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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

Senate Bill 540

Relating to: political disbursements by corporations and cooperative associations and the scope of regulated activity under the campaign finance law.

By Senators Wirch, Lassa, Coggs, Lehman and Miller; cosponsored by Representatives Black, Pope-Roberts, Turner, Steinbrink, Kessler, Cullen, Berceau and Molepske Jr..

February 17, 2010 Referred to Committee on Labor, Elections and Urban Affairs.

March 10, 2010 **PUBLIC HEARING HELD**

Present: (5) Senators Coggs, Wirch, Lehman, A. Lasee and Grothman.
Absent: (0) None.

Appearances For

- Bob Wirch — Senator
- Peg Lautenschlager
- Mike McCabe — Wisconsin Democracy Campaign

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- Jay Heck — Common Cause
- Spencer Black — Representative

Registrations Against

- James Buchen — Wisconsin Manufacturer's & Commerce
- Joe Murray — Wisconsin Realtors Association

Registrations for Information Only

- None.

March 16, 2010 **EXECUTIVE SESSION HELD**

Present: (5) Senators Coggs, Wirch, Lehman, A. Lasee and Grothman.

Present: (5) Senators Coggs, Wirch, Lehman, A. Lasee and Grothman.

Absent: (0) None.

Moved by Senator Wirch, seconded by Senator Coggs that **Senate Amendment 1** be recommended for adoption.

Ayes: (3) Senators Coggs, Wirch and Lehman.

Noes: (2) Senators A. Lasee and Grothman.

ADOPTION OF SENATE AMENDMENT 1 RECOMMENDED,
Ayes 3, Noes 2

Moved by Senator Wirch, seconded by Senator Coggs that **Senate Amendment 2** be recommended for adoption.

Ayes: (5) Senators Coggs, Wirch, Lehman, A. Lasee and Grothman.

Noes: (0) None.

ADOPTION OF SENATE AMENDMENT 2 RECOMMENDED,
Ayes 5, Noes 0

Moved by Senator Lehman, seconded by Senator Wirch that **Senate Bill 540** be recommended for passage as amended.

Ayes: (3) Senators Coggs, Wirch and Lehman.

Noes: (2) Senators A. Lasee and Grothman.

PASSAGE AS AMENDED RECOMMENDED, Ayes 3, Noes 2



Adam Plotkin
Committee Clerk

Vote Record

Committee on Labor, Elections and Urban Affairs

Date: TUE. 3/16/10

Moved by: WIRCH

Seconded by: COGGS

AB _____ SB 540 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

S Amdt 1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Spencer Coggs, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator John Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Alan Lasee	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Glenn Grothman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 3 2 _____ _____

Motion Carried

Motion Failed

Vote Record
Committee on Labor, Elections and Urban Affairs

Date: TUE. 3/16/10

Moved by: WIRCH

Seconded by: COGGS

AB _____ SB 540 _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

S Amdt 2 _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Spencer Coggs, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator John Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Alan Lasee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____ _____ _____ _____

Motion Carried

Motion Failed

Vote Record

Committee on Labor, Elections and Urban Affairs

Date: TUE. 3/14/10

Moved by: LEHMAN

Seconded by: WIRCH

AB _____ SB 540 _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage
 Adoption
 Confirmation
 Concurrence
 Indefinite Postponement
 Introduction
 Rejection
 Tabling
 Nonconcurrency

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Spencer Coggs, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator John Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Alan Lasee	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Glenn Grothman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 3 2 _____ _____

Motion Carried

Motion Failed



WISCONSIN LEGISLATIVE COUNCIL

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

TO: SENATOR SRENCER COGGS

FROM: Russ Whitesel, Senior Staff Attorney

RE: 2009 Senate Bill 540, Relating to Political Disbursements by Corporations and Cooperative Associations and the Scope of Regulated Activity Under the Campaign Finance Law

DATE: March 8, 2010

This memorandum briefly describes the provisions of current law and provides a summary of the provisions of 2009 Senate Bill 540. In addition, the memorandum describes the provisions of Senate Amendment 1 and Senate Amendment 2 to 2009 Senate Bill 540.

