

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

2001-02

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on  
Campaigns &  
Elections  
(AC-CE)

File Naming Example:

Record of Comm. Proceedings ... RCP

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

*Published Documents*

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

> \*\*

> Committee Reports ... CR

> \*\*

> Executive Sessions ... ES

> \*\*

> Record of Comm. Proceedings ... RCP

> \*\*

*Information Collected For Or  
Against Proposal*

> Appointments ... Appt

> \*\*

> Clearinghouse Rules ... CRule

\*\*

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

> **01hr\_ab0018\_AC-CE\_pt01**

> Miscellaneous ... Misc

> \*\*

# Vote Record

## Assembly - Committee on Campaigns and Elections

Date: 2/15/01  
Moved by: 18 Radwig Seconded by: Freese  
Clearinghouse Rule: \_\_\_\_\_  
Appointment: \_\_\_\_\_  
Other: \_\_\_\_\_

AB: \_\_\_\_\_ SB: \_\_\_\_\_  
AJR: \_\_\_\_\_ SJR: \_\_\_\_\_  
AR: \_\_\_\_\_ SR: \_\_\_\_\_  
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
- Introduction
- Adoption
- Rejection

*as amended*

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

### Committee Member

Rep. Stephen Freese, Chair  
Rep. Bonnie Ladwig  
Rep. Jeff Stone  
Rep. Jeff Fitzgerald  
Rep. David Travis  
Rep. Mark Pocan

	<del>Aye</del>	<del>No</del>	Absent	Not Voting
Rep. Stephen Freese, Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Bonnie Ladwig	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Stone	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Fitzgerald	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. David Travis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>2</u>	<u>4</u>		

*Reported out  
as 2-4*

Motion Carried

Motion Failed

AB18

Vote Record

AA1

Assembly - Committee on Campaigns and Elections

Date: 2/15/01

Moved by: \_\_\_\_\_  
AB: 19 SB: \_\_\_\_\_  
AJR: \_\_\_\_\_ SJR: \_\_\_\_\_  
AR: \_\_\_\_\_ SR: \_\_\_\_\_

Seconded by: \_\_\_\_\_  
Clearinghouse Rule: \_\_\_\_\_  
Appointment: \_\_\_\_\_  
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
- Introduction
- Adoption
- Rejection

*unanimous consent*

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

- Rep. Stephen Freese, Chair
- Rep. Bonnie Ladwig
- Rep. Jeff Stone
- Rep. Jeff Fitzgerald
- Rep. David Travis
- Rep. Mark Pocan

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: \_\_\_\_\_

Motion Carried

Motion Failed

AA 1

Vote Record

Assembly - Committee on Campaigns and Elections

Date: 2/15/01  
 Moved by: 18 Ladwig Seconded by: Stone  
 Clearinghouse Rule: \_\_\_\_\_  
 Appointment: \_\_\_\_\_  
 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
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

*LRB*  
*LRB/00240*

Committee Member

- Rep. Stephen Freese, Chair
- Rep. Bonnie Ladwig
- Rep. Jeff Stone
- Rep. Jeff Fitzgerald
- Rep. David Travis
- Rep. Mark Pocan

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Stephen Freese, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Bonnie Ladwig	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Stone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Fitzgerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. David Travis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>6</u>	<u>0</u>		

*deletes "party"*  
*too broad - constitutional concerns*

Motion Carried

Motion Failed

0236  
AA 2

# Vote Record

## Assembly - Committee on Campaigns and Elections

2/15/07

Date: \_\_\_\_\_  
 Moved by: \_\_\_\_\_  
 AB: 18 SB: \_\_\_\_\_  
 AJR: \_\_\_\_\_ SJR: \_\_\_\_\_  
 AR: \_\_\_\_\_ SR: \_\_\_\_\_

Seconded by: \_\_\_\_\_  
 Clearinghouse Rule: \_\_\_\_\_  
 Appointment: \_\_\_\_\_  
 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
- Introduction
- Adoption
- Rejection

*Unan. Consent*

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

### Committee Member

Rep. Stephen Freese, Chair  
 Rep. Bonnie Ladwig  
 Rep. Jeff Stone  
 Rep. Jeff Fitzgerald  
 Rep. David Travis  
 Rep. Mark Pocan

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Stephen Freese, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Bonnie Ladwig	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Stone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Fitzgerald	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. David Travis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: \_\_\_\_\_

Motion Carried

Motion Failed

a 0236 AA2

# Vote Record

## Assembly - Committee on Campaigns and Elections

Date: 2/15/01 Moved by: Stone Seconded by: Ladwig  
 AB: 18 SB: \_\_\_\_\_ Clearinghouse Rule: \_\_\_\_\_  
 AJR: \_\_\_\_\_ SJR: \_\_\_\_\_ Appointment: \_\_\_\_\_  
 AR: \_\_\_\_\_ SR: \_\_\_\_\_ Other: \_\_\_\_\_

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
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

### Committee Member

Rep. Stephen Freese, Chair  
 Rep. Bonnie Ladwig  
 Rep. Jeff Stone  
 Rep. Jeff Fitzgerald  
 Rep. David Travis  
 Rep. Mark Pocan

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Stephen Freese, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Bonnie Ladwig	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Stone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Fitzgerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. David Travis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>6</u>	<u>0</u>		

F.E.C. registration

Motion Carried       Motion Failed

20237 AA3

Vote Record

Assembly - Committee on Campaigns and Elections

Date: 2/15/01  
 Moved by: \_\_\_\_\_  
 Seconded by: \_\_\_\_\_  
 Clearinghouse Rule: \_\_\_\_\_  
 Appointment: \_\_\_\_\_  
 Other: \_\_\_\_\_

AB: 18 SB: \_\_\_\_\_  
 AJR: \_\_\_\_\_ SJR: \_\_\_\_\_  
 AR: \_\_\_\_\_ SR: \_\_\_\_\_

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
  - Introduction
  - Adoption
  - Rejection

*unanimous consent*

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

Rep. Stephen Freese, Chair  
 Rep. Bonnie Ladwig  
 Rep. Jeff Stone  
 Rep. Jeff Fitzgerald  
 Rep. David Travis  
 Rep. Mark Pocan

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Stephen Freese, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Bonnie Ladwig	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Stone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Fitzgerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. David Travis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: \_\_\_\_\_

Telemarketers  
 Nothing in Chap. 11.  
 Prohibits communication  
 by members of organization  
 limit to memb

Motion Carried

Motion Failed

0237

# Vote Record

## Assembly - Committee on Campaigns and Elections

Date: 2/15/07  
 Moved by: [Signature]      Seconded by: [Signature]

AB: \_\_\_\_\_ SB: \_\_\_\_\_  
 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
  - Introduction
  - Adoption
  - Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

### Committee Member

- Rep. Stephen Freese, Chair
- Rep. Bonnie Ladwig
- Rep. Jeff Stone
- Rep. Jeff Fitzgerald
- Rep. David Travis
- Rep. Mark Pocan

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<del>Rep. Stephen Freese, Chair</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<del>Rep. Bonnie Ladwig</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<del>Rep. Jeff Stone</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<del>Rep. Jeff Fitzgerald</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<del>Rep. David Travis</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<del>Rep. Mark Pocan</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>6</u>			

Motion Carried

Motion Failed

10257

# Vote Record

## Assembly - Committee on Campaigns and Elections

2/15/11

Date: \_\_\_\_\_  
 Moved by: 14 \_\_\_\_\_  
 AB: \_\_\_\_\_ SB: \_\_\_\_\_  
 AJR: \_\_\_\_\_ SJR: \_\_\_\_\_  
 AR: \_\_\_\_\_ SR: \_\_\_\_\_

Seconded by: \_\_\_\_\_  
 Clearinghouse Rule: \_\_\_\_\_  
 Appointment: \_\_\_\_\_  
 Other: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_  
 A/S Amdt: AAK 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
- Introduction
- Adoption
- Rejection

*unanimous consent*

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

### Committee Member

Rep. Stephen Freese, Chair  
 Rep. Bonnie Ladwig  
 Rep. Jeff Stone  
 Rep. Jeff Fitzgerald  
 Rep. David Travis  
 Rep. Mark Pocan

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Stephen Freese, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Bonnie Ladwig	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Stone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Fitzgerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. David Travis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: \_\_\_\_\_

Motion Carried

Motion Failed

40259

# Vote Record

## Assembly - Committee on Campaigns and Elections

Date: \_\_\_\_\_

Moved by: \_\_\_\_\_

2/15/07 R

Seconded by: \_\_\_\_\_

Stone

Clearinghouse Rule: \_\_\_\_\_

AB: \_\_\_\_\_

SB: \_\_\_\_\_

AJR: \_\_\_\_\_

SJR: \_\_\_\_\_

AR: \_\_\_\_\_

AA4

Appointment: \_\_\_\_\_

Other: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_

A/S Sub Amdt: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_

to A/S Amdt: \_\_\_\_\_

to A/S Sub Amdt: \_\_\_\_\_

to A/S Amdt: \_\_\_\_\_

to A/S Sub Amdt: \_\_\_\_\_

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

### Committee Member

- Rep. Stephen Freese, Chair
- Rep. Bonnie Ladwig
- Rep. Jeff Stone
- Rep. Jeff Fitzgerald
- Rep. David Travis
- Rep. Mark Pocan

Aye

No

Absent

Not Voting

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals:

6 0 \_\_\_\_\_

Motion Carried

Motion Failed

120175

# Vote Record

## Assembly - Committee on Campaigns and Elections

Date: 2/15/07

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Clearinghouse Rule: \_\_\_\_\_

AB: \_\_\_\_\_

SB: \_\_\_\_\_

Appointment: \_\_\_\_\_

AJR: \_\_\_\_\_

SJR: \_\_\_\_\_

Other: \_\_\_\_\_

AR: \_\_\_\_\_

SR: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_

**AAS**

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
- Introduction
- Adoption
- Rejection

**Unanim. Consent**

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

### Committee Member

- Rep. Stephen Freese, Chair
- Rep. Bonnie Ladwig
- Rep. Jeff Stone
- Rep. Jeff Fitzgerald
- Rep. David Travis
- Rep. Mark Pocan

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Stephen Freese, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Bonnie Ladwig	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Stone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Fitzgerald	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. David Travis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: \_\_\_\_\_

