay action on this very important issue.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HERMAN HOLTZMAN
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SENATE COMMITTEE ON EDUCATION, ETHICS AND ELECTIONS
HEARING ON SB 12
February 12, 2003

I am Herman Holtzman, and I represent the 76.2% of likely Wisconsin voters (including 71% of Wisconsin Republican voters) who showed support for full public funding (CLEAN MONEY) of state elections in a poll conducted by Chamberlain Research in February 1999.

Our recent experience with the legislative scandals and passing an unconstitutional campaign finance reform bill should be a mandate to pass real campaign finance reform. I believe that if this poll was conducted today; the percentage for full public funding would be much higher.

I support many of the positive provisions of SB 12 to create meaningful reform. Unfortunately, SB 12 falls short in a few areas.

The Milwaukee Journal Sentinel on November 3, 2002 quoted Sen. Ellis as saying, "let's eliminate the influence of special interests by enacting real, honest and effective campaign finance reform". But SB 12 includes partial public funding of only 45% of the spending limit. How can legislators honestly eliminate the influence of money when they have to rely on private campaign contributions for 55% of the spending limit? Even 55% corruption is not acceptable. "Clean Money" elections can only be obtained with full public funding.

You, Sen. Ellis, were quoted in Isthmus (10/29/99) as follows: "It's a goddamn money chase. Part of my job description as Republican leader of the Senate is to shake down everybody for money. The same is true of for all of the state Legislature's Republican and Democratic leaders. I've got a tin cup, Chuck Chvala's got a tin cup, Scott Jensen's got a tin cup, Shirley Krug's got a tin cup. And every time you go in and get some of their money (the special interests), they strip away a little more of your integrity, they strip away a little more of your independence. You give them a piece of what you are, and on your freedom to represent your constituents, to base your determinations on intellectual arguments..."

More recently (November 2002) Sen. Ellis said, "We cannot wait until the budget is passed. This state cannot afford to put another budget on the auction block. One of the reasons we have these huge deficits is that neither party felt they were able to step on the toes of those who funded their campaigns."

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In view of the above statements, I request the Committee approve an amendment to increase public funding to 100%? That is the only way to get rid of the tin cup.

Please refer to the attached "THE CASE FOR FULL PUBLIC FINANCING"

- Reasons for full funding of elections certainly outweigh the reasons against.
- Do you have other reasons against full public funding?

Please refer to the attached "WISCONSIN STATE GOVERNMENT ORGANIZATION" Chart. Every function of government on this chart is paid 100% by taxpayers. Only the nine Constitutional Officers must run for office and be elected.

- TAXPAYERS pay 100% for the election process, not 45%.
- TAXPAYERS pay 100% for Constitutional Officers' salaries and benefits (**including while they are campaigning**), not 45%.
- TAXPAYERS pay 100% for expenses and some attorney fees, not 45%.
- TAXPAYERS pay only 45% of candidates' campaign expenses.
- **CANDIDATES pay for 55% of their campaigns thru contributions**

Election campaigns are one of the most important functions of government and therefore should be financed 100% by taxpayers as are other important functions of government. Again, I request that an amendment calling for 100% financing is included in SB 12.

My second area of disagreement is the recommended spending limits that substantially increases the existing spending limits by almost doubling the limit for Governor and almost tripling the limit for Senate and Assembly races. With full public funding, the spending limit of $100,000 for a Senate race suggested by SB 12 could be reduced to $72,000 or less. By eliminating the cost of fund raising, which could be between 25% and 50% of the spending limit, the effective spending limit with full public funding could range from $96,000 to $144,000. See attached comparison.

My third area of disagreement with SB 12 is the lack of any financial support for candidates in primary races. In many districts the winner of a primary determines the winner of the general election. In the 2002 election only 8.7% of the incumbent legislators faced primary opposition. Full public funding will provide a portion of the spending limit for primaries.

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A two-term legislator, Rep. Meg Burton Cahill from Arizona, who came to Madison to share her experiences with Arizona's highly-acclaimed CLEAN ELECTION" system said, "Ordinary citizens like me without much money can now run for office by showing sufficient public support to qualify for Clean Elections funding, and then we can run competitive campaigns." She also said," competitive races makes her a better legislator."

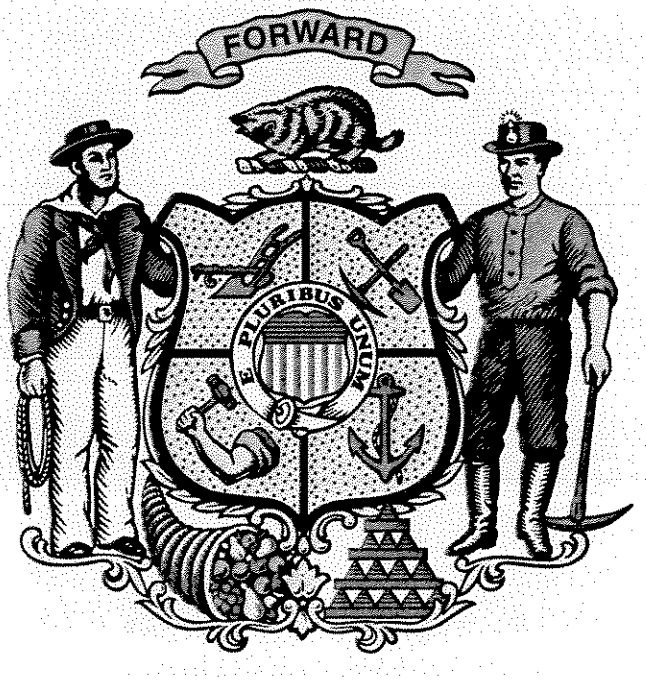
Finally, the $5 check-off, which is supposed to finance public funding, should be eliminated since it may not raise enough money. The cost of full public funding should be included in the budget as part of the cost of government as are other important government functions.