Current Law

Current law prohibits corporations and cooperatives from making contributions or disbursements (expenditures) in campaigns for state or local office. Violators are subject to a forfeiture (civil penalty) of not more than \$500 for each violation. Intentional violators are guilty of a Class I felony, which is punishable by a fine of not more than \$10,000 or imprisonment for three and one-half years, or both, except that if a violation involves \$100 or less, the violation is punishable as a misdemeanor with a fine of not more than \$1,000 or imprisonment for not more than six months, or both. A recent decision by the U.S. Supreme Court has cast doubt about whether this law is enforceable. See, *Citizens United v. FEC*, Case No. 08-205 (2010).

Provisions of Senate Bill 540

Senate Bill 540 deletes the current prohibition on disbursements by corporations and cooperatives. However, the bill provides that before a corporation or cooperative may make a disbursement or incur an obligation to make a disbursement for the purpose of influencing an election for state or local office, the cooperative must file with its registration statement: (1) a copy of a document that is satisfactory to the Government Accountability Board, reflecting action taken not more than two years previous to the time that any disbursement is made or any obligation to make disbursement is incurred, demonstrating that the corporation or cooperative has received approval of a majority of its voting shares or members who are entitled to elect the board of directors for the corporation or cooperative to make disbursements and incur obligations to make disbursements for the purpose of influencing an election for state or local office; or (2) a statement that the corporation or cooperative has no shareholders or members.

The bill also imposes various registration reporting requirements upon any individual or organization that, within 60 days of an election and by means of communications media, makes any communication that includes a reference to a candidate at that election, an office to be filled at that election, or a political party. The bill also requires an individual or organization that becomes subject to a registration requirement by making such a communication to report, upon registration, the information that would have been required to be reported if the individual or organization had been registered with respect to any obligation occurred or disbursement made for the purpose of making such a communication prior to registration. However, the bill does not require registration reporting if the communication is made by a corporation, cooperative, or nonpolitical voluntary association that is limited to the corporation's, cooperative's, or association's members, shareholders, or subscribers.

The change in the scope of reportable activity under the bill also applies to contribution and disbursement limitations and restrictions by causing reportable "contributions," "obligations," and "disbursements" to include the cost of all reportable communications.

Under the bill, violators of registration reporting requirements or other prohibition created by the bill are subject to a forfeiture 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% 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 or the prohibition created by the bill are guilty of a Class I felony and may be fined not more than \$10,000 or imprisoned for not more than three years and six months, or both. Persons who intentionally file false reports or statements are guilty of a Class I felony if the violation exceeds \$100 in amount or value and may be fined not more than \$1,000 or imprisoned not more than six months, or both, if the violation does not exceed \$100 in amount or value.

Senate Bill 540 also provides that no owner, officer, employee, or agent of a cooperation or cooperative may cause or authorize a corporation or cooperative to make a disbursement or to incur an obligation that is prohibited under the bill. Under the legislation, if an owner, officer, employee, or agent causes or authorizes such a violation, action must be brought against that person personally and the cooperation or cooperative is not financially liable for the violation. In addition, the bill prohibits the corporation or cooperative from reimbursing an employer, officer, employee, or agent for any financial liability incurred by that person.

Senate Amendment 1

Senate Amendment 1 amends the bill to clarify that a cooperative association must comply with the same provisions as a corporation with regard to receiving prior approval for making disbursements or incurring obligations. The amendment also modifies the bill to refer to a majority of "voting shares" instead of "shareholders." Also, the amendment makes a cross-reference change in SECTION 2.

Senate Amendment 2

Senate Amendment 2 provides in pertinent part that if a court with jurisdiction in Wisconsin finds in a reported decision, whether or not applicable in this state, that a prohibition against the making of political expenditures by corporations or similar entities is not enforceable for constitutional reasons, or if any such court later finds in a reported decision that such a prohibition is enforceable, the Government Accountability Board must promptly publish a finding to that effect in the Wisconsin

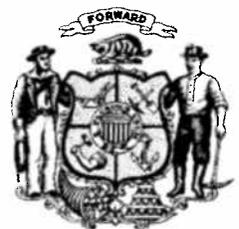
Administrative Register. The amendment also makes various other cross-reference changes to reflect the provisions of the bill relating to when a finding of unenforceability is in effect.

If you have any questions regarding this legislation, please feel free to contact me at the Legislative Council staff offices.

RW:ty



WISCONSIN STATE LEGISLATURE



Plotkin, Adam

From: Olsen, Renee
Sent: Tuesday, March 09, 2010 12:58 PM
To: Plotkin, Adam
Subject: Testimony Order - Public Hearing on SB540

Adam,

If possible, it would be great if the testimony order for SB540 would be as follows:

Senator Wirch
Peg Lautenschlager
.... And then using Mike McCabe as the last testimony for the bill.

