ROBIN J. VOS
SPEAKER OF THE WISCONSIN STATE ASSEMBLY

Testimony on Assembly Bill 387 and Senate Bill 292

Before the Assembly Committee on Campaigns and Elections and the Senate Committee on Elections and Local Government

October 13, 2015

"Congress shall make no law...abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." First Amendment to the United States Constitution.

"Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press." Article 1, Section 3 of the Wisconsin Constitution.

Our state and federal constitutions enshrine the freedom of speech as the supreme law of the land. For too long our campaign finance statutes, enshrined in Chapter 11, have been vague, overbroad, and unconstitutional. The bills before us today address those serious flaws.

"Wisconsin's foundational campaign-finance law is in serious need of legislative attention to account for developments in the Supreme Court's jurisprudence protecting political speech." The Seventh Circuit Court of Appeals challenged the legislature with those words last May. The goal of Assembly Bill 387 is to answer that challenge, and protect a free and vigorous debate of candidates and issues in Wisconsin.

Chapter 11 has not had a major revision since it was created in 1973. Since that time the courts have developed a clearer understanding of the government's ability to regulate speech. Unfortunately, Wisconsin's statutes have not been updated to mark the boundaries of the government's authority to regulate election-related speech. In the absence of legislative action, regulators have attempted to burden speech in ways that violate our Constitution. While the courts have protected our First Amendment rights, they have also made it clear that the legislature must act.

Even if you disagree with the Supreme Court decisions on these issues, we still must update our statutes so people know what the law is, and what they can and cannot do. Unclear,

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vague, and unconstitutional statutes only make it harder to engage in the political process. Citizens have a right to know what the law is. The goal of the bill is to codify these decisions so the public has clear direction on what activity is regulated and what is not.

Current law is far too burdensome on individuals or groups wanting to engage in the political process. This proposal respects the line between express advocacy and issue advocacy and protects the ability to engage in the political process by only regulating groups engaged in express advocacy. Following the lead of the courts, this bill protects from government regulation those engaging in issue debate, discussion, and advocacy.

While the discussion of issues is beyond the scope of this chapter, AB 387 imposes reporting and disclosure requirements on Independent Expenditure Committees, or Super PACs. The courts have told us these actors have the right to participate in the process, but we are imposing reporting and disclosure requirements on that activity. This proposal also imposes reporting requirements on one-time express advocacy made by other actors who may engage in the electoral process. Further, AB 387 regulates coordination of campaign activity, by codifying a Government Accountability Board opinion and applying it to express advocacy.

AB 387 also increases the number of finance reports filed, so that citizens know who is contributing to our campaigns. Candidates will have to report six times during even years and quarterly during odd years. Large late contributions to candidates must still be reported within 48 hours.

This bill creates fairness, treating unions and corporations the same. We must acknowledge that corporations, like unions, have the constitutional right to engage in our political process. The Supreme Court has acknowledged this and 28 states already allow some form of corporate contributions. AB 387 still prohibits corporate money going to candidates.

Finally, this bill encourages more money to go to accountable, transparent actors by doubling the contribution limits that currently exist in Chapter 11. The cost of everything has gone up since 1973, including the cost of running elections. Unfortunately, our contribution limits have not increased, making campaigns more dependent on unaccountable third party groups. Adjusted for inflation, our limits would be five times what they are under current law – this bill only doubles them. This proposal received bipartisan support last session, and I hope it will again, because it brings more money into the light of day.

This bill will make our campaigns more transparent and accessible, and give clear guidance to those wishing to participate in the process. Thank you again for the opportunity to testify on this important proposal and I am happy to answer any questions.

# SCOTT FITZGERALD

WISCONSIN STATE SENATOR

SENATE MAJORITY LEADER


Thank you for the opportunity to submit testimony on SB 292, rewriting the state's campaign finance laws.

SB 292 represents the long-overdue rewrite of an area of law that has failed to keep up with court precedents and the changing times. Currently, chapter 11 represents an unreadable and unenforceable mess of court injunctions and out-of-date law.

SB 292/ AB 387 was drafted with a few simple goals in mind:

- To bring our state's campaign finance laws in-line with the latest decisions from various state and federal courts
- To protect the free speech of citizens over the regulatory power of bureaucrats
- To update reporting requirements to ensure that the public knows who is involved in elections

For too long our campaign finance laws have created uncertainty as to who exactly is regulated and what is required under of them. SB 292 draws a clear line as to which speech is regulated and which protected speech fall outside of the regulatory scheme. Regulated actors are clearly defined so that now citizens who wish to engage in the civic process will know with certainty if their actions will make them subject to the registration and reporting requirements of the new chapter 11.

