

2011 DRAFTING REQUEST

Bill

Received: 06/17/2011

Received By: jkuesel

Wanted: Soon

Companion to LRB: -2253

For: Jim Ott (608) 266-0486

By/Representing: Ginger Mueller Keleher

May Contact:
Subject: Elections - campaign finance

Drafter: jkuesel

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.OttJ@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Organizations making independent disbursements

Instructions:

Support objection to CR 10-087.

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	jkuesel 06/20/2011	nmatzke 06/20/2011		_____			
/1			rschluet 06/20/2011	_____	ggodwin 06/20/2011	ggodwin 06/20/2011	

FE Sent For:
None

<END>

Assembly
Vers

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1?/1	jkuesel 6/20/11	1 nwm 6/20		_____	_____		

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<END>



State of Wisconsin
2011 - 2012 LEGISLATURE

2254/1
LRB-2253/7
JTK: | : : : :
AWN

MON 6/20

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Gen.

1
2

AN ACT ...; relating to: prohibiting the promulgation of certain rules concerning campaign financing by the Government Accountability Board.

Analysis by the Legislative Reference Bureau

Currently, under the campaign finance law, with limited exceptions, an individual who or committee that makes disbursements (expenditures for political purposes) must register with the appropriate filing officer or agency. With limited exceptions, a registrant is required to file regular and special reports containing specified information pertaining to financial activity. The law also regulates the extent to which corporations and cooperatives, including unincorporated cooperative associations, may make disbursements.

Currently, the Government Accountability Board (GAB) may promulgate rules interpreting or implementing specific statutes regulating the conduct of elections or election campaigns or ensuring the proper administration of these statutes. This bill prohibits GAB from promulgating any rule 1) affecting the authority of a corporation or cooperative, whether or not incorporated, from making any disbursement independently of a candidate who is supported or opposed or any agent or authorized committee of such a candidate; or 2) imposing any registration, reporting, filing, accounting, treasury, or fee payment requirement or any attribution requirement in making communications upon any person, including any organization, apart from the requirements imposed under the campaign finance law.

to make

Clearinghouse Rule

This bill is introduced as required by s. 227.19 (5) (e), stats. in support of the objection of the Joint Committee for the Review of Administrative Rules to the promulgation of rules under proposed CR 10-087 by GAB.

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

1 SECTION 1. 5.05 (1) (f) of the statutes is amended to read:

2 5.05 (1) (f) ~~Promulgate~~ Subject to s. 11.211, promulgate rules under ch. 227
3 applicable to all jurisdictions for the purpose of interpreting or implementing the
4 laws regulating the conduct of elections or election campaigns or ensuring their
5 proper administration.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192; 1999 a. 182; 2001 a. 109; 2003 a. 35, 265, 266, 327; 2005 a. 177; 2007 a. 1 ss. 2 to 19, 94, 99, 100, 103, 104, 107, 109, 111, 112, 114, 116, 127, 128; 2007 a. 20; 2009 a. 28, 180.

6 SECTION 2. 11.211 of the statutes is created to read:

7 **11.211 Certain rule-making prohibited.** The board shall not promulgate
8 any rule: e Δ

9 (1) Affecting the authority of a foreign or domestic corporation or association
10 organized under ch. 185 or 193 from making ^{e to make} any disbursement independently of a
11 candidate who is supported or opposed or any agent or authorized committee of a ^{oe}
12 such a candidate.

13 (2) Imposing any registration, reporting, filing, accounting, treasury, or fee
14 payment requirements or any attribution requirements in making communications
15 upon any person, including any organization, apart from the requirements imposed
16 under this chapter.

(END)

Godwin, Gigi

From: Mueller, Virginia
Sent: Monday, June 20, 2011 3:21 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-2254/1 Topic: Organizations making independent disbursements

Please Jacket LRB 11-2254/1 for the ASSEMBLY.



JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR LEAH VUKMIR AND REPRESENTATIVE JIM OTT

Clearinghouse Rule 10-087

Report to the Legislature Clearinghouse Rule 10-087

The Joint Committee for Review of Administrative Rules

Produced pursuant to 227.26(2)(g), Stats.

Clearinghouse Rule 10-087, promulgated by the Government Accountability Board (GAB), creates rules for organizations making independent disbursements.