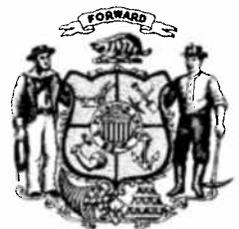
Thank you Adam!

~ Renee

Renee Olsen
Office of Senator Wirch
(608)267-8979
renee.olsen@legis.wi.gov



WISCONSIN STATE LEGISLATURE





ROBERT W. WIRCH

STATE SENATOR TWENTY-SECOND DISTRICT

March 10th 2010

Senate Bill 540: Political Disbursements by Corporations

Thank you Mr. Chairman for holding a hearing on Senate Bill 540.

In response to the Supreme Court's decision in the Citizens United case, I am introducing legislation to ensure that a majority of corporate shareholders approve of disbursements in campaigns for state or local office.

My idea for this legislation came from a footnote of Justice Kennedy that reads, "There is, furthermore, little evidence of abuse that cannot be corrected by shareholders through the procedures of corporate democracy." This bill is a push for corporate democracy.

This legislation will require a corporation to get the approval of the voting shares or members who are entitled to vote to elect the board of directors before political disbursements are made. This provision of the bill will bring accountability to corporations that now have unlimited spending to influence elections.

Under this bill, a corporation must file proof of their shareholder's approval with its registration statement that is satisfactory to the Government Accountability Board. Private corporations must submit a statement with their registration indicating they have no shareholders.

This bill also provides disclosure by imposing registration and reporting requirements on any individual or organization that makes a communication with reference to a political party, candidate, or office to be filled within 60 days of an election.

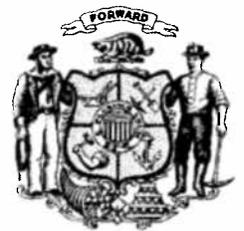
If a corporation makes a political disbursement without the approval of their shareholders, this bill will penalize the individual responsible for authorizing the disbursement. The civil penalty for failure to file appropriate registration is \$500, and an intentional violation may result in a fine up to \$1000 or imprisonment up to 6 months, or both.

I have offered two amendments for this bill. The first amendment is a small technical language change. The second amendment removes language that would allow corporate disbursements to be made and now states that the bill's regulations for political disbursements are only effective if a court finds that corporations cannot be prohibited from making disbursements. If a court later finds that corporations can be prohibited from making disbursements, the GAB will publish this in the Wisconsin Administrative Register, and the regulations for disbursements in this bill will be void.

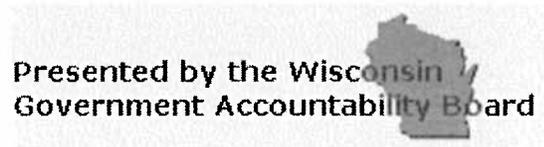
I strongly believe this is common sense legislation that will give shareholders a voice in how their money is spent in Wisconsin elections. This bill will hold corporations accountable for their political advertisements and disbursements, and pushes for corporate democracy.



WISCONSIN STATE LEGISLATURE



- ▶ Home
- ▶ Lobbying in Wisconsin
- ▶ Organizations employing lobbyists
- ▶ Lobbyists



as of Monday, March 08, 2010

2009-2010 legislative session
Legislative bills and resolutions

(search for another legislative bill or resolution at the bottom of this page)

Senate Bill 540

political disbursements by corporations and cooperative associations and the scope of regulated activity under the campaign finance law.

TEXT sponsors LRB analysis	STATUS committee actions and votes text of amendments	COST & HOURS of lobbying efforts directed at this proposal
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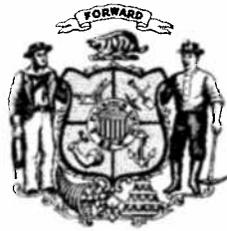
Organization		These organizations have reported lobbying on this proposal:	Place pointer on icon to display comments, click icon to display prior comments		
Profile	Interests		Date Notified	Position	Comments
◆	◆	AFSCME International	2/25/2010	?	
◆	◆	Cooperative Network Association	2/23/2010	?	
◆	◆	Wisconsin Bankers Association	2/22/2010	?	
◆	◆	Wisconsin Democracy Campaign	3/3/2010	↑	