Those actors who are regulated under the bill will be subject to reasonable reporting requirements which prioritize the public's right to know. By adding to the number of campaign finance reports, the bill increases the public's understanding of who is contributing to committees and where they are spending that money.

SB 292 also doubles the state's contribution limits, the first adjustment to these limits since the 1970s. The bill also respects recent court decision regarding unconstitutional aggregate limits.

The courts have called upon the legislature to take action and fix a broken campaign finance system here in Wisconsin. SB 292 answers this call not by attempting to patch a fundamentally flawed chapter of statute, but by replacing it with a system that ensures transparency, accountability and constitutionality for years to come.

Thank you for hearing SB 292 today and if you have any further questions, please don't hesitate to contact my office.


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Comments by Jonathan Becker on Campaign Finance Bill

Substantive effects

- Registration and reporting by a political action committee and an independent expenditure committee will be voluntary. To require registration and reporting, a committee must have express advocacy as its major purpose (p.19). Major purpose must be specified in organizational documents or indicated to the Board (p. 19). No objective (expenditure) test, such as greater than 50% of expenditures. LRB note: "Is it too easy to get around this definition? What if the entity indicates one thing, but its actions indicate another?"
- Second committees permitted for different state or local office permitted for candidates (p.32). The bill attempts to place a limit on how much can be transferred from one committee to another by requiring the committee to account for the amount of each contribution transferred. (p. 95). But this will be ineffective because individual contributions will not be transferred over – only lump sum amounts. There is no tracking of individual contributions – once received, contributions go into an undifferentiated pot.
- No requirement that campaign funds must be used for a political purpose, but there is a restriction on disbursements for an individual's strictly personal use (p. 101). Does this mean it can be partly for personal use? Perhaps better to use Ethics Code wording prohibiting use of office for private benefit of official, immediate family, or organization with which associated.
- Upon termination of a personal campaign committee, residual funds may be used for any purpose that is not prohibited by law, not just for a political purpose. (p. 29). The restriction on disbursements for an individual's strictly personal use may not apply because use of residual funds may or may not be an "expenditure" and, thus, not a "disbursement." (p. 17). ("Expenditure" is not defined).
- Independent expenditure regulation, requiring registration and regular reporting, may go too far. It looks like the kind of regulation that *Barland II* found unconstitutionally burdensome. Check with legislative Council or A-G.
- Prohibits solicitation of contributions from any state officer or employee ever, unless on unpaid leave of absence. (p. 100).
- Amends Ethics Code to permit elected officials to use the status and prestige of office to solicit money, customers, or clients for their private businesses or for organizations on whose board they or their spouses are directors or for which they are officers or authorized agents. (p.38).

Administrative issues

- Independent expenditure committees are not assigned a filing officer. (p.21-22).
- Prohibition on use of CFIS data for a commercial purpose is gone.

- Non-resident committees appear to have to report everything they do, not just Wisconsin activity.
- Restriction on media raising rates for political advertisements is gone.
- Lack of provisions creating sponsoring organizations means many organizations that have solicited money or paid administrative expenses for PACs or conduits may not be able to do so anymore – those expenses could be prohibited corporate contributions.
- Requirements that committees file a continuing report only if supporting a candidate on the ballot will mean that administrators will not know who is required to file and many committees will not be required to file until fall 2016.

Additional comments from issues raised by staff

- The bill would require disclaimer language on any ad, even those by persons not subject to regulation.
- Campaign periods raise issues. (p. 88):
- A fall candidate's campaign period ends on 1/1. This date should be 12/31. Otherwise one day of the campaign period is included on the April 15 continuing report, instead of the entire campaign period being covered by the January 15 report.
- A spring candidate's campaign period ends on 7/1. This date should be 6/30. Otherwise one day of the campaign period is included on the October 15th report, instead of the entire campaign period being covered by the July 15 report.
- Winning fall candidates will have their campaign period end 12/31. Since the campaign period for officeholders is different than that of candidates, there will be a gap. New officeholders' campaign period begins when they are sworn in, sometime during the first week of January. If they are not sworn in until January 5th, there are 4 days not covered by any campaign period. Can the new legislator accept additional contributions during this 4 day gap?
- Winning spring candidates will assume office 8/1. Since the campaign period for the candidates ended 6/30, and the new campaign period for the officeholders don't begin until they begin their term on 8/1, they have an entire month to take additional contributions.
- There used to be a $20 itemization threshold. Without that threshold, each contribution of even $0.01 needs to be itemized and include the person's name and address. This may prevent many county parties and candidate committees from "passing the hat" and collecting small contribution of $20 or less. (The $10 threshold for anonymous contributions may help, but there is still a gap between $10 and $20.)
- See attached chart showing range of time periods covered by different reporting periods.