Description of Problem

At the request of Representative Jim Ott, the Joint Committee for Review of Administrative Rules (JCRAR) held a public hearing on Clearinghouse 10-087 relating to independent disbursements on April 27, 2011. On January 21, 2010, the US Supreme Court ruled in *Citizens United v. FEC* that organizations including corporations were allowed to engage in independent expenditures, but allowed states to have disclosure and disclaimer requirements. The GAB prepared Clearinghouse Rule 10-087 to address the implications of the Citizens United court case.

Arguments in Favor of Suspension

- *There are two issues that are being dealt with by this rule. The first is placing proper registration requirements on corporations which were not questioned during the public hearing or executive session. The other is the expansion of the term organization to include any individual. Under this rule, any person spending more than \$25 for a political purpose would have to register with the GAB at a cost of \$100. This requirement would have grave first amendment ramifications.*
- *A person that makes a handful of buttons or a couple signs should not be treated the same as a political action committee spending millions of dollars to sway an election.*
- *The Citizens United case did not authorize the government to place registration burdens on all individuals as the GAB rule attempts.*
- *Questions were raised as to the authority of the GAB to issue this rule without an action of the legislature.*

Arguments Against Suspension

- *Under the Citizens United case, the state is authorized to regulate independent expenditures for corporations and that is what this rule is trying to accomplish. Suspending the rule would restrict the GAB's ability to register corporate election activities.*
- *Without the promulgation of this rule, Wisconsin statutes would require that any corporation wishing to make an independent disbursement would have to first establish a committee which is in direct conflict with the Citizens United case.*
- *The general public has a right to know of anyone that is making an independent disbursement of \$25 or more.*

Action by Joint Committee for Review of Administrative Rules

On June 2, 2011, the Joint Committee for Review of Administrative Rules held an executive session on Clearinghouse Rule 10-087. The committee passed the following motion on a 6-4 vote (YES: Vukmir, Ott, Leibham, Grothman, LeMahieu, Meyer; NO: Taylor, Risser, Hebl, Kessler):

"That the Joint Committee for Review of Administrative Rules objects to Clearinghouse Rule 10-087, pursuant to s. 227.19 (5) (d), Stats., on the grounds that the proposed rule imposes an undue hardship as stated in s. 227.19 (4) (d) 6., Stats."

On June 23, 2011, the Joint Committee for Review of Administrative Rules voted 6-4 (YES: Vukmir, Ott, Leibham, Grothman, LeMahieu, Meyer; NO: Hebl, Taylor, Risser, Kessler) to introduce LRB 2253 and LRB 2254, which limits the GAB's ability to regulate registration, reporting, filing or accounting activities of a corporation or individual that is independent of a candidate. The bills were introduced as Senate Bill 139 and Assembly Bill 196.

Passage of one of the bills in support of the JCRAR suspension would remove the GAB's ability to regulate independent expenditures of corporations and individuals.

Barman, Mike

From: Renk, Jeff
Sent: Wednesday, January 25, 2012 5:23 PM
To: Latter, Antoine; Barman, Mike
Cc: Pellett, John; Betchey, Brett
Subject: RE: JCRAR report for Sb 139 (LRB 11-2253).
Attachments: CR 10-087 Report.doc



Mike,

There are just two minor changes in this report: The statutes were changed that are referenced right under the header from "227.26(2)(g)" to "227.19(6)(a)". and in the last sentence, the word "suspension" was replaced with "objection".

Thanks.

Jeff

From: Latter, Antoine
Sent: Wednesday, January 25, 2012 5:16 PM
To: Barman, Mike
Cc: Pellett, John; Betchey, Brett; Renk, Jeff
Subject: JCRAR report for Sb 139 (LRB 11-2253)

Hi Mike,

Jeff sent this along to us as a replacement for the JCRAR report for SB 139 (LRB 11-2253). I'm not sure how this usually happens but I think you're the one to talk to. Let me know if this needs to go through someone else or some other process, or if you have any questions.

Antoine
LTSB

From: Pellett, John
Sent: Wednesday, January 25, 2012 5:10 PM
To: Latter, Antoine
Subject: FW:

From: Renk, Jeff
Sent: Wednesday, January 25, 2012 4:52 PM
To: Pellett, John
Cc: Betchey, Brett
Subject: FW:

John,

Can we get replace this attached JCRAR report with the one out in Folio for Senate Bill 139? Not sure of the path, but it's under the linked "report" in the action statement:

"07-06-11. S. Joint committee for Review of Administrative Rules report received pursuant to s.

227.19 (6)(a), Wisconsin Statutes"

The companion for this bill, AB 196, may also need updating.

Thanks.

Jeff

Also request by
Kay in ACC office
01-26-2012