Select a legislative proposal and click "go"

House	Assembly Senate	
Proposal Type	Bill Joint Resolution Resolution	
Proposal Number	540	(enter proposal number)
Legislative Session	2009 Regular Session	
	<input type="button" value="Go"/>	



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

U.S. Supreme Court Case on Campaign Finance: *Citizens United v. Federal Election Commission*

On January 21, 2010, the U.S. Supreme Court released its decision in *Citizens United v. Federal Election Commission*, 558 U.S. ___, 175 L. Ed. 2d 753 (2010), which held that government may not prohibit corporations from using their general treasury funds to make independent expenditures,¹ overturning *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990) and, in part, *McConnell v. Federal Election Commission*, 540 U.S. 93 (2003). However, the Court held that government may impose disclosure and disclaimer requirements on corporate political speech.

BACKGROUND

Prior to the decision in this case, a corporation could not use funds from its general treasury to make an independent expenditure that is an “electioneering communication” or that expressly advocates a candidate’s election or defeat. An “electioneering communication” is a broadcast, satellite, or cable communication that “refers to a clearly identified candidate for Federal office;” is made within 60 days before a general election or 30 days before a primary election; and targets the relevant electorate. [2 U.S.C. s. 434 (f) (3) (A) (i).]

The U.S. Supreme Court upheld as facially constitutional the limitation on the funding of “electioneering communications” by corporations in *McConnell v. Federal Election Commission (FEC)*, 540 U.S. 93 (2003).² Later, in *FEC v. Wisconsin Right to Life*, 551 U.S. 449 (2007), the U.S. Supreme Court held the limitation on the funding of “electioneering communications” unconstitutional as applied to specific communications, but the Court stopped short of overturning its decision in *McConnell*.³

¹ Although the Court did not directly address the implications of its decision on independent expenditures funded from a labor union’s general treasury, it could be argued that the Court, in effect, also held that government may not prohibit labor unions from using their general treasury funds to make independent expenditures.

² For more information on *McConnell*, see “U.S. Supreme Court Case on Campaign Finance: *McConnell v. FEC*,” Wisconsin Legislative Council, LM-2003-6, December 19, 2003.

³ For more information on *Wisconsin Right to Life*, see “U.S. Supreme Court Case on Campaign Finance: *Federal Election Commission v. Wisconsin Right to Life*,” Wisconsin Legislative Council, IM-2007-04, August 24, 2007.

In addition, in *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990), the U.S. Supreme Court upheld as constitutional a state law that prohibited a corporation from using funds from its general treasury for independent expenditures that support or oppose a candidate.

In 2008, Citizens United released a documentary about Hillary Clinton, who, at the time, was a candidate for President. Citizens United sought to make the documentary available free of charge through video-on-demand and produced advertisements to run on television for the documentary. The advertisements contained a statement about Clinton, along with the name of the documentary. Concerned that the documentary and the advertisements might be considered “electioneering communications” and thus prohibited by federal law, Citizens United sued the FEC. Citizens United argued that the prohibition on “electioneering communications” and the disclosure and disclaimer requirements were unconstitutional.

The U.S. Supreme Court first considered whether Citizens United’s claim could be resolved on grounds other than reconsidering *Austin*. The Court found that the documentary was an “electioneering communication” and was “the functional equivalent of express advocacy.” [175 L. Ed. 2d at 773.] In addition, the Court refused to make the prohibition on corporate-funded “electioneering communications” inapplicable to video-on-demand movies and refused to provide an exception to the prohibition for expenditures of certain nonprofit corporations. Consequently, the Court stated that it could not “resolve [the] case on a narrower ground without chilling political speech” and decided to reconsider *Austin*. [175 L. Ed. 2d at 775.]

PROHIBITION ON CORPORATE-FUNDED EXPENDITURES

The Court stated that the political speech of corporations is protected by the First Amendment to the U.S. Constitution.⁴ The Court found that the prohibition on corporate-funded independent expenditures is a ban on speech, despite a corporation’s ability to create a political action committee to fund independent expenditures.

According to the Court, a law that burdens political speech must withstand strict scrutiny in order to be permissible under the First Amendment. Strict scrutiny requires that the government demonstrate that the law furthers a compelling government interest and that the law is narrowly tailored to attain that compelling interest.