**AB 387** REPORTING DEADLINES (applied to 2014 and 2015)

2014

| Filing Period | Due Date | Begin Date | End Date | # Days in Report | |
|---|---|---|---|---|---|
| January Quarterly | 1/15/14 | | 12/31/13 | | |
| Pre-Primary Spring | 2/10/14 | 1/1/14 | 2/3/14 | 34 | |
| Pre-Election Spring | 3/24/14 | 2/4/14 | 3/17/14 | 41 | |
| April Quarterly* | 4/15/14 | 3/18/14 | 3/31/14 | 13 | *if required to file spring election reports |
| April Quarterly | 4/15/14 | 1/1/14 | 3/31/14 | 89 | No Spring Election Reports |
| July Quarterly | 7/15/14 | 4/1/14 | 6/30/14 | 91 | |
| Pre-Primary Fall | 8/4/14 | 7/1/14 | 7/28/14 | 28 | |
| 4th Tues Sept | 9/23/14 | 7/29/14 | 8/31/14 | 33 | |
| October Quarterly* | 10/15/14 | 7/1/14 | 9/30/14 | 91 | *if no Fall election reports |
| Pre-Election Fall | 10/27/14 | 9/1/14 | 10/20/14 | 49 | |
| January Quarterly | 1/15/15 | 10/21/14 | 12/31/14 | 71 | |

2015

| Filing Period | Due Date | Begin Date | End Date | # Days in Report | |
|---|---|---|---|---|---|
| Pre-Primary Spring 2015 | 2/9/15 | 1/1/15 | 2/2/15 | 33 | Also 20th Senate Special |
| Pre-Election Spring 2015 | 3/30/15 | 2/3/15 | 3/23/15 | 48 | Also 20th Senate Special |
| April Quarterly* | 4/15/15 | 3/24/15 | 3/31/15 | 7 | *if required to file spring election reports |
| April Quarterly | 4/15/15 | 1/1/15 | 3/31/15 | 89 | No Spring Election Reports |
| 20th Senate Special – Post Election | 5/22/15 | 4/1/15 | 4/29/15 | 28 | |
| 33rd Senate – Pre-Primary | 6/15/15 | 4/1/15 | 6/8/15 | 68 | |
| July Quarterly | 7/15/15 | 4/1/14 | 6/30/15 | 91 | No 33rd Senate activity |
| July Quarterly | 7/15/15 | 6/9/15 | 6/30/15 | 21 | 33rd Senate activity |
| 33rd Senate Pre-Election | 7/13/15 | 7/1/15 | 7/6/15 | 6 | |
| 99th Assembly Special Pre-Primary | 8/24/15 | 7/1/15 or 7/7/15 | 8/17/15 | 48 or 41 | Begin dates depend on requirement to file 33rd Senate reports |
| 33rd Senate Post-Election | 9/4/15 | 7/7/15 | 8/12/15 | 36 | |
| 99th Assembly Pre-Election | 9/21/15 | 8/18/15 | 9/14/15 | 27 | |
| October Quarterly* | 10/15/15 | 7/1/15 | 9/30/15 | 91 | *if no Special election reports |
| October Quarterly | 10/15/15 | 8/13/15 or 9/15/15 | 9/30/15 | 48 or 15 | Last report 33rd Senate Post or 99th Assembly Pre-Election |
| 99th Assembly Post-Election | 11/13/15 | 10/1/15 | 10/21/15 | 20 | |
| January Quarterly | 1/15/16 | 10/1/15 or 10/22/15 | 12/31/15 | 91 or 70 | Last report Oct. quarterly or 99th Assm. Post-Election |

WISPIRG
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To Powerful Interests

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**Testimony of Peter Skopec, Director, Wisconsin Public Interest Research Group (WISPIRG); 10/13/2015**

My name is Peter Skopec, and I'm the director of WISPIRG, the Wisconsin Public Interest Research Group. WISPIRG is a statewide, non-partisan advocacy group, and we represent thousands of members across the state.