"CLEAN ELECTIONS" reform is not just a law, it's a revitalization of democracy," stated Chairman Marc Spitzer of the Arizona Corporation Commission, who ran clean and won.

One last quote that I'm sure you have heard before:

Robert M. La Follette said, "I believe that half a loaf is fatal whenever it is accepted at the sacrifice of the basic principal to be attained. Half a loaf, as a rule, dulls the appetite and destroys the keeness of interest in attaining the full loaf. A halfway measure never fairly tests the principal and may utterly discredit it. It is certain to weaken, disappoint, and dissipate public interest."

This Committee should not squander this opportunity to eliminate the tin cup Sen. Ellis once referred to raise money. The time is ripe. The majority of the people want it. Legislators should be embarrassed if they do not support "CLEAN MONEY" election reform.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Testimony of the
Wisconsin Democracy Campaign

to the
Senate Education, Ethics and Elections Committee

February 12, 2003

Thank you for this opportunity to offer testimony on Senate Bill 12.

If enacted, this legislation would alter the political landscape in Wisconsin and would put an end to corrupt practices that have taken root in our state and have brought scandal to the Capitol.

Let me tell you what the Wisconsin Democracy Campaign likes about SB 12...and what we think could be improved upon.

First, the bill's strengths. Senate Bill 12:

- Is bipartisan.
- Would bring the political arms race to a screeching halt, putting campaign spending limits in place that would sharply reduce campaign spending in the most competitive races.
- Restores meaning to campaign finance disclosure in Wisconsin by closing the loophole for phony "issue ads."
- Levels the playing field in election campaigns by providing substantial public financing to candidates, which will bring back into the democratic process people who have been priced out of the political marketplace. And the bill provides a guaranteed funding source for the grants, ensuring that the promise of public financing will not be an empty one.
- Prevents campaigns from being hijacked by wealthy special interests by providing supplemental grants to publicly financed candidates to match campaigns run against them by special interest groups or opponents who refuse to limit their spending.
- Takes the state budget off the auction block by banning campaign fundraising during the budget process.
- Clamps down on the growing practice of laundering campaign money through out-of-state committees. If SB 12 is enacted, corporate contributions from Wisconsin utilities will no longer be made to the Kansas Democratic Party and then rerouted back to an in-state campaign front group like Independent Citizens for Democracy.
- Loosens legislative leaders' control over other members of the legislature by getting rid of the leadership-controlled legislative campaign committees as we know them. These committees are one of the powerful tools legislative leaders have used to transform our legislature from one of the nation's most decentralized to one of the centrally controlled.

And notably…

- The bill does not contain the blatantly unconstitutional poison pill that was inserted in last session's campaign reform law. And unlike last session's Act 109, SB 12 is not written in a way that causes it to be nullified in its entirety if any one part of the law is found to be to be unconstitutional.

Senate Bill 12 does many other worthy things – placing limits for the first time on special interest conduits and banning PAC-to-PAC transfers, for example – but my intent here is to restrict our comments to the bill's major features.

We do, however, want to call your attention to a couple areas of weakness in the bill.

Contribution Limits

SB 12 makes no change in the individual contribution limits in current law. We believe these limits – $10,000 to a statewide candidate, $1,000 for the Senate and $500 for the Assembly – are much too high. And we believe leaving these high limits in place is a missed opportunity to wean candidates from such heavy reliance on a handful of big donors who are now bankrolling the vast majority of the cost of campaigns.

In the 2002 governor's race, three-quarters of the money raised by the two major party candidates came from just 1,193 people. These donors represent three one-hundredths of 1% of the state's taxpayers.

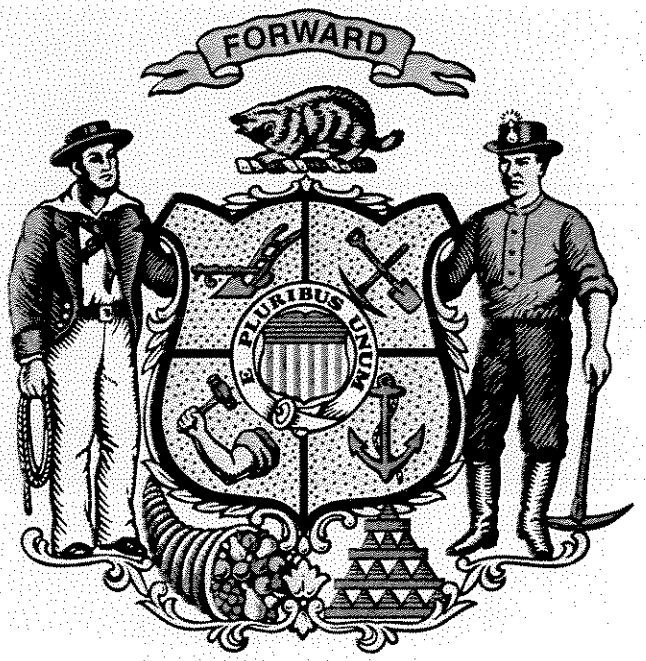
We recommend cutting the limit on contributions to statewide candidates from $10,000 to $1,000 and cutting the current donation limits for legislative races in half. We also believe the aggregate annual cap limiting what an individual donor may contribute to all candidates in a calendar year should be reduced from $10,000 to $5,000.

Lower contribution limits are clearly constitutional. A little over three years ago, the U.S. Supreme Court upheld Missouri's $1,000 cap on contributions to candidates in statewide elections. More recently, the 2nd U.S. Circuit Court of Appeals upheld even lower limits in Vermont – no more than $400 from an individual contributor to candidates for governor, for example.