Motion Carried

Motion Failed

120179

# Vote Record

## Assembly - Committee on Campaigns and Elections

Date: 2/15/01 Reading  
 Moved by: 18 Seconded by: Stone  
 AB: \_\_\_\_\_ SB: \_\_\_\_\_ Clearinghouse Rule: \_\_\_\_\_  
 AJR: \_\_\_\_\_ SJR: \_\_\_\_\_ Appointment: \_\_\_\_\_  
 AR: \_\_\_\_\_ SR: \_\_\_\_\_ Other: \_\_\_\_\_

A/S Amdt: AAS \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
 A/S Sub Amdt: \_\_\_\_\_ to 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
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

### Committee Member

- Rep. Stephen Freese, Chair
- Rep. Bonnie Ladwig
- Rep. Jeff Stone
- Rep. Jeff Fitzgerald
- Rep. David Travis
- Rep. Mark Pocan

Aye	No	Absent	Not Voting
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>4</u>	<u>2</u>		

Totals:



Motion Carried

Motion Failed

10238

# Vote Record

## Assembly - Committee on Campaigns and Elections

Date: 2/15/01

Moved by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Clearinghouse Rule: \_\_\_\_\_

Appointment: \_\_\_\_\_

Other: \_\_\_\_\_

AB: 18 SB: \_\_\_\_\_

AJR: \_\_\_\_\_ SJR: \_\_\_\_\_

AR: \_\_\_\_\_ SR: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_

A/S Sub Amdt: \_\_\_\_\_ to 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
  - Introduction
  - Adoption
  - Rejection
  - Indefinite Postponement
  - Tabling
  - Concurrence
  - Nonconcurrence
  - Confirmation

Unanim. Consent

Committee Member	Aye	No	Absent	Not Voting
Rep. Stephen Freese, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Bonnie Ladwig	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Stone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Fitzgerald	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. David Travis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: \_\_\_\_\_

*Civil forfeiture  
SA 2 to SB 2  
removes the criminal aspect*

Motion Carried  Motion Failed

10238

# Vote Record

## Assembly - Committee on Campaigns and Elections

Date: 2/15/07 Moved by: Pocan Seconded by: Travis  
 AB: 18 SB: \_\_\_\_\_ Clearinghouse Rule: \_\_\_\_\_  
 AJR: \_\_\_\_\_ SJR: \_\_\_\_\_ Appointment: \_\_\_\_\_  
 AR: \_\_\_\_\_ SR: \_\_\_\_\_ Other: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
 A/S Sub Amdt: AAA to A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_

- Be recommended for:
- Passage
  - Introduction
  - Adoption
  - Rejection
  - Indefinite Postponement
  - Tabling
  - Concurrence
  - Nonconcurrence
  - Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. Stephen Freese, Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Bonnie Ladwig	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Stone	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Jeff Fitzgerald	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. David Travis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>2</u>	<u>4</u>		

Motion Carried  Motion Failed

**WISCONSIN ASSEMBLY ROLL CALL  
2001-2002 SESSION  
SPEAKER JENSEN**

**AB 18  
BY COMMITTEE  
DEFINITION OF POLITICAL PURPOSE  
PASSAGE**

45  
47      48  
AYES - 41   NAYS - 52   NOT VOTING - 0   PAIRED - 6

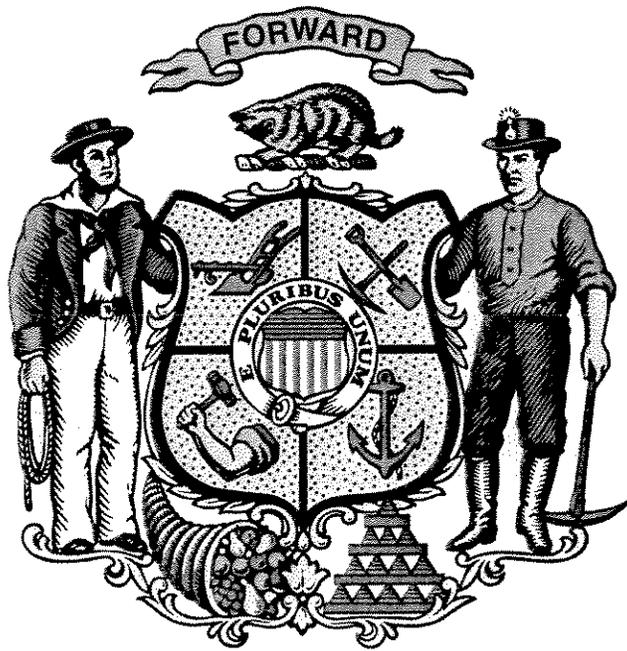
A	N	NV	NAME		A	N	NV	NAME		A	N	NV	NAME	
	N		ALBERS	(R)		N		KREIBICH	(R)	A			SERATTI	(R)
A			BALOW	(D)	A			KREUSER	(D)	A			SHERMAN	(D)
A			BERCEAU	(D)	A			KRUG	(D)	A			SHILLING	(D)
	N		BIES	(R)	A	N		KRUSICK	(D)	A			SINICKI	(D)
A			BLACK	(D)	A			LA FAVE	(D)		N		SKINDRUD	(R)
A			BOCK	(D)		N		LADWIG	(R)		N		STARZYK	(R)
A			BOYLE	(D)	A			LEHMAN, J.	(D)		N		STASKUNAS	(D)
A			CARPENTER	(D)		N		LEHMAN, M.	(R)	A			STEINBRINK	(D)
A			COGGS	(D)		N		LEIBHAM	(R)		N		STONE	(R)
A			COLON	(D)		N		LIPPERT	(R)		N		SUDER	(R)
A			CULLEN	(D)		N		LOEFFELHOLZ	(R)		N		SYKORA	(R)
	N		DUFF	(R)		N		MCCORMICK	(R)		N		TOWNSEND	(R)
	N		FITZGERALD	(R)		N		MEYER	(R)	A			TRAVIS	(D)
	N		FOTI	(R)	A			MEYERHOFER	(D)	A			TURNER	(D)
A			FREESE	(R)	A			MILLER	(D)		N		UNDERHEIM	(R)
A			FRISKE	(R)		N		MONTGOMERY	(R)		N		URBAN	(R)
	N		GARD	(R)	A			MORRIS-TATUM	(D)		N		VRAKAS	(R)
A			GRONEMUS	(D)	A			MUSSER	(R)		N		WADE	(R)
	N		GROTHMAN	(R)		N		NASS	(R)		N		WALKER	(R)
	N		GUNDERSON	(R)		N		OLSEN	(R)		N		WARD	(R)
	N		GUNDRUM	(R)		N		OTT	(R)	A			WASSERMAN	(D)
	N		HAHN	(R)		N		PETROWSKI	(R)		N		WIECKERT	(R)
A			HEBL	(D)		N		PETTIS	(R)	A			WILLIAMS	(D)
	N		HOVEN	(R)	A			PLOUFF	(D)		N		WOOD	(D)
A			HUBER	(D)	A			POCAN	(D)	A			YOUNG	(D)
A			HUBLER	(D)		N		POWERS	(R)		N		ZIEGELBAUER	(D)
	N		HUEBSCH	(R)	A			REYNOLDS	(D)		N		SPEAKER	(R)
	N		HUNDERTMARK	(R)		N		RHOADES	(R)					
	N		JESKEWITZ	(R)	A			RICHARDS	(D)					
	N		JOHNSRUD	(R)	A			RILEY	(D)					
	N		KEDZIE	(R)	A			RYBA	(D)					
	N		KESTELL	(R)	A			SCHNEIDER	(D)					
	N		KRAWCZYK	(R)	A			SCHOOFF	(D)					

PAIRED AYE: AINSWORTH; KAUFERT; LASSA

IN CHAIR: DUFF

PAIRED NAY: LASEE; OWENS; PLALE

NO VACANT DISTRICTS





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## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536

Telephone: (608) 266-1304

Fax: (608) 266-3830

Email: leg.council@legis.state.wi.us

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FILE

DATE: May 24, 2000

TO: SENATOR JUDY ROBSON

FROM: Ronald Sklansky, Senior Staff Attorney 

SUBJECT: Regulation of Express Advocacy

This memorandum, prepared at your request, responds to a question you have raised regarding the regulation of express advocacy. Specifically, you have asked whether a law regulating express advocacy enacted yet this year could apply to the fall season of general elections.

### A. BACKGROUND

Current law provides that a campaign disbursement or obligation that is not made or incurred by a candidate or an entity primarily organized for political purposes is required to be reported to the Elections Board if the purpose of the disbursement or obligation is to expressly advocate the election or defeat of a clearly identified candidate. [See s. 11.06 (2), Stats.]

On October 26, 1999, the Elections Board began a formal rule promulgation process by initiating Clearinghouse Rule 99-150, relating to express advocacy. Interpreting various provisions of ch. 11, Stats., the rule provides that an individual other than a candidate, and a committee other than a political committee, are subject to campaign disclosure and record keeping requirements if the person or committee makes a communication meeting all of the following conditions:

1. The communication makes a reference to a clearly identified candidate.
2. The communication expressly advocates the election or defeat of the candidate.
3. The communication unambiguously relates to the campaign of the candidate.

4. The communication contains the phrases or terms "vote for," "elect," "support," "cast your ballot for," "Smith for Assembly," "vote against," "defeat" or "reject" or the functional equivalents of these phrases or terms.

Clearinghouse Rule 99-150 was unanimously objected to by both the Assembly Committee on Campaigns and Elections and the Senate Committee on Economic Development, Housing and Government Operations. The Joint Committee for Review of Administrative Rules (JCRAR) concurred in the standing committee objections by a vote of Ayes, 8; Noes, 2.

Following its objection to Clearinghouse Rule 99-150, JCRAR recommended for introduction into both houses of the Legislature companion bills relating to the scope of regulation and reporting of information by nonresident registrants under the campaign finance law. Briefly, each bill provides the following:

1. Campaign disclosure and reporting requirements under ch. 11, Stats., will be imposed on a person or entity that makes a communication by means of one or more communications media or a mass mailing, or through a telephone bank operator; that is made during the period beginning on the 60th day preceding an election and ending on the date of that election; and that includes a name or likeness of a candidate whose name is certified to appear on the ballot at that election, an office to be filled at that election or a political party.

2. Nonresident registrants under ch. 11, Stats., will be required to report the same information as all other registrants.

The JCRAR bills are drafted so that they will take effect on the day after its date of publication, although the treatment of nonresidents first applies with respect to reporting periods beginning on or after the effective date of the enactment. [See s. 991.11, Stats., and SECTION 7 of the bills.]