On behalf of our members, I want to register opposition to AB387 and SB292, gutting Wisconsin's campaign finance laws; and to AB388 and SB294, dismantling the Government Accountability Board.

We're opposed to these bills because on the one hand, they would give unprecedented authority to the largest donors to flood our elections with special interest money, and to do so secretly; and, on the other hand, because these bills would get rid of the GAB and do away with any oversight or enforcement of the few remaining campaign finance rules that we'd be left with.

I don't know many Wisconsinites who want their elections to be less transparent, or who want their right to vote be less protected, or who want their elected representatives held less accountable for breaking the rules.

And I certainly don't know any Wisconsinites who want more money in our elections. If anything, the opposite is true: 60 communities across Wisconsin are so concerned about the issue of money in politics that they've passed referenda and resolutions to express their concern. This is a bipartisan concern -- it has nothing to do with whether you're a Democrat or a Republican.

This proposal will give outsized representation to those very few who can write the biggest checks, and who want their spending to influence our government to remain a secret. It will also make government far less responsive to the vast majority of Wisconsinites who can't write those checks, and whose voices will be drowned out as a result.

We can't keep our government responsive to the public without open, fair elections and campaign finance laws; and we can't keep our government honest without an impartial, independent watchdog like the GAB.

As citizens, it's our right to know what's going in our government and in our democracy. But this proposal even goes so far as to strike that explicit right from the preamble of the law.

This is not what the public wants or Wisconsin needs. Keep our government open, keep our elections fair, and keep the Government Accountability Board strong. Please oppose AB387 and SB292, and AB388 and SB294.

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*WISPIRG, the Wisconsin Public Interest Research Group, is a non-profit, non-partisan public interest advocacy organization that takes on powerful interests on behalf of its members, working to win concrete results for good government, public health and Wisconsin consumers.*
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wisconsin DEMOCRACY campaign

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# Testimony to joint Senate Committee on Elections and Local Government and Assembly Committee on Campaigns and Elections regarding Assembly Bill 388/Senate Bill 294 on the Government Accountability Board and Assembly Bill 387/Senate Bill 292 on campaign finance

**October 13, 2015**

The Wisconsin Democracy Campaign is a nonpartisan political watchdog that tracks money in state politics and believes that every citizen's voice should be heard and every citizen's vote should be counted. We strongly encourage committee members OPPOSE the two major *de*-form bills before you today.

**Assembly bill 387/Senate Bill 292: Campaign Finance**

Looking beyond the fast-track nature of and minimal opportunity for public input on these far-reaching proposals, the campaign finance bill is absolutely the wrong way to go as it would reduce Wisconsin citizens to mere spectators in the political arena.

The legislation increases the amount that individuals may donate and further loosens the rules on disclosure. **This means that big money would dominate our political system even more than it does now**. The voice of the average citizen would be further drowned out.

Until last year, Wisconsin had a $10,000 limit on contributions to political parties. Now this bill says the sky's the limit. As a result, the billionaires and multimillionaires will have an outsized influence over who gets elected. **In fact, political contests will now be less between candidates and more between tycoons.**

The bill also fails to include an obligation for outside groups that run so-called issue ads at election time to disclose their donors. That even goes against the plea of arch-conservative U.S. Supreme Court Justice Antonin Scalia.

In *Doe v. Reed* in 2010, Scalia wrote: "Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed." He lampooned those who "anonymously" try to influence the outcome of an election, "hidden from public scrutiny and protected from the accountability of criticism. This does not resemble the Home of the Brave."

**Assembly Bill 388/Senate Bill 294: GAB Overhaul**

The proposal to gut the independent ethics, elections and lobbying oversight agency is a recipe for more scandal and corruption. **Putting partisans on the GAB will lead to a replay of the Caucus Scandal.** The old Elections Board had partisan members on it, and they blocked investigations into alleged wrongdoing. This led to no enforcement of campaign rules and no disciplinary action for wrong-doing, a recipe for the Legislative Caucus Scandal of 2001-2002, a scandal that brought felony indictments against the leading Democrats and Republicans in the legislature.