6% Threshold for Qualifying for Public Financing

Currently, candidates have to get 6% of the primary vote to qualify for public financing. SB 12 makes no change to this requirement. We believe the vote threshold should be reduced or eliminated altogether. We've suggested a reduction from 6% to 2% in past proposals we've made, but this issue has been given very little attention in past legislative sessions. Ed Thompson's campaign highlighted how requiring 6% of the vote in primary elections that don't allow cross-party voting serves as an unfair barrier to independent or third-party candidates. The reality is that it is highly unlikely Brett Favre could reach this primary threshold running as an independent or third-party candidate in a system that doesn't permit cross-party voting. The 6% rule not only prevents legitimate candidates from getting public financing, but it also was used by the Wisconsin Broadcasters Association to exclude third-party and independent candidates from the gubernatorial debate the association sponsored. This arbitrary barrier should be removed or at least lowered.

Thank you for this opportunity to offer our feedback on Senate Bill 12.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WISCONSIN COUNCIL ON DEVELOPMENTAL DISABILITIES

WCDD

Promoting Independence and Equality

Date: February 12, 2003

To: Sen. Mike Ellis, Chairperson, and Members
Committee on Education, Ethics and Elections Committee

From: Gerry Born, Vice-Chairperson

Re: Support for SB 12 – Campaign Finance Reform

The Wisconsin Council on Developmental Disabilities strongly supports SB 12 because the bill comprehensively reforms how campaigns are financed. The Council is concerned that campaign contributions may influence legislators at key times in the legislative process. Citizens with developmental disabilities, particularly people on Supplemental Security Income or employed in minimum wage positions, typically have few resources to contribute to campaigns.

Campaign finance reforms "level the playing field" for every citizen, including people with developmental disabilities and their families. The Council urges you to pass SB 12 in the interest of fairness and equality for all citizens.

Thank you for your consideration of this testimony. Please contact Jennifer Ondrejka, Executive Director, at (608) 266-1166 or ondrejm@dhfs.state.wi.us for more information.

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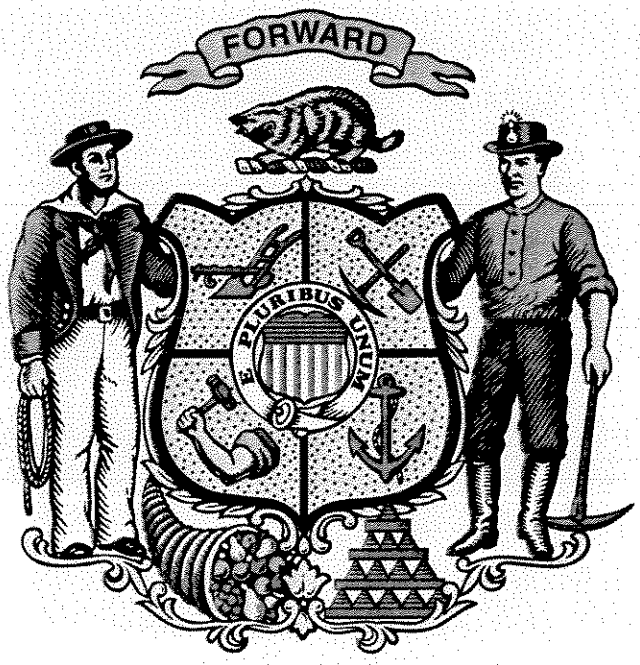
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WISCONSIN EDUCATION ASSOCIATION COUNCIL

Affiliated with the National Education Association

Every kid deserves a Great School!

Testimony to the Senate Committee on Education, Ethics and Elections in Opposition to Senate Bill 12, the Ellis-Erpenbach Proposal

John Stocks
Assistant Executive Director for Public Affairs
Wisconsin Education Association Council

February 12, 2003

The Wisconsin Education Association Council (WEAC) supports campaign finance reforms that are comprehensive, equitable and practical. WEAC further believes the reforms must respect the constitutional rights of Wisconsin citizens.

In recent years, WEAC has supported many campaign finance reform proposals that are consistent with these important principles. They include the recommendations of Governor Thompson's Blue Ribbon Commisssion on Campaign Finance Reform, also known as the Kettl Commission proposal; 2001 Assembly Bill 843, a comprehensive plan that passed the State Assembly on an 87-12 vote; and the Impartial Justice bill, which would provide full public financing for Wisconsin Supreme Court candidates.

Continuing our commitment to these principles, WEAC opposes Senate Bill 12 because it fails to meet equitable and practical standards and is constitutionally unsound.

The 24-Hour Reporting Requirements Are Unworkable and Are Another Version of Prior Reporting

SB 12 would require all special interest groups to report within 24 hours, **at all times**, any contribution, disbursement or "obligation" relating to an independent disbursement. This approach is not only procedurally unworkable, vague and overly burdensome, but is unconstitutional because it requires pre-reporting of political activity.

The current requirement for 24-hour reporting of disbursements in the final weeks of a campaign is understandable; it allows for disclosure by all parties engaging in political speech so that the electorate can make informed decisions. Requiring year-round 24-hour reporting for every single contribution received or "obligation" incurred by a PAC cannot be so justified. In order to maintain the ability to use its funds for potential independent expenditures, a PAC would have to report every contribution and identify the candidate who theoretically would be supported or opposed by the potential expenditure at some point. Not only is this unduly burdensome, it is likely impossible, as PAC contributions are rarely if ever "earmarked" for a specific candidate or expenditure.