## B. DISCUSSION

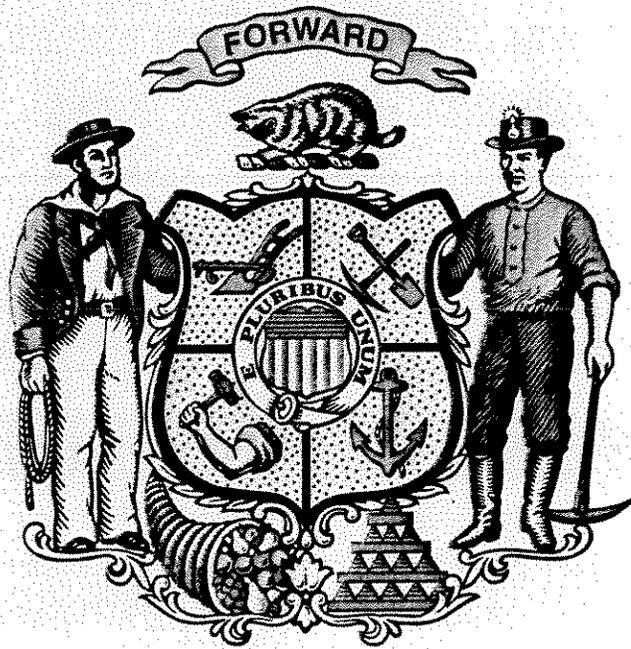
The express advocacy portion of the JCRAR bills will go into effect, and will be immediately applicable, on the day after one of the bills has been passed by the Legislature, signed by the Governor and published. This process easily can be accomplished prior to the 60-day period preceding this year's September primary. By operation of s. 5.02 (5) and (18), Stats., the general election this year will be held on November 7 and any required primaries will be held on September 12. The 60th day preceding the September 12 primary occurs on July 14. Consequently, there is ample time for the Legislature, in special or extraordinary session, to pass one of the JCRAR bills, for the Governor to approve the bill and for the publication of the enactment prior to July 14. (If the Legislature addresses the JCRAR bills later, rather than sooner, it should be noted that the state publication process can move expeditiously when it is necessary to do so. For example, in the 1981 Session of the Legislature, Senate Bill 558 was passed and enrolled on October 30, 1981, was signed by the Governor on the same day and was published on October 31. The provisions of the bill took effect on November 1, 1981.)

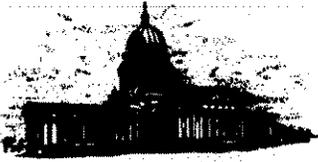
Finally, if the express advocacy provisions of the JCRAR bills take effect within the 60-day period preceding the September primary or November general election, the new law

simply will apply to a disbursement made or obligated incurred on or after the effective date of the enactment.

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

RS:tlv;rv





# WISCONSIN LEGISLATURE

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P.O. Box 7882 • Madison, WI 53707-7882

June 26, 2000

BY INTER-D

Mr. Kevin Kennedy  
Executive Director, State Elections Board  
132 East Wilson Street  
Madison, Wisconsin

Dear Mr. Kennedy:

We are writing in regards to the administrative rule regarding express advocacy proposed by the Elections Board. We hope the Board will re-write the rule to define express advocacy using the context of a communication, not just reliance on specific words.

The Joint Committee for Review of Administrative Rules objected to the rule proposed by the Board. By statute, the committee must introduce identical bills in each branch of the Legislature to uphold the objection. The Legislature will not be in session until next January and the committee's bills cannot be introduced until that time.

In the meantime, the rule remains suspended. This means there will be no rule in place for this fall's elections.

We suggest that the Elections Board draft a new version of the rule. The contents of the new rule should mirror the legislation drafted by the JCRAR, which takes a context-based approach to defining express advocacy, rather than reliance on certain "magic" words. We have attached a copy of the JCRAR bill for your review.

You testified at the JCRAR hearing on the proposed rule that the Board does not have the authority to write a rule based on anything other than specific words. That is not true.

Because of your testimony, Senator Robson asked the Legislative Council to render an opinion on the question of whether the Elections Board has statutory authority to promulgate a rule similar to the legislation approved by the JCRAR. The answer is "yes." We have attached a copy of the Legislative Council opinion for your review.

The strong bipartisan action of the JCRAR (an 8-2 vote) should signal to the Elections Board the desire of the Legislature for a rule that takes a context-based approach to defining express advocacy.

The Legislative Council opinion should make it clear that the Board has authority to promulgate such a rule.

Given this direction on content and authority, we hope the Elections Board will take it upon itself to have a new rule drafted and in place for this fall's elections.

Thank you for your help in ensuring that Wisconsin's elections remain clean and democratic.

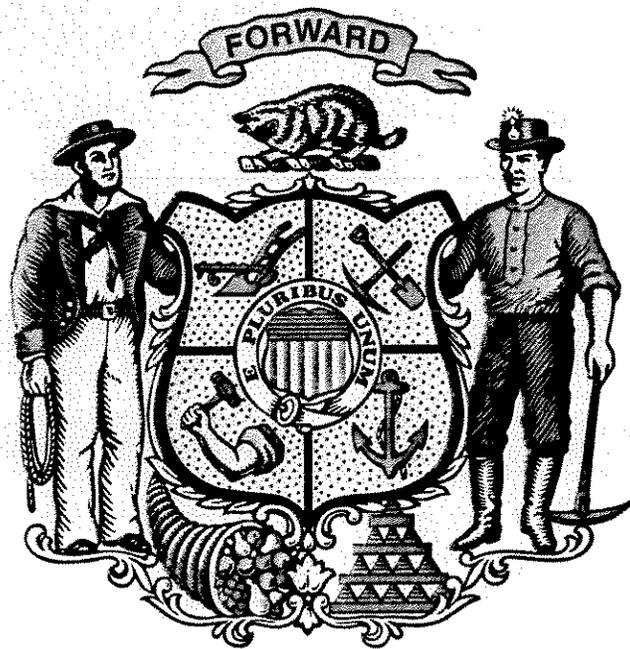
Sincerely,

  
Senator Judith B. Robson  
15th Senate District

  
Representative Stephen Freese  
51<sup>st</sup> Assembly District

JBR:SF:da

Enc. (2)





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**WISCONSIN LEGISLATIVE COUNCIL**  
**STAFF MEMORANDUM**

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**TO:** REPRESENTATIVE SPENCER BLACK

**FROM:** Ronald Sklansky, Senior Staff Attorney

**RE:** Legislative Consideration of 2001 Assembly Bill 18

**DATE:** January 22, 2001

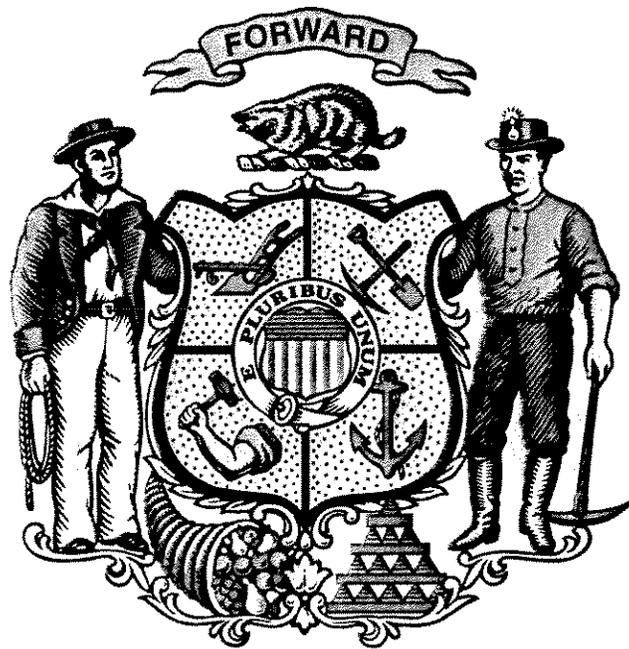
This memorandum, prepared at your request, responds to a question you have raised regarding the legislative consideration of 2001 Assembly Bill 18, relating to the scope of regulation and reporting of information by nonresident registrants under the Campaign Finance Law. Specifically, you have asked for a discussion of the procedure by which the Assembly will consider Assembly Bill 18 under the Legislature's 2001 Session schedule.

On October 26, 1999, the Elections Board began the formal process of promulgating Clearinghouse Rule 99-150, relating to express advocacy. Following objections to the rule by the Assembly Committee on Campaigns and Elections and the Senate Committee on Economic Development, Housing and Government Operations, the Joint Committee for Review of Administrative Rules (JCRAR) also objected to the rule on April 11, 2000. Then, on May 10, 2000, JCRAR adopted a motion to introduce legislation to sustain its objection. Because this legislation could not be taken up in the 1999 Session of the Legislature, the objection-sustaining bill, Assembly Bill 18, has been introduced in the 2001 Session according to s. 227.19 (5) (g), Stats. Assembly Bill 18 was introduced on January 16, 2001, and was referred to the Assembly Committee on Campaigns and Elections.

Section 227.19 (6) (b), Stats., provides that a bill introduced by JCRAR following a rule objection must receive expedited consideration. If a committee to which a bill is referred makes no report within 30 days after referral, the bill must be considered reported without recommendation. Consequently, if the Assembly Committee on Campaigns and Elections were to take no action on Assembly Bill 18, the bill would be considered reported without recommendation on February 15, 2001. The statute also provides that no later than 40 days after referral, the bill must be placed on the calendar of the Assembly, according to its rule governing the placement of proposals on the calendar. In this case, the 40th day after referral of Assembly Bill 18 is February 25, 2001. (For additional information on this process, see Assembly Rules 15 (6) and 33 (7).)

According to Senate Joint Resolution 1, the Assembly will be in session on February 1, 13, 14 and 15 of this year. Thus, in order to comply strictly with s. 227.19 (6) (b), Stats., Assembly Bill 18 should be calendared no later than February 15, unless a skeleton session with a calendar occurs on another date prior to February 26.

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





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**WISCONSIN LEGISLATIVE COUNCIL  
STAFF MEMORANDUM**

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TO: SPEAKER SCOTT R. JENSEN

FROM: Robert J. Conlin, Senior Staff Attorney *RJC*

RE: Constitutionality of 2001 Senate Bill 2 and 2001 Assembly Bill 18, Relating to Express Advocacy

DATE: February 5, 2001

This memorandum, prepared at the request of R.J. Pirlot of your office, discusses the constitutionality of 2001 Senate Bill 2 and 2001 Assembly Bill 18, relating to express advocacy.