The bill is built on a constant drumbeat of misinformation and vengeful accusations that the GAB renders decisions in a partisan manner, exceeds its authority and is unaccountable. None of this is the case.

Wis. Stat. 5.05 (2m), says: "The board shall investigate violations of laws administered by the board." In addition, the U.S. Seventh Circuit Court of Appeals ruled in the Barland decision that "the GAB has joint enforcement authority with elected district attorneys to investigate violations of the state election laws." It was common practice for the old Elections Board to either dismiss complaints filed or simply respond with what amounted to a slap on the wrist. Currently, no complaints need be filed for the GAB to investigate and funding is sum sufficient – the government watchdog has teeth.

**These bills are the next major links in a chain of attempts toward Legislative control over an independent agency – the continued power grab by the majority in the State Legislature**. One justification used by the bill sponsors is that GAB investigations are not transparent, however this issue is not even addressed in their proposal. It was the Legislature in 2007 who made the investigations of campaign finance complaints a closed process, so the GAB is simply enforcing the law. GAB staff themselves believe investigations should be open.

**The GAB is accountable to the State Legislature and voters of Wisconsin.** GAB's board is chosen by a panel of appellate judges who choose several retired judges as potential board members to nominate. From that list of nominees, the governor appoints one of the retired judges, and then the state senate confirms the appointment. So there is accountability to each of the three branches of government. Gov. Walker appointed or reappointed five of the six current members of the Board, so it's unfounded to say the board is unaccountable.

Further, judges are trained decision-makers – they see all sides to the matter at hand unlike partisans.

**Bill sponsors are purposefully creating a dysfunctional system.** Congress setup the Federal Elections Commission for total gridlock, and the state GOP has a similar goal. The bill would place an equal number of Democrats and Republicans on a reconstituted Elections Commission and Ethics Commission, ironically modeled after the FEC, which has been immobilized because

of its partisan makeup. Even the head of the FEC acknowledges that it is "worse than dysfunctional."

According to Ohio State law professor Daniel Tokaji, the Government Accountability Board is the nation's "top model" for nonpartisan election oversight, lauding how it has "been successful in administering elections evenhandedly." And the Sunlight Foundation applauded Wisconsin's lobbying oversight, saying that Wisconsin is in the top five states in the country for lobbying transparency. That's because of the good work of the GAB.

**Why are no other states instituting such a model**? There are 37 states with an elected Secretary of State. Removing the authority to administer elections from the SOS is not a simple feat. Wisconsin has a very complex elections administration system due to their highly decentralized structure (none other like it). This unique circumstance brings its own set of challenges that the GAB has dealt with effectively.

The Ohio academics who tout GAB as a national model have nothing to gain unlike the partisans who see the GAB as a "failure" and in need of major overhaul. Today's bill sponsors have no experience with the past system or the dysfunction of the FEC. These Republican proposals seem more self-serving than truly serving their constituents and the people of Wisconsin.

**There are accusations of GAB staff "run amuck."** But a recent Legislative Audit Bureau analysis says GAB was enforcing the law when the GAB assisted with the John Doe investigation.[1] Further, there are plenty of examples of both parties having been upset with GAB decisions in the past demonstrating even application of the law.

**Alternative proposals exist and we need not rush into such major overhauls overnight.** The GAB does a great job administering elections, and we've got big elections coming up. Now is no time to upend or destroy this agency, which could cause chaos in November 2016.

GAB's procedures can be changed without gutting it. First, make campaign finance investigations open. Second, remove the home-court advantage of legislators under criminal investigation – citizens do not have this privilege. Fix these two things and we strengthen the system while keeping independent oversight. The Republican proposal maintains the special

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[1] Here is what happened: One of the prosecutors in the John Doe I investigation brought evidence of alleged criminality to the attention of the Government Accountability Board. It had to do with alleged coordination between Scott Walker's campaign and so-called independent groups, with Walker allegedly helping to raise money for those groups. There was cause to believe that such alleged coordination was in violation of the campaign finance laws of the state of Wisconsin. The GAB is authorized by Wisconsin statutes to investigate such violations. So the GAB did its job, and started to investigate and then cooperated with the John Doe II. It did what it was supposed to do: It tried to enforce the election laws of the state. (Then the State Supreme Court ruled that the statute against coordination was unconstitutional, so that ended the John Doe. It wasn't up to the GAB to decide whether coordination was unconstitutional; it was up to the GAB to make sure the laws on the books were being followed.)

legislative advantages in criminal investigations while removing all of the advantages of an independent oversight structure.