Requiring reporting of an "obligation" raises additional constitutional problems. Last year's campaign finance reform legislation was struck down because it required pre-reporting by groups engaged in independent expenditures or issue ads. *Wisconsin Realtors Ass'n v. Ponto*, (W.D. Wis. Case No. 02-C-424). SB 12 attempts to indirectly achieve the same goal. PACs and other groups or

individuals engaging in independent expenditures generally "incur obligations" relating to the expenditure before any communication is made to the public – including the production costs of literature or commercials, polling costs and the purchase of air time. While the bill does not define the term "obligation" (another constitutional concern when regulating free speech), it arguably would require a PAC to pre-report not only what it intended to say, but when and where it intends to make the communication.

Finally, even if "obligation" is defined as essentially the equivalent as a "disbursement," which under current law includes a "contract, promise, or agreement" to pay money, requiring reporting at all times from the date of disbursement rather than the date a communication is actually made is problematic. In addition to the constitutional problems of pre-reporting, this procedure could result in a "funding bump" to a candidate based upon a reported disbursement for a communication that is never executed. This is impractical due to the realities of purchasing broadcast media. Broadcast media outlets require pre-payment for airtime. Often the "disbursement" will be made long before any communication is aired. In many cases the airtime will not be used in the race for which it was originally purchased.

In sum, WEAC believes the law's requirement that PACs must report on a 24-hour basis all contributions, disbursements and obligations related to a potential independent expenditure is impractical and unconstitutional

Defining All Mass Communications As Political Advocacy Is Unconstitutional

Senate Bill 12 attempts to define as "political" all mass media communications within 60 days of an election that include a reference to a candidate, the office to be filled at the election, or a political party. By doing this, it subjects issue ads to the same regulations as independent expenditures and prohibits corporations from engaging in issue ads.

Such an approach has previously been held unconstitutional in *Vermont Right to Life Committee, Inc. v. Sorrell*, 221 F.3d 376, 386 (2d Cir. 2000), *N.C. Right to Life, Inc. v. Bartlett*, 168 F.3d 705, 712-13 (4th Cir. 1999), *Maine Right to Life Comm. v. FEC*, 98 F.3d 1 (1st Cir. 1996), *Iowa Right to Life v. Williams*, 187 F.3d 963 (8th Cir. 1999), and *West Virginians for Life, Inc. v. Smith*, 919 F.Supp. 954, 959 (S.D. W. Va. 1996). The Wisconsin Supreme Court stated in *WMC*: "Buckley stands for the proposition that it is unconstitutional to place **reporting or disclosure requirements** on communications which do not "expressly advocate the election or defeat of a clearly identified candidate.'"

In the decision striking down the campaign finance reform in the 2001 budget repair law, *Wisconsin Realtors Ass'n v. Ponto*, the Court found there were "serious questions about the constitutional viability" of this approach, but did not reach the issue because the law was struck down based upon the pre-reporting requirements. These serious questions arise both because this approach has the effect of banning a substantial amount of speech that is in no way advocacy (for example, a public notice of a candidate forum would require registration and reporting), and because the law would absolutely prohibit any speech by corporations during the 60 days before an election that mention a candidate, which sweeps within the law allowable corporate free speech and legitimate lobbying expenditures.

Similar provisions in the federal Bipartisan Campaign Reform Act of 2002 (McCain-Feingold) are currently being challenged in federal court, in *McConnell v. FEC* (D.C. Cir. Case No. 02-0582). A decision from a three-judge panel is expected in the coming weeks, and the U. S. Supreme Court is expected to immediately review that decision. The decisions in that case may help determine the appropriate limits of campaign finance reform in Wisconsin. At the present time, WEAC believes the issue ad provisions in SB 12 are unconstitutional.

The Bill's Changes to Conduits Are Unnecessary and Problematic.

The bill changes the treatment of contributions made through a conduit. Currently, a contribution made through a conduit is treated and reported as a contribution from the contributor, and is also reported as made through the conduit. The bill would subject conduit committees to the PAC contribution limits of 11.26(2), severely limiting the amounts that could be contributed through such a committee. WEAC is not aware of any legitimate reason to place such a limit on conduits, and opposes this change. Conduits are a legitimate and effective mechanism for an individual to exercise their First Amendment rights, and the contributions are fully reported both as individual and conduit contributions.

In This Time of Fiscal Crisis, the Bill Would Open Up the State's Checkbook for Political Campaigns and Lawsuits, and Could Create Many More Practical Problems

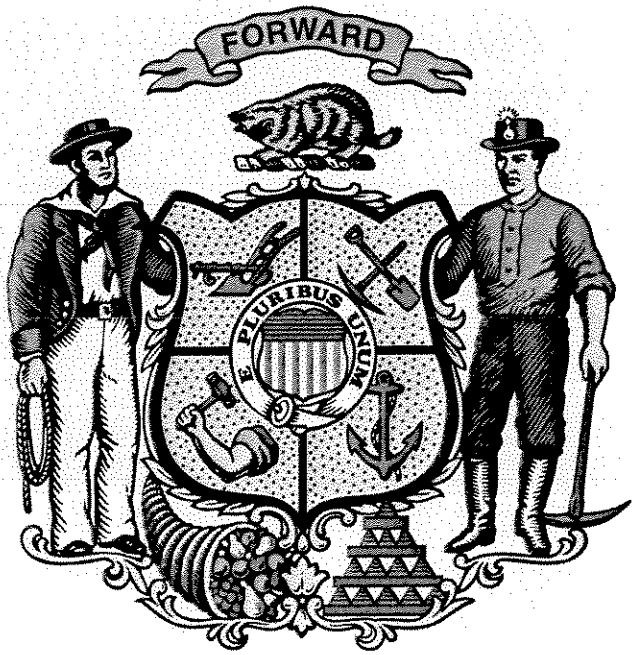
WEAC does not need to remind you that the state is currently facing its worst budget deficit in history. It's worse than grim. People throughout the state are bracing for budget cuts that will be deep and tough.