Both bills were introduced by the Joint Committee for Review of Administrative Rules.

**A. BACKGROUND: HISTORY OF SENATE BILL 2 AND ASSEMBLY BILL 18**

As you know, current law provides that a campaign disbursement or obligation that is not made or incurred by a candidate or an entity primarily organized for political purposes is required to be reported to the Elections Board if the purpose of the disbursement or obligation is to expressly advocate the election or defeat of a clearly identified candidate. [See s. 11.06 (2), Stats.]

On October 26, 1999, the Elections Board began a formal rule promulgation process by initiating Clearinghouse Rule 99-150, relating to express advocacy. Interpreting various provisions of ch. 11, Stats., the rule provided that an individual other than a candidate, and a committee other than a political committee, are subject to campaign registration and reporting requirements if the person or committee makes a communication meeting all of the following conditions:

1. The communication makes a reference to a clearly identified candidate.
2. The communication expressly advocates the election or defeat of the candidate.
3. The communication unambiguously relates to the campaign of the candidate.
4. The communication contained certain words or phrases or the functional equivalent of these phrases or terms.

Clearinghouse Rule 99-150 was unanimously objected to by both the Assembly Committee on Campaigns and Elections and the Senate Committee on Economic Development, Housing and Government Operations. The Joint Committee for Review of Administrative Rules (JCRAR) concurred in the standing committee objections.

Following the objections to Clearinghouse Rule 99-150, JCRAR recommended for introduction into both houses of the Legislature, companion bills relating to the scope of regulation and reporting of information by nonresident registrants under the campaign finance law. As introduced, these bills provide in part that the campaign registration and reporting requirements of ch. 11, Stats., will be imposed on certain communications that are defined to be made for "political purposes." Such a communication must be made by means of one or more communications media or mass mailing, or through a telephone bank operator, that is made within 60 days preceding an election and that includes a name or likeness of a candidate, the name of an office to be filled at that election, or the name of a political party. A person who makes such a communication but fails to comply with ch. 11, Stats., is subject to criminal penalties.

The Senate adopted three amendments to Senate Bill 2. Briefly, Senate Amendment 1 provides that telephone bank operators are not subject to the reporting requirements of the bill unless they place 50 or more substantially identical telephone calls. Senate Amendment 2 modifies the penalty applicable to a person who makes such a communication and fails to comply with the reporting requirements in ch. 11 from a felony to a civil forfeiture. Finally, Senate Amendment 3 provides that the bill does not apply to a communication that merely includes the name of a political party. The bill, as amended, passed the Senate on January 30, 2001, on a vote of Ayes, 23; Noes, 10.

## **B. CONSTITUTIONAL BACKGROUND**

The issue at the heart of Senate Bill 2 and Assembly Bill 18 is the regulation of speech, and in particular, political speech. The First Amendment protects this type of speech and numerous legal challenges have been leveled against laws that seek to restrict such speech. The primary case to address the constitutionality of the regulation of political speech is *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612 (1976). In that case, the U.S. Supreme Court essentially held that disclosure and reporting requirements may be imposed on a person who makes a communication for the purpose of expressly advocating the election or defeat of a candidate while ruling that such requirements may not be imposed on a person who makes a communication for the purpose of discussing, or providing information about, issues of public interest.

The *Buckley* Court struck down a provision of the Federal Election Campaign Act (FECA) which, in general, limited the amount of expenditures that could be made to advocate the election or defeat of a clearly identified candidate because the court felt that the regulation was too broad and the line between advocating for a candidate and some other type of communication was imprecise. The Court pointed out that:

. . . the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions

on various public issues, but campaigns themselves generate issues of public interest. [*Buckley v. Valeo*, 424 at 42.]

Quoting from one of its past cases, the court highlighted the problem caused by the vagueness of a law trying to regulate advocacy:

[W]hether words intended and designed to fall short of invitation would miss that mark is a question both of intent and effect. No speaker, in such circumstances, safely could assume that anything he might say upon the general subject would not be understood by some as an invitation. In short, the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning.

Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim. [*Id.* at 43; internal citations omitted.]

To remedy the vagueness problem emanating from the regulation of advocacy, the Court concluded that such regulations must be construed to apply only to expenditures for communications "that in express terms advocate the election or defeat of a clearly identified candidate." [*Id.* at 44.] In a footnote, the court indicated "this construction would restrict the application [of the law at issue] to communications containing express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat" or "reject." [*Id.* at 44, n. 52.]

The *Buckley* Court also construed a reporting requirement contained in FECA in a similar manner so as to save it from being unconstitutionally overbroad. The Court explained:

To insure that the reach of [the reporting provision of FECA at issue] is not impermissibly broad, we construe "expenditure" . . . to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular federal candidate. [*Id.* at 80.]

In the only U.S. Supreme Court case after *Buckley* to revisit express advocacy standard, the Supreme Court in *Federal Election Commission (FEC) v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 107 S. Ct. 616 (1986) (hereafter referred to as *MCFL*), explained that in *Buckley* it had adopted the "express advocacy" requirement to distinguish discussion of issues and candidates from more pointed exhortations to vote for particular persons. The Court went on to state that, "we therefore concluded in that case that a finding of 'express advocacy' depended upon the use of language such as 'vote for,' 'elect,' 'support,' etc." [*FEC v. MCFL*, 479 U.S. at 249.] In *MCFL*, the Court concluded that a voter's guide that urged voters to "vote pro life," and identified several candidates as being pro life, went

beyond mere issue discussion and was in fact express advocacy even though the guide did not expressly urge a vote for a particular candidate.

### AFTER BUCKLEY: THE LOWER COURTS

Although the Supreme Court has not further delineated the express advocacy standard since 1986, other state and federal courts around the country have been called upon to do so. Although this memorandum will not discuss all the cases that have been issued since *Buckley* on the issue of express advocacy, the trend among lower courts that have considered the matter is to strictly adhere to the *Buckley* "magic words" standard and require that any advocacy subject to regulation be express in its nature and include the type of words identified by *Buckley* as signifying an exhortation to vote for or against particular persons. It appears that most lower courts view the *Buckley* standard as a "clear" or "bright line" standard that protects the public discussion of issues even though it may allow for some speech that affects elections. For example, one federal district court described its interpretation of *Buckley* this way:

What the Supreme Court did was draw a bright line that may err on the side of permitting things that affect the election process, but at all costs avoids restricting, in any way, discussion of public issues. [*Maine Right to Life Committee, Inc. v. FEC*, 914 F. Supp. 8, 12 (D. ME 1996).]

One notable exception to this general trend of strictly adhering to *Buckley's* bright line test is found in a 1987 Federal Court of Appeals case from the 9th Circuit. In *FEC v. Furgatch*, 807 F.2d (9th Cir. 1987), cert. denied 484 U.S. 850, 108 S. Ct. 151 (1987), the U.S. Court of Appeals for the 9th Circuit held that the context in which speech is made is relevant to determining whether communication is express advocacy. The court stated that such speech need not contain the *Buckley* words, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation than as an exhortation to vote for or against a specific candidate. The speech must be unmistakable and unambiguous, suggesting only one plausible meaning and it must clearly ask the recipient to undertake specific action. (The Federal Elections Commission has adopted a regulatory standard for express advocacy based on the *Furgatch* decision. Generally, almost all state and federal courts that have reviewed this issue have followed the *Buckley* holding that, in order to be considered express advocacy, a communication must include the explicit language described in *Buckley* and have rejected the more expansive approach described in *Furgatch*.)

In addition, the Wisconsin Supreme Court has recently indicated that it may read *Buckley* somewhat more broadly. In *Elections Board v. Wisconsin Manufacturers and Commerce (WMC)*, 227 Wis. 2d 650, 597 N.W.2d 721 (1999), the Wisconsin Supreme Court considered whether particular communications constituted express advocacy and held that the appropriate definition of that term is not limited to the "magic words" described in the *Buckley* decision. However, the court refused to create a rule on this topic and stated that the task was better left to the Legislature or the Elections Board. In discussing the issue, the court noted the difference between defining "express advocacy" in terms of specific words that advocate election or defeat of the candidate and defining "express advocacy" in terms of the context in which a campaign advertisement appears. The opinion is not entirely clear as to which approach the court ultimately will favor. The court made its holding in the case "regardless of whether it might be permissible to consider context in defining express advocacy." [*Elections Board v. WMC*, 597 N.W.2d at 734.] On the other hand, the court concluded the opinion with the following

remarks: "Consistent with this opinion, we note that any definition of express advocacy must comport with the requirements of *Buckley* and *MCFL* and may encompass more than the specific list of 'magic words' . . . but must, however, be limited to communications that include specific words of advocacy of election or defeat of a candidate." [*Id.*, 597 N.W.2d at 737; footnote omitted.] In addition, both the concurring and dissenting opinions appear to look favorably upon a context-based approach to regulating express advocacy.

As noted, however, most courts have strictly adhered to the "magic words" standard of *Buckley*. The following recent state and federal court cases summarized below demonstrate courts' adherence to the *Buckley* standard.

In *Brownsburg Area Patrons Affecting Change v. Baldwin*, 714 N.E.2d 135 (Ind. 1999), the Indiana Supreme Court responded to a question from the U.S. Court of Appeals for the 7th Circuit as to the state's interpretation of the phrase "to influence the election of a candidate" in Indiana statutes. The federal court asked the state court whether this phrase regulated only organizations which make contributions or expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for office or the victory or defeat of a public question. The Indiana court answered in the affirmative and narrowly construed Indiana statutes so that its regime of regulation applied only to express advocacy as defined in *Buckley*.

In *State ex rel. Crumpton v. Keisling*, 160 Or. App. 406, 982 P.2d 3 (1999), *rev. den.* 329 Or. 650, 994 P.2d 132, the Court of Appeals of Oregon had before it a case in which an individual brought an action against an expenditure reporting requirement when the plaintiff made a communication including the pictures and names of candidates. The Oregon statute involved the required reporting of expenditures designed either to promote or express hostility to a specific individual for a covered office. The court approved a modified *Furgatch* approach and interpreted the Oregon statute to require disclosure if: (1) a communication contains a message clearly and unambiguously urging the election or defeat of a candidate; (2) the communication seeks action, rather than importing simple information; and (3) the communication advocates clear action. The court emphasized that since Oregon law only requires disclosure, and since no criminal penalties would be involved, the reporting requirement would be imposed on the plaintiff whose communication was determined to be in opposition to the candidates included in the communication under the standards prescribed in the opinion.