The government argued that the prohibition on corporate-funded independent expenditures furthers several compelling interests.

First, the government argued that the prohibition on corporate-funded independent expenditures furthers a compelling interest in preventing distortion. In *Austin*, the Court accepted the antidistortion interest, noting that the government has a compelling interest in preventing “the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the

⁴ In discussing the applicability of First Amendment protections to corporations, the Court noted that *Austin* was the first case to address the constitutionality of a prohibition on corporate-funded independent expenditures. In *Austin*, the Court upheld the prohibition by finding a compelling interest in preventing distortion. The Court also noted that pre-*Austin* cases forbid limitations on a corporation’s political speech based on its status as a corporation.

public's support for the corporation's political ideas." [175 L. Ed. 2d at 787, citing *Austin*, 494 U.S. at 660.] In *Citizens United*, the Court, concerned about the effect of the antidistortion interest on the government's ability to determine the source from which an individual receives his or her information, rejected the antidistortion interest.

Second, the government argued that the prohibition on corporate-funded independent expenditures furthers a compelling interest in preventing corruption. The Court noted that *Buckley v. Valeo*, 424 U.S. 1 (1976), did not extend the anticorruption interest to expenditures and that the anticorruption interest, in *Buckley*, was restricted to *quid pro quo* corruption. In *Citizens United*, the Court found that independent expenditures "do not give rise to corruption or the appearance of corruption." [175 L. Ed. 2d at 794.] Therefore, the Court rejected the anticorruption interest.

Third, the government argued that the prohibition on corporate-funded independent expenditures furthers a compelling interest in protecting dissenting shareholders. The Court found that the prohibition was overinclusive and underinclusive with respect to achieving protection of shareholders in that the prohibition covers corporations that have only one shareholder and in that the prohibition applies only within 60 days before a general election and 30 days before a primary election. Consequently, the Court rejected the shareholder-protection interest.

Fourth, the government argued that the prohibition on corporate-funded independent expenditures furthers a compelling interest in preventing the influence of foreign associations and individuals. The Court, noting that the prohibition is not limited to foreign associations or corporations, rejected the interest in preventing the influence of foreign associations and individuals.

Because the Court rejected the government's assertions of compelling interests, the prohibition on corporate-funded independent expenditures failed to satisfy the strict scrutiny test. Thus, the Court overruled *Austin* and, in part, *McConnell* and held that a corporation's independent political speech may not be suppressed. The Court further held unconstitutional the prohibition on corporate-funded independent expenditures.

DISCLOSURE AND DISCLAIMER REQUIREMENTS

The Court then addressed the constitutionality of the disclosure and disclaimer requirements under federal law as they would apply to the documentary and the advertisements.

According to the Court, disclosure and disclaimer requirements must withstand exacting scrutiny in order to be permissible under the First Amendment. Exacting scrutiny "requires a 'substantial relation' between the disclosure requirement and a 'sufficiently important' governmental interest." [175 L. Ed. 2d at 799, citing *Buckley*, 424 U.S. at 64, 66.]

The Court discussed the governmental interest, namely the interest in informing the electorate about sources of campaign spending, that was used to justify disclosure requirements in *Buckley*. The Court found the informational interest to be a sufficient governmental interest for the disclosure and disclaimer requirements. However, the Court noted that an as-applied challenge to disclosure requirements may be available upon a showing that disclosure may subject contributors to harassment or threats.

In addition, the Court noted that “disclosure is a less restrictive alternative to more comprehensive regulations of speech.” [175 L. Ed. 2d at 801.] The Court rejected the arguments of Citizens United that the disclaimer requirement is underinclusive in not requiring disclaimers for certain advertising and that disclosure requirements may only apply to “speech that is the functional equivalent of express advocacy.” [*Id.*]

Thus, the Court upheld as constitutional the application of disclosure and disclaimer requirements to Citizens United’s documentary and advertisements.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by Jessica Karls-Ruplinger, Staff Attorney, on March 9, 2010.