Now is NOT the time for taxpayers to give the state an open checkbook for funding political campaigns. That's exactly what SB 12 would do. The fiscal estimate (over $3 million in GPR for first-year development costs plus annual GPR funding to "backfill" public financing grants) is just the tip of the fiscal iceberg that would be unleashed with this bill. With unlimited funding bumps financed with sum sufficient GPR, the total cost of this bill could be many, many millions of dollars over and above the amounts predicted in the fiscal estimate.

SB 12 also would lead to litigation similar to last year's lawsuit challenging the provisions in the budget repair law, where the state ended up paying almost all of the legal costs for outside attorneys for BOTH SIDES of the lawsuit (the cost to taxpayers is estimated to be in the $200,000 range).

Finally, SB 12 could lead to practical problems along the lines of the tax form fiasco, where taxpayers are receiving tax forms with inaccurate information, that resulted from last year's proposal and the fact that most of the statutory provisions from that bill are still on the books.

For all these reasons and more, WEAC encourages you to OPPOSE Senate Bill 12. We also stand ready to work with Senator Ellis, Senator Erpenbach and Common Cause In Wisconsin to develop a campaign finance reform bill that is comprehensive, equitable, practical and respectful of the constitutional rights of Wisconsin citizens.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To: Senator Michael Ellis, Chair, Senate Committee on Education, Ethics and Elections
Members of Senate Committee on Education, Ethics and Elections

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: February 12, 2003

Re: Support for Senate Bill 12, Comprehensive Campaign Finance Reform

The League of Wisconsin Municipalities supports Senate Bill 12, the bipartisan comprehensive campaign finance reform measure similar to last session's SB 104. Senate Bill 12, like SB 104, would place new restrictions on campaign contributions, limit campaign spending, and provide effective public financing of election contests.

The League is a nonprofit association of 576 cities and villages. Organizations like the League and its member municipalities, which do not have political action committees or conduits, often find their issues not receiving the same attention from the legislature as groups that can help finance election campaigns. For that reason, the League has gone on record supporting comprehensive campaign finance reform measures that include public financing of campaigns. In 1999, League membership adopted a resolution, copy attached, urging the enactment of legislation reforming the current system of political campaign financing by guaranteeing public grants to candidates who accept spending limits.

Adoption of SB 12 would accomplish this goal. We urge the Committee to recommend passage of SB 12.

Thanks for considering the concerns of municipalities on this issue.

LEAGUE OF WISCONSIN MUNICIPALITIES

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No. 99-1

Campaign Finance Reform

Whereas, Wisconsin citizens want to continue their proud tradition of clean and open government; and

Whereas, campaign spending is spiraling up and out of control, and large special interests are playing an increasingly dominant role in financing elections and referenda; and

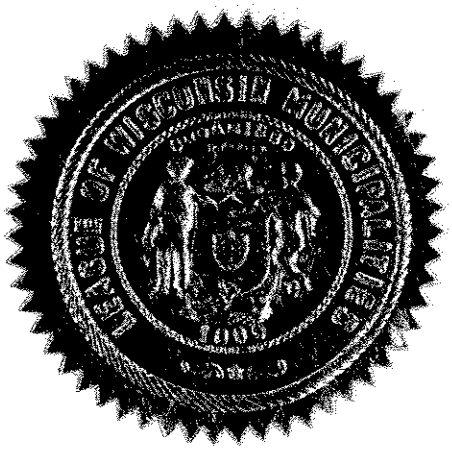
Whereas, special interest funders often have disproportionate access to public officials at key times in lawmaking processes, allowing for undue influence; and

Whereas, Wisconsin's current public finance system is severely underfunded and is providing only very small grants; and

Whereas, these small grants neither give candidates incentive to accept spending limits nor relieve them of the obligation to raise funds from monied special interests;

Now, Therefore, Be It Resolved that the League of Wisconsin Municipalities, in conference assembled on October 21, 1999, hereby urges the Legislature and the Governor to enact legislation to reform the current system of political campaign financing by guaranteeing public grants to candidates who accept spending limits, with grants guaranteed at 50% of the spending limit;

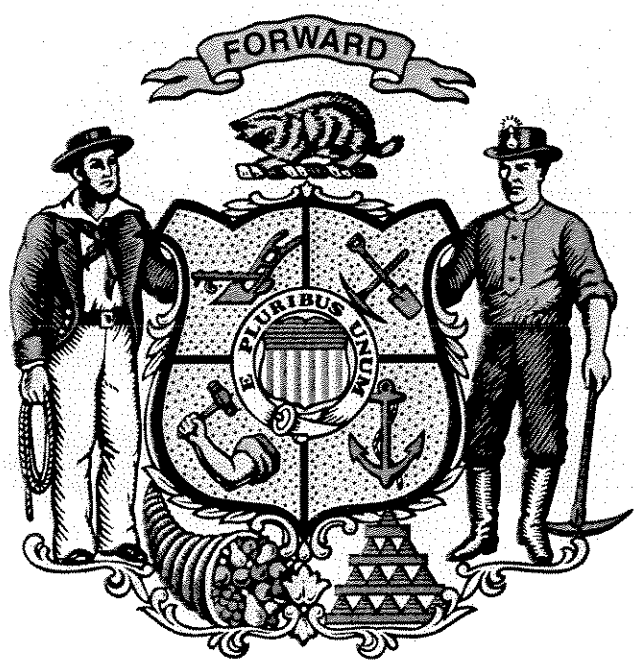
Be It Further Resolved, that the Legislature and the Governor are urged to enact legislation requiring full-disclosure of all funding sources for independent advocacy advertising.