In *Washington State Republican Party v. Washington State Public Disclosure Commission*, 4 P.3d 808 (Wash. 2000), Washington statutes, in brief, authorized the expenditure of "soft money" for particular ends. Not included in this list was the expenditure of "soft money" for issue advocacy. After a complaint was made regarding the expenditure of "soft money" by the Washington State Republican Party for an advertisement addressing the policies of a gubernatorial candidate, the Republican Party brought an action against the Commission. The Washington Supreme Court strictly held to the *Buckley* opinion and rejected the *Furgatch* approach of considering the context in which a communication is made. The court distinguished between communications regarding a candidate's stand on an issue versus attacks against a candidate's character or tactics. It found the former to be issue advocacy and the latter to be express advocacy. The most important question for the court was whether a clear exhortation of a candidate's election or defeat is involved in a communication in accordance with *Buckley*. The Republican Party was found not to have violated state law.

In *Osterberg v. Peca*, 12 S.W.3d 31 (Tex. 2000), cert. den. \_\_\_ U.S. \_\_\_, 120 S. Ct. 2690, the Texas Supreme Court considered the disclosure requirement imposed on an expenditure "in connection with an election." The court determined that the statute properly encompassed the definition of the term "express advocacy" as enunciated in *Buckley*. It was determined that the statute applied to a communication in which the plaintiff made statements about the positions of two candidates and suggested that the reader of the communication vote for candidate A or candidate B depending on those positions. The court concluded that, although the statements may have tended to balance one another, taken as a whole, there was an exhortation to vote and, therefore, the plaintiff engaged in express advocacy that was subject to regulation.

In *Iowa Right to Life Committee v. Williams*, 187 F.3d 963 (8th Cir. 1999), the U.S. Court of Appeals considered a state statute requiring a candidate to disavow the candidate's connections to specified independent communications. An administrative code provision regulated political speech in accordance with *both* the *Buckley* and *Furgatch* opinions. In other words, regulated political speech included the explicit terms used in *Buckley* and the more contextual approach taken in *Furgatch*. The opinion states that while *Buckley* did not provide an exclusive list of words that will determine a communication to be express advocacy, there is no doubt that the communication must contain express language of advocacy with an exhortation to elect or defeat a candidate. The administrative code provision based on *Furgatch* creates uncertainty, potentially chills discussion of public issues and is likely invalid.

In *Perry v. Bartlett*, 231 F.3d 155 (4th Cir. 2000), the court "steadfastly" adhered to the *Buckley* bright line test of express advocacy that requires the inclusion of explicit words in a regulated communication. Similarly, the court rejected the contextual approach of *Furgatch*. The court found invalid a statute requiring reporting with respect to advertisements that name a candidate, unless the communication is solely for the purpose of information and not intended to advocate the election or defeat of a candidate. The communication remains issue advocacy even if the entity promoting the communication that merely contains a candidate's name later admits that its intent was to affect the outcome of an election.

In *Citizens for Responsible Government State Political Action Committee v. Davidson*, 2000 U.S. App. LEXIS 33727 (10th Cir. 2000), the court reiterated the *Buckley* statement that express advocacy means the inclusion of express words of advocacy. Advertisements without express words are issue ads and not subject to regulation. A statute that attempts to regulate express advocacy in terms of communications "which unambiguously refer" to a candidate impermissibly reach advocacy with respect to public issues, thus violating *Buckley's* strictures. Such a statute only can be saved if a narrow construction limits the statute to regulating express words of advocacy.

In addition, the following recent federal district court cases have followed the *Buckley* decision by firmly holding that express advocacy is evidenced by the use of explicit terminology clearly advocating the election or defeat of a candidate: *Kansans for Life v. Gaede*, 38 F. Supp. 2d 928 (D. Kan. 1999); *FEC v. Christian Coalition*, 52 F. Supp. 2d 45 (D. D. C. 1999); *Virginia Society for Human Life v. FEC*, 83 F. Supp. 2d 668 (E. D. Va. 2000); *North Carolina Right to Life, Inc. v. Leake*, 108 F. Supp. 2d 498 (E. D. N. C. 2000); and *Brownsburg Area Patrons Affecting Change v. Baldwin*, 2000 U.S. Dist. LEXIS 12215 (S.D. Ind.).

Similarly, the few courts that have actually had the opportunity to consider the constitutionality of an express advocacy regulation like that created by Senate Bill 2 and Assembly Bill 18 have struck them down as unconstitutional.

For example, in *Vermont Right to Life Com., Inc. v. Sorrell*, 221 F.3d 376 (2nd Cir. 2000), two Vermont statutory provisions that required that all political advertisements disclose both the payer of the communications and the candidates supported by the advertisements, and a third provision requiring those who make expenditures for mass media activities within 30 days of an election to report to the state and to any candidate whose name or likeness was included in the activity were found to be facially unconstitutional because they were not limited to the form of express advocacy delineated in *Buckley*.

In *West Virginians for Life Inc. v. Charles R. Smith*, 960 F. Supp 1036 (S.D. W. Virginia 1996), a federal district court struck down a provision of the West Virginia statutes which set forth various campaign reporting requirements and which created a presumption that any person or organization that distributed or disseminated a voter guide or other written analysis of a candidate's position or votes within 60 days of an election was engaging in political activity for the purpose of advocating or opposing the election or defeat of a candidate. The court pointed out that the 60-day presumption of express advocacy encompassed some of the very same type of activity that *Buckley* sought to protect. Accordingly, the statutory provision was found to be unconstitutionally overbroad.

Finally, in two separate Michigan cases, two different federal district courts invalidated a state administrative rule that prohibited corporations from using their general fund for communications that used the name or likeness of a candidate within 45 days of an election. The courts found the provision to be overbroad and an infringement of free speech because it sought to regulate issue advocacy. [*Planned Parenthood Affiliates of Michigan, Inc. v. Miller*, 21 F. Supp. 2d 740 (E.D. Michigan 1998) and *Right to Life of Michigan v. Miller*, 23 F. Supp. 766 (W.D. Michigan 1998).]

### C. DISCUSSION

Although it is not possible to say with certainty how a court would rule on a challenge to the constitutionality of a law such as that contained in Senate Bill 2 and Assembly Bill 18, several observations may be made.

First, both bills would apply to communications which do not use the "magic words," or similar words, as set forth in *Buckley*. Thus, communications that discuss issues, but happen to use the name or likeness of a candidate without expressly advocating the election or defeat of the candidate, would be subject to regulation. The general trend of courts to strictly adhere to the *Buckley* standard of express advocacy would appear to suggest that the regulation contained in Senate Bill 2 and Assembly Bill 18 would not be viewed favorably by the courts.

Second, those courts which have either expressly or implicitly acknowledged that a regulation may apply to communications that do not use the "magic words" of *Buckley*, have suggested that any regulation employing something other than the "magic words" must either include specific words that exhort the election or defeat of a candidate or must, when taken as a whole, be susceptible of no other reasonable interpretation. Although the regulation proposed in Senate Bill 2 and Assembly Bill 18 would include communications which would meet these more relaxed standards, it would also be broad enough to encompass communications that involve nothing other than a discussion of public issues. The

regulation proposed in Senate Bill 2 and Assembly Bill 18 would appear to go beyond both the "bright line" standard of *Buckley* and the somewhat more relaxed standards suggested by *Furgatch* and *WMC*. The breadth of the regulation in Senate Bill 2 and Assembly Bill 18 and given that courts that have considered similar regulations have found them unconstitutionally broad, courts may be inclined to view Senate Bill 2 and Assembly Bill 18 in a similar light.

Third, while both *Furgatch* and *WMC* indicated that the timing of a communication, along with other factors indicative of the context in which a communication is made, may be a relevant factor in determining whether a communication is express advocacy, the regulation proposed in Senate Bill 2 and Assembly Bill 18 relies almost entirely on the timing of the communication. For example, under Senate Bill 2 and Assembly Bill 18, identical communications may or may not be subject to regulation based solely on whether they were made within 60 days of an election. Since *Buckley* was concerned about the content of political communications, courts may not look favorably on a regulation that relies almost entirely on the timing of a communication and minimizes the importance of the communication's content.

Fourth, as noted above, the Senate adopted three amendments to Senate Bill 2. Generally, Amendments 1 and 3 narrowed the breadth of the bill. It is not clear though that the narrowing accomplished by the amendments would affect a court's analysis of its constitutionality. In addition, Senate Amendment 2, which reduced the applicable penalty from a criminal sanction to a civil sanction, was intended, it appears, to lessen the scrutiny that a court may apply to the provision. Although *Buckley* noted that legislation that imposes criminal penalties in an area permeated by First Amendment issues must be reviewed closely [see *Buckley* at 41.], the court was addressing the vagueness of the FECA regulation. Senate Bill 2, generally, does not appear to be vague. Thus, the impact of Senate Amendment 2 on the bill's constitutionality is not clear. However, what is clear is that even with the amendments, Senate Bill 2 would still regulate communications which, as discussed above, have been protected by the courts.

Finally, it should be noted that some may see the Supreme Court's recent decision in *Nixon v. Shrink Missouri Govt.*, 528 U.S. 377, 120 S. Ct. 897 (2000) as an indication that the Supreme Court is ready to reexamine *Buckley*. In *Shrink Missouri*, the Court essentially reaffirmed *Buckley* in sustaining Missouri's individual contribution limits. However, at least four members of the Court (Justices Breyer and Ginsburg, concurring, and Justices Kennedy and Thomas, dissenting) expressed some level of willingness to reexamine *Buckley* and the constitutional underpinnings of its campaign finance jurisprudence. Even if *Buckley* may be ripe for reexamination, it is not at all clear where that reexamination will lead or whether the Court would modify the "magic words" standard.