WISCONSIN LEGISLATIVE COUNCIL

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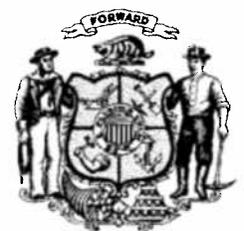
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<http://www.legis.state.wi.us/lc>



WISCONSIN STATE LEGISLATURE



LEVA Exec & Hearing - 3/10/10

EXEC

SB 540

broadcast
on WT Eye

SB 390

Russ explains sub

no one says nothing or nothing



HEARING

AB 560

Kurt Stegge - brief remarks

AB 567

no testimony - Russ describes briefly

SB 522

Ron Kent, James Bucher, John Conway

- AFL + WMC have written testimony
- Conway brief remarks, overview of Walker's Camp + process
- Bucher goes off script, mostly about process
- Ron Kent, opening of script remarks then reads testimony
- SC asks them to comment on efforts to reach consensus
- Bucher talks about how they work together
- Kent talks about how they work together + more on process
- Grothman ?'s on increased PPD + PSD rates
- try to explain how it works

SB522 cont.

- Grothman? on salary offset if working
 - Jim O'Dwyer fields some of the questions
- Rep. Berca w/ Mark & Tammy Wilde
 - Berca has written testimony
 - wants to increase death benefits more, create victims fund
 - Wilde's - stake wound up getting the death benefits from the murder of their son Robbie
 - spent \$30k on funeral
 - likes what's done, still need more

SB429

- Gen. Sullivan
 - has written testimony
 - goes off script at the end
 - creates rebuttable presumption
- SC? - is presumption a stretch?
 - no, there is a process to make a determination
- BW? - least we can do for firefighters
- GG? - how do you get infections?
 - mostly diseases that are blood + airborne
- any studies showing proclivity for EMS over general populace?
 - not much higher than general population
 - SC - need to give them backup
- other occupations that get this protection

(2)

SB429 cont.

- Scott Ketelhut + Mike Woodzicka - Pres. of PFFW
 - both have written testimony
- Ed Huck
 - has written testimony
 - wants amendment on 1 year limit for heart + lung presumptio
- SC? - recommends different/separate legislation rather than amendment
- is this just natural progression of cancer, heart + lung provisions?
- GG? - incidences of 11 diseases? - where is League?
- Roy de la Rosa + Mark Grady, Milw. Co.
 - have written testimony
 - want exemption for Milw. Co. from bill
- SC? - what about moral impurity?
 - creates slippery slope
- asks Russ about precedent
 - yes, heart + lung and cancer applied to MKE Co.
- JL? - does this really affect MKE Co. that much

~~SB540~~

- Sen. Wirth
 - has written testimony
- SC asks Russ to explain amendments
- JL? - how long does shareholder approval last?
 - 2 years

SB 540 cont.

- Peg Lautenschlager (no written testimony - requested)
 - as AG, emphasized CFR often
 - \$ involvement is sad
 - Citizens United said corporations = people (if that's the case, why can't corporations run for office)
 - need accountability for corporate speech
 - influence of foreign shareholders
 - corporate stockholders aren't always individuals
 - jurisdictional issues on who controls corporations
 - who is disclosed as equity holder?
 - union dues spending - can get refund on non-collective bargaining issues - opt-out provision
 - only opt-out for private corporations is to sell stock
- SC? - foreign investors
 - wasn't addressed in written opinion
 - written opinion emphasized need for disclosure
 - still waiting for federal bill from Schumer
 - need limit on foreign corporations
- BW - bill for accountability and to give shareholders a voice
- JL? - wasn't same amount of money still go into system?
 - would have to get rid of Buckley v. Valeo to correct that imbalance
 - need real CFR disclosure
- SC? - All Children Matter books in 2006 campaign

SB 540 cont.

- Mike McCabe

- no written testimony (requested)

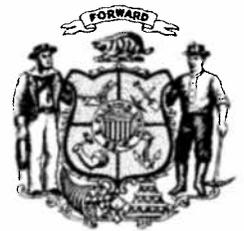
- no one left in room

- BW - transparency element to this bill, "crony capitalism"

- GC reads registrations



WISCONSIN STATE LEGISLATURE



LEVA Exec + Hearing

Tue. Mar. 16, 2010

EXEC

SB 540

AB 560
AB 567
SB 522 } nothing

SB 479 - Grothman explains amendment
Rush explains more
SC asks ?'s

SB 540 - Rush describes both amendments

HEARING

SB 595

SC + Rep. Van Arkeson

- SC reads written testimony
- IVA brief remarks
- GBZ on preemption
 - Rush answers that it's hard to predict
- Danny McGowan
 - no written testimony
- John Metcalf + Jonathan Swain
 - missed most of Swain's verbal testimony

①