Attest:

Dan Thompson

Dan Thompson, Executive Director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WISCONSIN
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MEMORANDUM

TO: Honorable Members of the Senate Committee on Education, Ethics and Elections

FROM: Jennifer Sunstrom, Legislative Associate

DATE: February 12, 2003

SUBJECT: Senate Bill 12 - Campaign Finance Reform

The Wisconsin Counties Association (WCA) appreciates the opportunity to present comments on SB 12 which seeks to make comprehensive changes to Wisconsin's campaign finance laws.

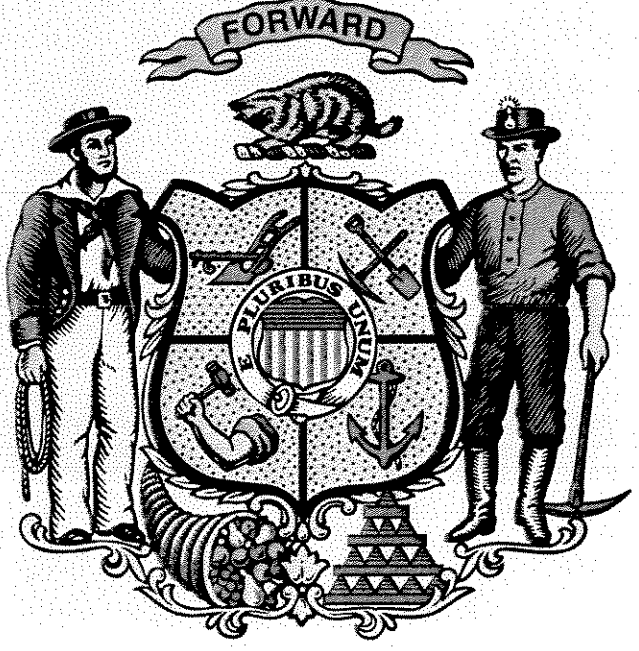
The costs of running campaigns for state elections has increased significantly over the last few years. We believe that the increased burden on candidates to raise campaign contributions places special interest groups in a position of undue power relative not only to local governments but also to candidates for state office as well. For this reason, the Wisconsin Counties Association's Board of Directors decided to sponsor an advisory referendum that asked the people if Wisconsin's campaign finance laws should be reformed. On November 7, 2000, over 90% of the people in 56 of Wisconsin's counties voted that they wanted the Legislature to enact campaign finance reform that would create a more fair system of campaign operations.

The language agreed upon by our Board of Directors addressed three main issues: spending limits; stricter contribution limits; and prompt reporting requirements. The question was specifically broad so that a clear message would be sent to the Legislature and the administration that the people of Wisconsin want reform without limiting that reform to one plan over another.

WCA believes that SB 12 meets this intent. By incorporating elements from proposals offered by both Republicans and Democrats, SB 12 provides an effective middle ground from which the Legislature can work.

Although WCA supports SB 12, we are not opposed to changes that are necessary to reach a compromise that will garner bipartisan support. We encourage both sides of the aisle to work together to strike the proper balance and will continue to give our support and assistance throughout the legislative process.

Thank you for considering our comments.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WISCONSIN
CITIZEN ACTION

Senate Committee on Education, Ethics and Elections
February 12, 2003

Carolyn Castore
Legislative Director
Wisconsin Citizen Action
Speaking for Information Only
SB 12

I am Carolyn Castore, Legislative Director for Wisconsin Citizen Action. WCA is the state's largest public advocacy organization with over 74,000 individual members and 211 affiliated organizations.

On behalf of Wisconsin Citizen Action, I applaud Senators Ellis and Erpenbach for their efforts to ensure that Wisconsin can have a fair and clean system for electing our state officials. The problems of our current system are numerous and have been widely publicized.

As some of the members of this committee are aware, Wisconsin Citizen Action has long advocated passage of a Clean Elections bill to replace our current system. Such systems are in place in several states and have allowed a wider range of people to run for office, win elections, and maintain independence from well-funded interest groups.

We recognize that Wisconsin may decide to pass a legislation that provides less that 100 percent funding, as does Senate bill 12. Senate Bill 12 provides a useful framework for pursuing effective and meaningful campaign finance reform.

WCA urges the legislature to consider the following:

First, part of the current problem is the amount of money needed to run for office, particularly in competitive races. Those who can write large checks make life more simple for candidates. Since so few can or will write those checks, they can develop undue influence. We urge the committee to reexamine the contribution limits and lower them. No candidate should be able to accept a $10,000 check.

Second, we urge the committee to be bold. There is nothing sacroscant about 45 percent public financing. If we want to limit the influence of big money in politics, then providing more public financing may help solve that problem. It also can help create more contested elections. So we urge the committee to increase the percentage of public financing, perhaps to 75 percent.

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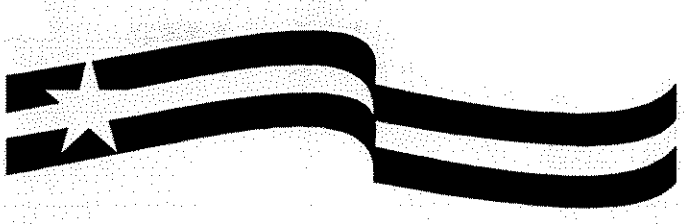
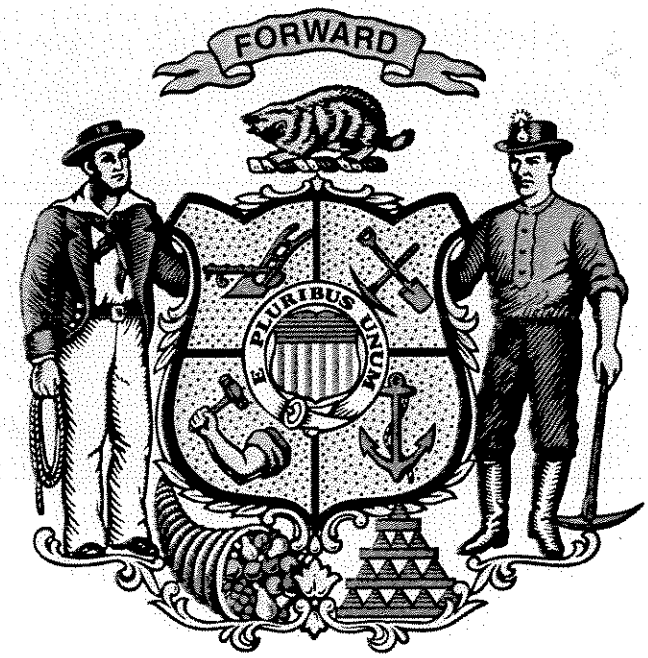
CITIZEN ACTION