#### D. CONCLUSION

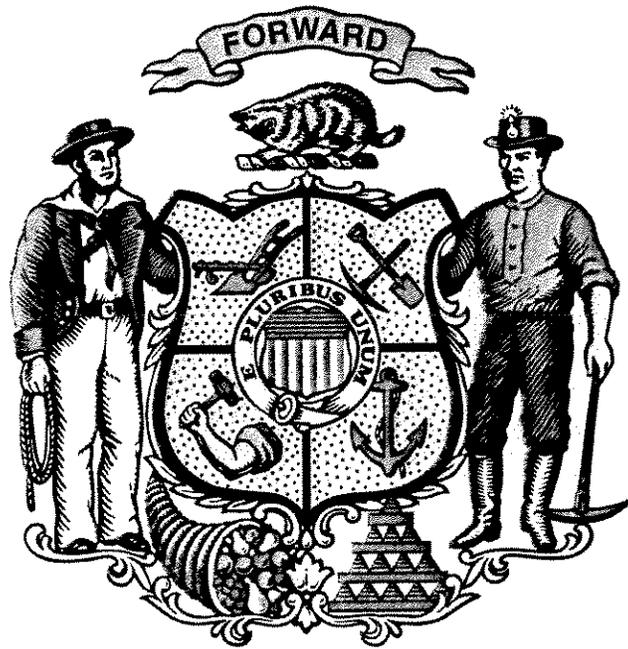
In general, judicial opinions regarding express advocacy and issue advocacy recognize that political speech is "core" speech protected by the First Amendment to the U.S. Constitution. Disclosure and reporting requirements imposed on those who disseminate communications clearly advocating the election or defeat of a candidate are valid if determined to be narrowly drawn in the service of a compelling governmental interest. To date, most courts have not found a sufficiently compelling governmental interest to support even minimal regulation of communications that are defined to be issue advocacy. *Buckley*, at least as viewed by the lower courts, offers little support for a regulation like that contained in Senate Bill 2 and Assembly Bill 18. Understanding that the lower courts tend to look to the

U.S. Supreme Court for guidance on constitutional issues, a shift in how the courts view the regulation of express and issue advocacy will likely need to emanate from the Supreme Court. Although some may view the Supreme Court's recent discussion of campaign finance law in *Nixon v. Shrink Missouri Govt.*, as a harbinger of the Court's willingness to revisit *Buckley*, the Court has not yet wavered from its *Buckley* holding with respect to express advocacy.

If the Court were to revisit *Buckley* and uphold a statutory regulation similar to that contained in Senate Bill 2 and Assembly Bill 18, it may have to be convinced either: (1) that the appearance of certain communications containing the name or likeness of a candidate or the office at stake within a specified period before an election constitutes explicit and clear advocacy of election or defeat of a candidate; or (2) that in the 25 years since the decision in *Buckley*, the means of political discourse, campaign financing and communications have changed to such an extent that a compelling governmental interest for minimal regulation of some forms of expression that are now considered to be issue advocacy can be upheld. Ultimately, the resolution of these issues resides in a future decision of the U.S. Supreme Court.

If I can be of any further assistance in this matter, please feel free to contact me at the Legislative Council Staff offices.

RJC:rv:wu:tlu;ksm





**Judith B. Robson**  
Wisconsin State Senator

February 14, 2001

Representative Stephen Freese  
Chair, Assembly Committee on Campaigns and Elections  
Room 115 West

Dear Representative Freese:

I am writing in regards to Senate Bill 2 and Assembly Bill 18, the bills authored by the Joint Committee for Review of Administrative Rules that would regulate issue ads.

After the Assembly hearing and our conversation about these bills, I met with Legislative Council staff to discuss some of the issues raised by you and other committee members.

The intent of these bills is to require disclosure of the source of funds used for ads that use the name or likeness of a candidate during the campaign season. I share your concern that the intent of these bills may be thwarted if we continue to permit unregulated groups to transfer money to groups engaged in political campaigning. For example, if an issue ad group decided to give money to an independent expenditure group, the original sources of the money would still not be known.

A solution to this problem might be to: 1) require a group that intends to give money to a campaign or political committee to register with the Wisconsin Elections Board; and 2) prohibit donations comprised of money raised prior to the date of registration.

Put another way, only money raised after registration with the Elections Board could flow into campaigns and campaign ads.

The principle behind this idea is simple: if money is raised for a political purpose, it should be reported. Conversely, if money is not raised for a political purpose, it should not be transferred to groups that engage in political purposes. Money raised for true issue ads (ads that do not use the name or likeness of a candidate) would not be reported. And money ostensibly raised for this purpose could not be converted at a later date to other purposes.

This solution also deals with the problem of out of state money. A group from a different state that intends to give money to a Wisconsin campaign or political committee would have to register with the Wisconsin Elections Board and could only use money raised after registration.

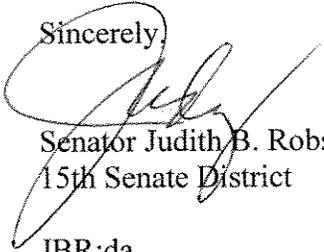
What would happen in practice would mirror current practice. Both Republicans and Democrats currently operate both issue ad and independent expenditure groups. For example, Alliance for a Working Wisconsin was an issue ad group and Project Vote Informed was an independent expenditure group. Independent Citizens for Democracy made independent expenditures; People for Wisconsin's Future ran issue ads.

This would continue under SB 2 and AB 18 if those bills were amended to require registration with the Elections Board and a prohibition on the use of money raised prior to registration. Donors who wanted to remain anonymous would give to issue ad groups (running ads that did not use the name or likeness of a candidate). Donors willing to have their donations made public would give to independent expenditure groups (running campaign ads).

The solution I propose here would not resolve all the ills afflicting our campaign finance system. Unfortunately, the focus of SB 2 and AB 18 on issue ads limits our ability to tackle other, equally important issues. But I do believe that the idea I have outlined here presents a realistic way of dealing with phony issue ads.

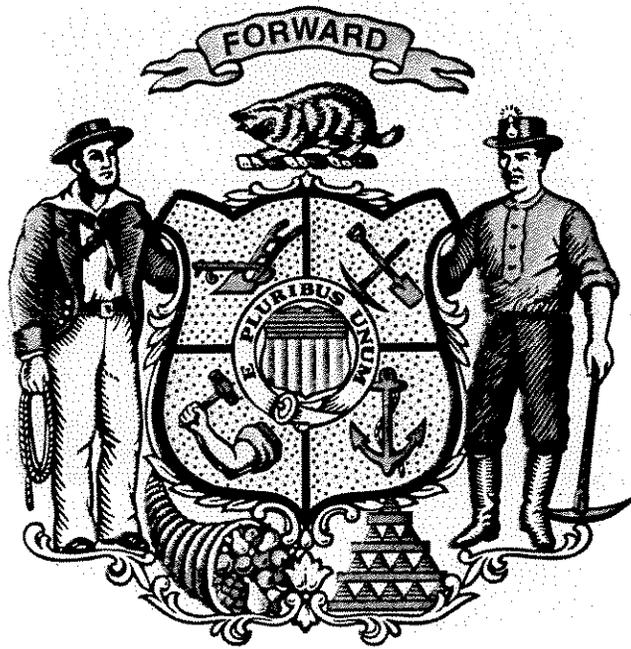
I hope this proposal satisfies your concerns regarding the laundering of money through unregulated groups located in Wisconsin and in other states. Please let me know if you have questions about this idea. I look forward to continuing to work with you on this issue.

Sincerely



Senator Judith B. Robson  
15th Senate District

JBR:da





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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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**2001 Assembly Bill 18**

**Assembly Amendments  
1, 2, 3, 4 and 5**

**Memo published: February 19, 2001**

**Contact: Robert J. Conlin, Senior Staff Attorney (266-2298)**

*Current law* provides that a campaign disbursement or obligation that is not made or incurred by a candidate or an entity primarily organized for political purposes nevertheless is required to be reported to the Elections Board if the purpose of the disbursement or obligation is to expressly advocate the election or defeat of a clearly identified candidate. Current law also imposes a registration and reporting requirement on those individuals or entities making contributions or disbursements for "political purposes." Additionally, under current law, with certain exceptions, those required to register under the campaign finance law are required to file regular reports that identify certain contributions, transfers, loans and other income received and certain disbursements and obligations made. However, if a registrant does not maintain an office or street address within the state, the registrant need only identify contributions, transfers, loans and other income received from sources in this state and disbursements and obligations incurred with respect to elections for state or local office in this state.

Finally, current law regulates and restricts corporate involvement in election financing. For example, current law prohibits any foreign or domestic corporation or cooperative association from making any contribution or disbursement, either directly or indirectly, for a political purpose, other than to promote or defeat a referendum. Notwithstanding this general restriction on corporate political expenditures, the law allows any corporation or cooperative association to establish and administer a separate segregated fund and to solicit contributions from individuals to the fund to be utilized by such corporation or association for the purpose of supporting or opposing any candidate for state or local office. However, the corporation or association is prohibited from making any contribution to the fund. Generally, a corporation or association is limited to a combined total of \$500 annually in expenditures for the solicitation of contributions to such a fund.

*Assembly Bill 18* adds to the definition of the term "political purposes" by specifically including a communication that: (1) is made by means of one or more communications media or a mass mailing or through a telephone bank operator; (2) is made within 60 days preceding an election; and (3) includes a name or likeness of a candidate, the name of an office to be filled at that election or the name of a political party. The term "telephone bank operator" is defined to mean any person who places or directs

the placement of telephone calls to an individual. In addition, the bill deletes the exception for registrants who or which do not maintain an office or street address within the state so that these registrants are required to report the same information as other registrants.

*Assembly Amendment 1* provides that a communication only including the name of a political party will not be considered a communication made for a political purpose.

Adoption of Assembly Amendment 1 was recommended by the Assembly Committee on Campaigns and Elections by a vote of 6 Ayes, 0 Noes, on February 15, 2001.

*Assembly Amendment 2* provides that no individual or organization required to register under the campaign finance law may accept any contribution made by a committee or group that does not maintain an office or street address in Wisconsin at the time the contribution is made, unless that committee or group is registered with the Federal Elections Commission under federal law.

Adoption of Assembly Amendment 2 was recommended by the Assembly Committee on Campaigns and Elections by a vote of 6 Ayes, 0 Noes, on February 15, 2001.

*Assembly Amendment 3* amends the definition of the term "telephone bank operator" to mean a person who places or directs the placement of 50 or more substantially identical telephone calls to individuals.