It is imperative that the committee **reject** these two major bills to overhaul our campaign finance system and elections and ethics oversight in Wisconsin. The rush of public review of these bills is of major concern. Others have highlighted significant drafting errors and major loopholes in these bills and they need to be fixed. Further, the timing of their implementation raises major implications for the secure and smooth implementation of Wisconsin's November 2016 state and federal elections.

# Common Cause in Wisconsin

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## Testimony of Jay Heck – Executive Director
## Common Cause in Wisconsin

## 2015 Assembly Bill 387 & 2015 Senate Bill 292
## Campaign Finance Deform

## October 13, 2015

State Senators & State Representatives,

We oppose this legislation, which has been available for public inspection for less than a week, because it almost completely deregulates campaign finance law in Wisconsin. It will lead to an even far greater flood of special interest money from within and outside of Wisconsin, render even the doubled campaign contribution limits contained in this legislation virtually meaningless because of the way it legalizes and codifies into law, formerly prohibited campaign coordination, and will bring about far less transparency and disclosure of this money and further prevent the citizens of Wisconsin from knowing who is trying to influence the outcome of their elections and how much they are spending.

Even more so than they are now, Wisconsin voters will be relegated to being mere bystanders when it comes to establishing the issues that candidates debate, the information they receive about the candidates and the issues, and in having any say over the type and tone of campaigns they will be forced to endure. Organized, big special interest money and very wealthy individuals from both within and outside of Wisconsin will have an even much greater say than normal Wisconsin citizens about what will happen in our elections. This is increasingly the case now. This measure will hyper-accelerate this deplorable trend.

The doubling of campaign contributions in this measure was expected, even though I have yet to ever hear from a single person outside of this Capitol ever say to me, "Gosh I wish I could give more money to political candidates. The current contribution limits are far too low and we are overdue for an increase." This isn't what normal people say or how they think.

But even the doubled campaign contribution limits are effectively rendered meaningless by the far greater sin this legislation commits. This measure seeks to

codify into law a highly controversial, compromised, and, I would add, corrupted majority decision by the Wisconsin Supreme Court last July that declared, without any solid or even reasonable legal basis, that candidates can coordinate with outside spending groups as long as the communications made by those groups do not contain any of the so-called "magic words" such as "vote for" or "defeat" or "support." Issue advocacy, or more accurately and honestly described, "phony" issue advocacy has long been the basis, together with express advocacy, to bar campaign coordination between the outside groups, with candidate campaigns. For good reason. To voters, there is no discernible difference between express advocacy and campaign communications masquerading as issue advocacy before an election. They have the same effect in the minds of voters in how they influence the perception of a candidate in the period before an election.

Under this legislation, an individual could give up to $20,000 to a candidate. That would be disclosed. But the same person could give unlimited money to an outside special interest group to be used to help the candidate or attack his or her opponent and if that group ran phony issue ads, there would be no disclosure of the contribution to the outside group. Why bother making the disclosed $20,000 contribution at all when you can give as much as you wish to the special interest group coordinating with the candidate of your choice and remain secret. That's what John Menard did to the tune of $1.5 million during the 2011-2012. We know that only because of secret documents released during the John Doe II legal wrangling.

So the effect of this measure is the unlimited flow of secret money into our elections campaigns. The decision of the majority of the Wisconsin Supreme Court is an outlier. No other court in the nation – state or federal – has ever gone so far as to strike down a law prohibiting campaign coordination between a candidate committee with an issue ad group. Even the 2010 *Citizens United vs. F.E.C.* U.S. Supreme Court decision, which opened up the flood of money from corporate and union general treasuries to be used to influence federal and state elections, kept intact the prohibition on coordination between candidates and issue advocacy organizations. Expert legal opinion nationally is overwhelmingly against the outlier Wisconsin Supreme Court decision. And yet this measure would codify it into law.

An appeal of the Wisconsin Supreme Court decision is expected to be filed, soon. At the very least, the Legislature ought to hold off on rushing this through until the legal process plays out on this matter. Of course, there is another agenda at work here. That is the retroactive decriminalization of the alleged illegal campaign coordination between Scott Walker's 2011-2012 recall campaign with phony issue advocacy organizations such as Wisconsin Club for Growth and others. It is the same rationale that is really behind the drive to destroy the non-partisan Government Accountability Board because of their unanimous 2012 decision to authorize the investigation into that alleged coordination, which was indisputably against the law at that time, even if it is no longer. Revenge and "pay back" and

seeking greater partisan advantage is what is driving both of these measures. At the very least, proponents ought to admit what the real motivation behind them are.