Third, we urge the committee to examine the bill carefully. Wisconsin does not need another failed attempt at campaign finance reform. And while we are certain that any campaign finance reform bill will be challenged in court, we urge the committee to carefully consider the consequences of having a significant portion of the bill declared unconstitutional. In particular, we urge the committee to examine the reporting requirements of groups doing independent expenditures and issue ads.

We are also concerned about the provision extending reporting and matching requirements to organizations running ads that mention a political party rather than a candidate. In certain areas of the state, if candidates in multiple districts are running using public financing and ads are run for a particular party, then all of the candidates in that media market may be eligible for matching funds. Aside from any constitutional issues, this could significantly increase the cost for this bill.

Finally, we urge the committee to consider amending the bill to include last session's Impartial Justice bill (SB 115) in whole. That would ensure the independence of the state's highest court.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The League of Women Voters of Wisconsin, Inc.

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Statement to the Senate Committee on Education, Ethics, and Elections in Support of Senate Bill 12

February 12, 2003

The League of Women Voters of Wisconsin is pleased to offer our support for Senate Bill 12, a proposal for comprehensive campaign reform. This bill makes important and needed amendments the statute, which currently regulates campaign financing in Wisconsin.

The intent of our current law, enacted in the 1970's, was that state funds assure that state candidates have adequate resources to reach the voters with their messages, that contributions and spending are limited and special interest influence is controlled and disclosed. Until 10-15 years ago most candidates used these state funds in exchange for keeping spending under the limits, and the check-off provided enough money to fund full grants.

By the 1990s several things had changed. The number of tax filers checking-off dropped significantly, full grants were not available, and candidates began to fear high spending opponents. It become too risky for candidates to apply for the ever smaller grants and keep within the 1970's spending limits, all while being confronted with big spending opponents.

Our current system clearly no longer works. Public funds are not there but special interest funds are there - via both candidates and independent spenders.

SB 12 goes a long way toward assuring adequately and equitably financed campaigns. We offer the following analysis of some key provisions.

SB 12:

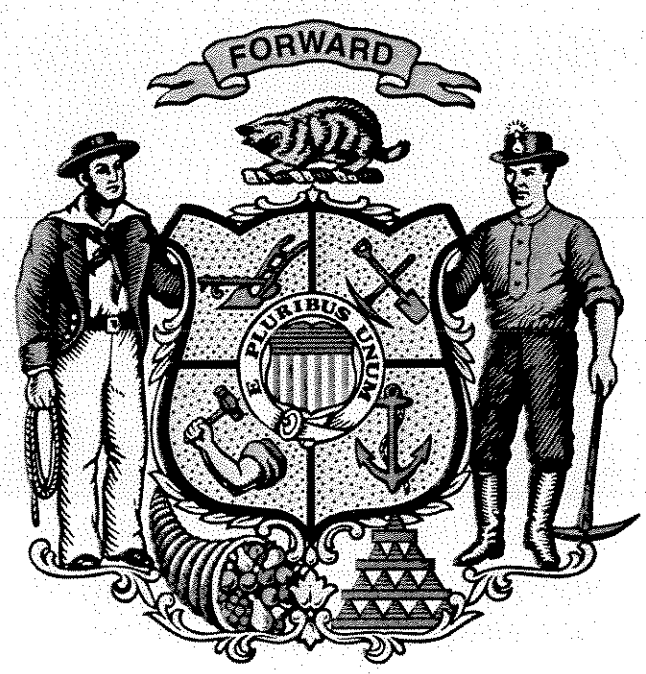
- sets the check-off at $5 and provides GPR funds as needed - and this guarantees that full grants will be available and that candidates will not be discouraged from applying for the funds.
- increases candidate spending limits to amounts adequate for viable campaigns which the League believes will allow candidates to effectively reach voters with their messages.
- sets grants at 45% of spending limits for partisan offices. While we believe a higher level would be preferable, further reducing the level of private funds, 45% will provide adequate funds for candidates to get their message out given the spending limit increases.
- provides supplemental grants for victims of independent and issue ad spending and opponent spending beyond the limits -- as a way to discourage big spending by both candidates and independents.
- requires full disclosure of expenditures and the sources of funds by all groups which contribute to or spend Wisconsin campaigns including groups which mention candidates in ads within 60 days of an election.
- eliminates most committee to committee transfers and special status for legislative campaign committees both of which have been primarily ways to conceal special interest influence and insure incumbent and leadership control of the process.

SB 12, if enacted, will provide Wisconsin with a workable basic comprehensive campaign finance law and we urge its early passage by this legislature. The League, however, will continue -- now and after passage -- to support and work for certain stronger provisions.

- As noted we favor a higher percentage of public funding but, whatever the level, we strongly believe that individual contribution limits should be lowered. Current limits strongly advantage candidates with access to large contributors and provide a channel for special interest influence.

- This bill does not lower the 6% primary vote requirement as was done in a bill last session. We would like to see such a provision as a way to increase access to public funding by independent and third party candidates providing voters with a wider choice of viable candidates.