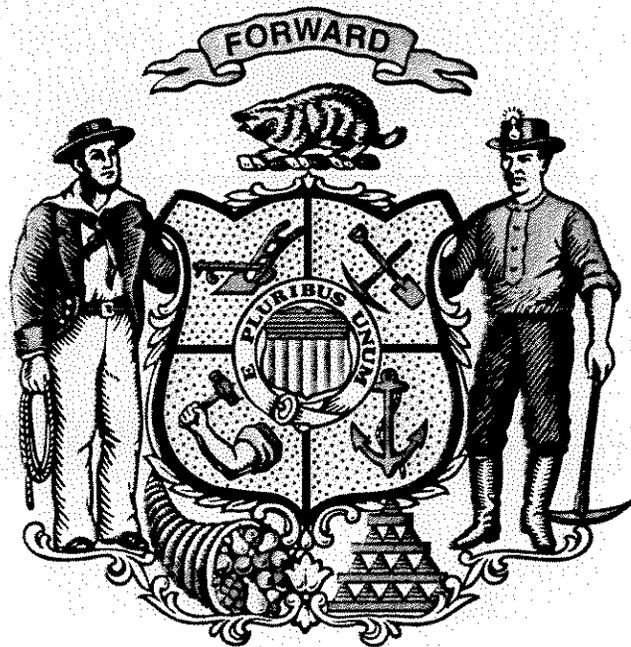
Adoption of Assembly Amendment 3 was recommended by the Assembly Committee on Campaigns and Elections by a vote of 6 Ayes, 0 Noes, on February 15, 2001.

*Assembly Amendment 4* increases the authorized FTE positions for the Elections Board by 1.0 GPR positions and provides for supporting expenses for that position and for the limited-term staffing needs of the Elections Board for the purposes of implementing the bill. The amendment increases the appropriation of the Elections Board in each fiscal year of the 2001-03 biennium by \$67,400.

Adoption of Assembly Amendment 4 was recommended by the Assembly Committee on Campaigns and Elections by a vote of 6 Ayes, 0 Noes, on February 15, 2001.

*Assembly Amendment 5* treats labor organizations like corporations and cooperative associations for purposes of the campaign finance law. Thus, a labor organization would be prohibited from making contributions or disbursements for political purposes, other than to promote or defeat a referendum. However, a labor organization could establish and administer a separate segregated fund and solicit contributions for that fund.

Assembly Amendment 5 was recommended for adoption by the Assembly Committee on Campaigns and Elections by vote of 4 Ayes, 2 Noes, on February 15, 2001.





# Common Cause In Wisconsin

152 W. Johnson Street, #210 ♦ P.O. Box 2597 ♦ Madison, WI 53701-2597 ♦ (608) 256-2686

## MEMORANDUM

URGENT

**DATE:** March 6, 2001 – ASSEMBLY FLOOR ACTION TODAY!!!!

**TO:** Wisconsin State Representatives

**FROM:** Jay Heck, Executive Director of Common Cause In Wisconsin

**SUBJECT:** Assembly Bill 18

The Wisconsin State Assembly today is scheduled to consider **Assembly Bill 18**, a measure to curb phony issue advocacy, the fastest-growing campaign finance abuse in Wisconsin today. This measure, if enacted into law, would close the biggest loophole in Wisconsin's campaign finance law and would restore a measure of integrity to our once highly regarded electoral process which has been undermined and overwhelmed by undisclosed, unregulated special interest group spending on campaign communications masquerading as issue advocacy.

**Common Cause In Wisconsin (CC/WI) strongly urges you to vote for Assembly Bill 18 – in substantially the same form that its companion measure, Senate Bill 2, passed in the State Senate on a strong, bipartisan 23 to 10 vote on January 30, 2001.** Assembly Bill 18/Senate Bill 2 is a measure adopted by the Joint Committee for Review of Administrative Rules (JCRAR) on May 10, 2000, also by a strongly bipartisan 8 to 2 margin. JCRAR adopted the measure in response to a directive by the Wisconsin Supreme Court for the State Elections Board and/or the Wisconsin Legislature to define what constitutes express advocacy or campaign speech in Wisconsin elections in contrast to issue advocacy, which is the unfettered discussion of issues rather than of candidates standing for election.

The State Senate adopted three clarifying amendments to strengthen Senate Bill's ability to withstand court scrutiny. **CC/WI strongly urges you to support the three amendments adopted by the State Senate.**

Two other amendments, which were offered by Sen. Joanne Huelsman to Senate Bill 2 and were rejected by the State Senate, may be offered to Assembly Bill 18 today. One would, in effect, repeal the 1906 ban on corporate treasury money from being able to be utilized to influence the outcome of state elections. The other amendment would place restrictions on labor union political action committee funds which are utilized to pay for disclosed, regulated independent expenditures and was ruled non-germane to Senate Bill 2. **CC/WI strongly urges you to vote against either of these “poison pill” amendments—which go beyond the scope of phony issue advocacy and are clearly intended to undermine and strip away support for AB 18.**

During the 2000 campaign, phony issue ads were utilized by special interest groups supporting, or attempting to defeat candidates of both political parties. Groups with names like "People for Wisconsin's Future," attacking Republicans and "Americans for Job Security" attacking Democrats, joined with Wisconsin Manufacturers & Commerce and others in pouring hundreds of thousands of dollars of unrestricted, undisclosed money through this gaping loophole in state campaign finance law. Phony issue advocacy is a bi-partisan problem that will only intensify and multiply in 2002 unless effective action is undertaken now. While we will never know with any certainty because no disclosure is required, CC/WI estimates that more than \$2 million was spend by various groups for phony issue advocacy in state legislative elections during 2000—and all of this "phantom" money was unrestricted and went unreported.

Special interest opponents of Assembly Bill 18 and their highly-paid lawyers have claimed with smug certainty that the measure is "unconstitutional on its face." Don't believe them. There are many eminent national legal experts on campaign finance law who believe that Assembly Bill 18/Senate Bill 2 could withstand the inevitable court challenge that would occur were it to be enacted into law. Among those is Professor Don Kettl of the University of Wisconsin at Madison who chaired Governor Thompson's Blue Ribbon Commission on Campaign Finance Reform in 1997. Additionally, the state of Connecticut has had an even stronger 90-day rule in place since 1999 and which was in effect during the 2000 elections. That measure was signed into law by a Republican Governor and was supported by huge, bi-partisan legislative majorities eager to free themselves from the corrupting influence of unregulated special interest group money.

The Citizens of Wisconsin are understandably skeptical that state legislators will have the courage to defy the special interest groups and take it upon themselves to clean up our politics by reducing the increasing influence that campaign spending by those deep-pocketed outside groups increasingly exert on our elections and public-policy making process. Your vote for Assembly Bill 18—in substantially the same form that Senate Bill 2 emerged from the State Senate—is a golden opportunity to reverse this deeply disturbing trend and advance the most significant campaign finance reform in this state in a generation.

Attached are a number of recent Wisconsin newspaper endorsements of Assembly Bill 18.

## **2001 Common Cause In Wisconsin State Governing Board**

Bill Kraus, Co-Chair	Mary Lou Munts, Co-Chair
Tony Earl, Madison	Ody Fish, Pewaukee
Linda Dreyfus, Waukesha	Stan Gruszynski, Green Bay
Bert Grover, Gresham	Dan Meyer, Wisconsin Rapids
Maxine Hough, East Troy	Marilyn Hardacre, Marshfield
Harry Franke, Milwaukee	Chet Gerlach, Madison
Nancy Nusbaum, DePere	Ted Wedemeyer, Milwaukee
Dirk Zylman, Sheboygan	Win Abner, Crandon
Prescott Wurlitzer, Fox Point	

# MILWAUKEE JOURNAL SENTINEL

STATE EDITION \* MONDAY, MARCH 5, 2001 \* WWW.ONWISCONSIN.COM

## EDITORIALS

### New round on political ads

The difficult challenge of defining what is and is not political speech gets another airing in Madison on Tuesday, when the Assembly takes up AB 18. The bill, identical to legislation passed by the state Senate earlier this year, is aimed at so-called issue ads — that is, ads sponsored by special interests that do not expressly ask viewers or readers to vote for a specific candidate. Its central feature is a ban on such advertising for 60 days prior to an election unless the sponsor discloses the source of its funds.

Assembly Republicans strongly oppose the bill, and they seem all but certain to prevail — with or without amendments designed to strip away Democratic support.

GOP lawmakers argue against the legislation on grounds that it is unconstitutional because it violates the First Amendment guarantee of free speech, and they may well have a point. But provoking a court test is precisely why the Assembly, like the Senate, should pass the bill.

It has been a quarter-century since the U.S. Supreme Court examined issue advertising in a major way. In 1976, the court set in *Buckley vs. Valeo* an “express advocacy” standard: Political speech that expressly advocates the election or defeat of a candidate by name is subject to reporting and disclo-

sure requirements; political speech made for the purpose of discussing an issue is not.

Since then, lower courts have tended to stick to the ’76 “magic word” standard. If an ad says “support John Smith” or “vote against Jane Jones,” disclosure and reporting are required. Which means that groups with specific agendas and clever agencies have broad leeway to let voters know what they think of a particular candidate without ever using the magic words that require disclosure.

The political world has changed since 1976. There is vastly more money in play and a growing number of interest groups in the game. Fund raising is more sophisticated, and advertising is more targeted.

It’s possible, perhaps even probable, that the U.S. Supreme Court of 2001 will see express advocacy the same way the court of 1976 saw it. But given what’s happened between then and now, it’s also time to find out. Passage of AB 18 would advance the cause of a court test, as would passage of the campaign finance legislation sponsored by Arizona’s John McCain and Wisconsin’s Russ Feingold.

Political parties, elected officials and the voters need to hear from the high court on this issue again. And quickly.

# The Capital Times

MONDAY AFTERNOON

★★★

March 5, 2001

50 CENTS

MADISON, WISCONSIN

Views of

## The Capital Times

### Will Assembly kill reform?

The long and frustrating struggle to clean up the cesspool that is Wisconsin politics will reach a critical stage Tuesday as the state Assembly considers a bill to ban phony "issue advocacy" ads such as those presented by the Wisconsin Manufacturers & Commerce special interest lobby.

The WMC's phony issue ads are well-known to Wisconsin television viewers. For years they have watched at election time as the corporate lobby has poured hundreds of thousands of dollars into campaigning designed to defeat pro-consumer legislators and elect politicians who agree to vote against the public interest. Though WMC's electioneering is clearly political in nature, the group has used a loophole in state law to hide the sources of money that pay for its ads and to otherwise escape the scrutiny that candidates for public office must endure.