There are many other things to dislike about this measure but time here today doesn't permit my discussing all of them. But one element jumps out and bears mentioning. This measure would permit the four legislative campaign committees, which are controlled by the four legislative leaders of both chambers and of both political parties, to collect unlimited contributions, other than from political action committees, which are capped at $12,000 for any calendar year.

What that will mean is that Wisconsin legislative leaders, who already possess as much or more power over their rank and file members than any legislative leaders in the country, will have their power and influence enhanced. Much more money will flow to the legislative campaign committees that they control and that money is likely to play an even greater role in their decision-making about policy, as well as in their ability to dictate what rank and file members can and cannot do. More political money is a powerful tool with which to control and persuade. No wonder Speaker Robin Vos and Senate Majority Leader Scott Fitzgerald are the only named sponsors of this legislation.

Remember that it was the flow of money, controlled by the legislative leadership in the Capitol that ultimately led to the criminal charging, 13 years ago this month, for felony misconduct in public office, and even for extortion for one leader, ending their careers in public office and bringing disgrace and shame upon the Wisconsin Legislature. Ironically, one of those legislative leaders at the time, Assembly Speaker Scott Jensen, had made a proposal in 2001, that we supported, that would have eliminated the four legislative campaign committees and gotten much of the political money out of the Capitol. It went nowhere and there is some question about how serious Jensen really was about the proposal at the time. But it would have been an excellent beginning toward the separation of public policy from political money in Wisconsin.

This measure goes in the opposite direction. And the concentration of even more money in the hands of the legislative leadership increases the likelihood of another damaging political scandal in Wisconsin rather than diminishes it.

Do not rush this legislation through with so little public inspection. By doing so, you are ill-serving not only this institution, but far more importantly, the citizens of Wisconsin.

WISCONSIN VOICES

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October 12, 2015

To: Members of the Senate Committee on Elections and Local Government and Assembly Committee on Campaigns and Elections

Re: In opposition to AB 387 and AB 388

Wisconsin has set a lot of records over the years. Whether it is in sports, the largest fish fry, or the largest muskie, we like to be big and bold. Unfortunately, Wisconsin has been setting new records lately: in being the first state to have both party leaders charged with a felony for the same crime and the record amount of money being spent on our elections.

We should stop trying to set some records.

Wisconsin Voices represents over 60 nonprofits across Wisconsin. We believe every voice is worth fighting for. More money in politics will not create a stronger democracy where Wisconsinites are heard. More money will weaken our system and weaken our voices. We believe in the founding principles of Wisconsin's campaign finance laws, which are being taken out of Chapter 11. Wis. Stat. §11.001 states "our democratic system of government can be maintained only if the electorate is informed" and "excessive spending on campaigns for public office jeopardizes the integrity of elections."[1]

AB 387 and AB 388 opens the way to setting new records in money being spent in politics and corruption.

AB 388 will have a chilling effect on investigations. This bill does not allow the new commissions to initiative investigations, even when they have evidence to start one. It removes privacy protections for those seeking advice or being investigated. Individuals can be fined for filing complaints the commissions might find "frivolous". The money and time spent on investigations is significantly restricted. Matters can also be moved outside of the commissions to the Attorney General, a partisan elected official.

AB 387 opens the floodgates on campaign finance spending. Loopholes are created for unlimited contributions. Money between committees, candidates, and parties can now flow with fewer protections and disclosure. If candidates thought reporting was difficult before, its worse now with vary deadlines and schedules depending on your election. The lack of definitions on what constitutes organizing documents for the major purpose test will create the confusion we have at the federal level on when groups should or should not register. Segregated funds established by political parties and legislative campaign committees will allow for the indirect flow of money from corporations to candidates.

Wisconsin has a proud history of being a model for the nation by instituting some of the first campaign finance and ethics laws in the country. Its time to be big and bold again for the people of Wisconsin : looking to set new good government records, and not those that would damage the confidence our citizens have in their elections and legislators.

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[1] Wis. Stat. §11.001 https://docs.legis.wisconsin.gov/statutes/statutes/11/001/1