We thank you as always for the chance to express our opinion on this very important issue. And we especially thank the bill's sponsors and all others who have recognized the necessity and timeliness of achieving bipartisan comprehensive campaign finance reform in Wisconsin at this time.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Common Cause In Wisconsin

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Senate Bill 12

THE ELLIS-ERPENBACH BIPARTISAN CAMPAIGN FINANCE REFORM ACT OF 2003

The Ellis-Erpenbach Bipartisan Campaign Finance Reform Act of 2002 is a revised version of Senate Bill 104 from the 2001-2002 legislative session. It is the first truly bipartisan comprehensive campaign finance measure to be seriously considered in Wisconsin in 25 years. Authored primarily by Sen. Mike Ellis (R-Neenah), it was first endorsed by Common Cause In Wisconsin and then by many other organizations and individuals. Approximately half of the State Senate Republicans, all State Senate Democrats, and almost all Assembly Democrats supported the measure earlier this year and it had the strong backing of most of Wisconsin's leading newspapers. Senate Bill 104 passed in the State Senate by a 25 to 8 margin on February 26, 2002 but the Assembly did not consider the measure. In November of 2002, Sen. Jon Erpenbach (D-Middleton), joined Sen. Ellis as a primary co-sponsor of the measure which was introduced on January 28, 2003 as Senate Bill12.

This is legislation that contains some of the most revolutionary, sweeping and innovative campaign finance reform provisions to be proposed in the entire nation. Its passage and enactment into law would do much to reduce the influence of big, special interest money that has skewed our elections and corrupted our public policy-making process. It would help in restoring a measure of integrity to Wisconsin's badly tarnished reputation for clean government. It would re-establish Wisconsin as the one of the nation's leaders and pioneers in formulating effective campaign finance law.

The major provisions of the measure:

* Fully funds with general purpose revenue (GPR) public grants equal to 45 percent of the revised spending limits to a candidate who agrees to abide by those limits. (Current law provides for public grants of 45 percent of much lower spending limits and which are funded solely through the $1 checkoff on the state income tax form which has not

provided any where near adequate funding to fully fund public grants for many years). Raises the $1 dollar checkoff to $5 and then "fills in" any revenue shortfall generated from the checkoff with GPR. In addition, a partisan check-off option would be available in order to direct the $5 designation to the political party candidate of choice or to the Wisconsin Election Campaign Fund.

* Establishes revised, updated, realistic voluntary spending limits (last revised in 1986) for statewide and legislative elections and indexes these limits to the rate of inflation in order to keep them relevant and meaningful:

	PROPOSED	CURRENT
Governor	$2,000,000	$1,078,200
Lt. Governor	500,000	323,475
Attorney General	700,000	539,000
Secretary of State	250,000	215,625
State Treasurer	250,000	215,625
Supreme Court Justice	300,000	215,625
State Superintendent	250,000	216,625
State Senator	100,000	34,500
State Representative	50,000	17,250

* Provides to a candidate who complies with the statutory spending limit a dollar for dollar match from GPR for every dollar raised by his or her opponent over the spending limit. This revolutionary provision is in place no where else in the nation for legislative elections and in Kentucky for gubernatorial contests only.

* Provides a candidate who complies with the statutory spending limit, a dollar for dollar match from GPR for every dollar spent by an independent expenditure organization or individual (above a certain threshold–which is 10 percent of the spending limit) against the complying candidate or in support of the complying candidate's opponent. This provision is in place no where else in the nation in this form but has been held constitutional in Maine where it is in place in a more limited form. This provision would likely end or discourage extensive spending by outside interest groups on costly television and radio ads who now engage in running independent expenditures and phony issue ads.

* Provides a complying candidate who is the "victim" of an issue ad which depicts the name or likeness of a candidate, the candidate's office to be filled, or his or her political party affiliation within 60 days of the general election and 30 days of the primary election with the same benefit as those who are the victim of an independent expenditure (above a certain threshold–which is 10 percent of the spending limit). It would require the organization making the issue ad expenditure to disclose the amount of the expenditure for the purpose of making a GPR match of the amount.

* Provides that independent expenditure and issue advocacy groups depicting candidates in the 60 days and less before a general election and 30 days and less before a primary election, report to the State Elections Board the amount they intend to spend within 24 hours of obligating the funds for such expenditures.

* Candidates in receipt of a fully funded public grant would be precluded from receiving any committee (political action committee) money and non-complying candidates would be limited in the amount of committee money that they can accept. Conduit contributions would continue to be considered as individual contributions but would be subject to the same cumulative limits that apply to committees and PACs.

* Legislative Campaign Committees, which are controlled by legislative leaders and are currently the repositories of a great deal of special interest money, are essentially eliminated by reducing them to the status of regular committees.

* Would make it much more difficult for out-of-state special interest groups to transfer large amounts of money "under the radar screen" to be used to influence the outcome of Wisconsin elections by requiring groups to register and be subject to disclosure requirements in Wisconsin prior to any such spending and that such groups could spend money raised only after they have registered.

* Candidates seeking public funding must demonstrate substantial support for their candidacy within their own district (or from a county from within the district) by raising 50 percent of the qualifying money (in contributions from individuals of $100 or less) and the other 50 percent must come from within Wisconsin. Currently, qualifying funds can come anywhere in the nation.

* All campaign fund raising by incumbents would be prohibited from the time the Governor introduces the state budget bill until it is signed by the Governor into law, Currently, incumbents can raise campaign funds at any time.

* If the provision pertaining to the treatment and public funding match for targets of independent expenditures is struck down by the courts, then the provision pertaining to issue advocacy would be severed from the legislation as well, and vice-versa. The rest of the measure would still be in effect.