Jensen

The legislation to be voted on by the Assembly would close the loophole and begin the process of cleaning up Wisconsin politics by making it harder for groups to secretly funnel illegal corporate money into slash-and-burn attack campaigns.

Already passed by an overwhelming bipartisan majority in the state Senate, this mild piece of legislation would simply require groups such as WMC to obey Wisconsin election laws — something candidates and citizens must do anytime they participate in the political process.

So what are the chances of this piece of legislation passing the Assembly?

Not good.

Assembly Speaker Scott Jensen, R-Waukesha, a WMC acolyte and the state's leading foe of campaign finance reform, has already dispatched his legislative minions to undermine the legislation's prospects for passage. Instead of simply putting the bill before the Assembly in the same form as it was passed by Senate Democrats and Republicans, Assembly Republicans are attempting to attach "poison pill" amendments that would make it impossible for responsible legislators to back the bill.

In the Jensen-controlled Assembly Campaigns and Elections Committee, for instance, an amendment that would restrict labor union political activity was added. Bizarrely, this amendment would make it harder for groups that obey existing laws to participate in the process. Even more bizarrely, after voting to add the "poison pill" amendment, most of Jensen's minions still voted against the amended bill.

The supreme cynicism of this attempt to pollute reform legislation to such an extent that reformers cannot back it is only the tip of the iceberg of corruption that is likely to surface in the Assembly this week.



Ellis

Watch for Jensen and other anti-reform Republicans to suggest additional "poison pill" amendments — such as a repeal of the 1906 ban on the use of money from corporate treasuries to influence Wisconsin campaigns. Additionally, watch for an attempt by anti-reform legislators to claim that the Assembly bill — AB 18 — is "unconstitutional" because it limits free speech.

In fact, some of the best legal minds in the nation say that the bill is entirely constitutional. After all, all it says is that WMC and similar groups should obey the same laws that citizens and legitimate campaign committees must. That's why responsible Republicans such as former Senate Majority Leader Mike Ellis, R-Neenah, and Sen. Dale Schultz, R-Richland Center, back the Senate version.

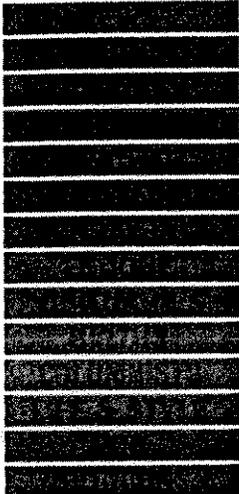
Expect plenty of skullduggery in the Assembly on Tuesday. But don't be fooled.

Citizens should call the toll-free state legislative hotline number — (800) 362-9472 — and tell their representatives not to swallow any "poison pills" Tuesday.

AB 18 should pass without amendment.

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The Post-Crescent - Stories



# THE POST-CRESCENT

## OPINION

Sun 4-Mar-2001

### Assembly may shoot blanks at campaign reform

The first significant legislation to remove some distortions from Wisconsin's campaign spending laws is coming up for the first time in the state Assembly for floor debate this coming Tuesday.

Action at the committee level suggests that in all likelihood the Assembly will kill or bury the bill.

Assembly Bill 18 is a modified version of the bill the Senate passed earlier, Senate Bill 2, requiring the Elections Board to register and collect campaign contribution reports from groups that practice "issue advocacy." The term refers to broadcast, telephoned or printed statements taking public policy positions and, in these bills, criticizing or supporting candidates or mentioning state offices on an upcoming ballot.

Groups now avoid registering and reporting to the board by refraining from using "magic words" such as "vote for" or "defeat" a specific candidate. They argue that by omitting those terms the ads aren't campaign advertising, even though they leave no doubt that they like or detest an office-seeker.

Candidates, political party organizations and interest groups by law must register with the board and report where they get money and spend it in campaigns. The bill would apply the same treatment to issue advocacy groups if their messages go out within 60 days before a primary or general election. Outside that time frame, they would remain unregulated.

The Senate passed its bill with bipartisan support. Assembly committees, after doctoring it with amendments, got members of both parties to vote against it.

Democrats control the Senate, Republicans are the majority party in the Assembly. The measure has clear-cut partisan overtones.

Assembly Republicans aroused Democratic opposition by adding an amendment placing labor unions under the same registration and reporting requirements if they engage in issue advocacy within 60 days of elections, possibly meaning every union member whose contributions helped fund an ad would have to be listed in a report to the elections board.



( - OVER, PLEASE - )

Wisconsin Manufacturers and Commerce and Wisconsin Right to Life are the most vociferous groups opposing the bills and similar requirements to identify donors. They and sympathetic Republicans justify the union reporting requirement by declaring, "What's good for the goose is good for the gander." Democrats and unions call it a "poison pill" intended to force them to oppose it.

Opponents, again mostly Republicans, also argue that the bill is blatantly unconstitutional because it infringes on free speech rights of WMC, Wisconsin Right to Life and other advocacy organizations. Reformers including Common Cause in Wisconsin and the Wisconsin Democracy Campaign deny it does any such thing. The reformers point out candidates and other political groups have registered and reported funding sources for years without claiming it infringes on their freedom to express themselves.

The bill deals with just one element in an election system gone haywire, with all sorts of organizations pouring money into campaigns. Much of the money is spent outside the control of candidates, who complain their own voices are drowned in the sea of outside cash and respond by themselves soliciting enormous sums.

A comprehensive proposal aimed at the array of campaign finance problems, the "Voters First" bill, has been introduced with bipartisan support in both houses. Sen. Michael Ellis, R-Neenah, is preparing a similar sweeping measure for introduction.

Voters overwhelmingly endorsed the concept of comprehensive campaign reform in county referenda in November. Tuesday's Assembly vote may be the warning alarm that despite that outpouring of support many legislators remain slaves to the reigning state of chaos and will hide behind constitutional arguments and partisan manipulations to avoid change.

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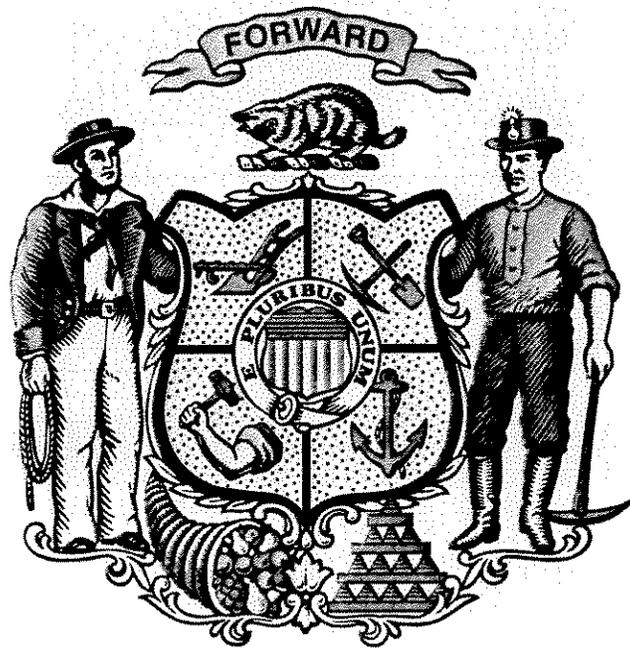
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**Pirlot, R.J.**

**From:** Dykman, Peter  
**Sent:** Tuesday, March 06, 2001 3:20 PM  
**To:** Rep.Duff; Pirlot, R.J.; Rep.Freese; Rep.Jensen  
**Subject:** JCRAR bills and germaness

I checked AA1 to 1981 SB 359. The amendment was offered by Rep. Thompson and after it was ruled nongermane, the bill was passed by a vote of 91-6.

The bill related to demerit points maximum for operating with a defective speedometer and operating without the driver license card on the person but "left at home in the other pair of pants." The amendment added demerit point maximums for operating on the wrong side of the highway, inattentive driving, and two other violations.

That amendment was noticeably narrower than AA5 to 2001 AB 18.

You asked if JCRAR bills were treated differently from other bills under the assembly germaness rule. The only difference between a JCRAR bill and a nonJCRAR bill that has the same effect legally is the first sentence of the LRB analysis, which for 2001 Assembly Bill 18 is:

"This bill is introduced as required by s. 227.19 (5) (e), stats., in support of the objections of the assembly committee on campaigns and elections on February 16, 2000, and of the senate committee on economic development, housing and government operations on February 14, 2000, and the objection of the joint committee for review of administrative rules on April 14, 2000, to the issuance of clearinghouse rule number 99-150 by the elections board. The proposed rule relates to the subject of disclosure and record-keeping requirements under the campaign finance law."

The assembly germaness rule provides:

Assembly Rule 54. Germaneness of assembly amendments.

Assembly Rule 54 (1)

(1) General statement: The assembly shall not consider any assembly amendment or assembly substitute amendment which relates to a different subject or is intended to accomplish a different purpose than that of the proposal to which it relates or which, if adopted and passed, would require a relating clause for the proposal which is substantially different from the proposal's original relating clause or which would totally alter the nature of the proposal.

...

Assembly Rule 54 (3)

(3) Assembly amendments which are not germane include:

...

Assembly Rule 54 (3) (f)

(f) An amendment which substantially expands the scope of the proposal.

...

Assembly Rule 54 (4)

(4) Amendments which are germane include:

Assembly Rule 54 (4) (a)

(a) A specific provision amending a general provision.

Assembly Rule 54 (4) (b)

(b) An amendment which accomplishes the same purpose in a different manner.

Assembly Rule 54 (4) (c)

(c) An amendment limiting the scope of the proposal.

Assembly Rule 54 (4) (d)

(d) An amendment adding appropriations necessary to fulfill the original intent of a proposal.

Assembly Rule 54 (4) (e)

(e) An amendment relating only to particularized details.

Assembly Rule 54 (4) (f)

(f) An amendment which changes the effective date of a repeal, reduces the scope of a repeal or adds a short-term nonstatutory transitional provision to facilitate a repeal.

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These are the only two rulings on your point that I was able to find. They are fairly old and by Dem speakers, but they give support to the position that JCRAR bills have tighter germaneness rules applied to them. The rulings rely on the first sentence of the LRB analysis to help determine the purpose of the bill. One ruling is based on Assembly rule 54 (1) and one on Assembly rule 54 (3) (f).

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Administrative rules: legislative review of  
1981 ASSEMBLY

- Assembly Journal of June 9, 1981 ..... Page: 629

Point of order:

Representative Loftus rose to the point of order that assembly amendment 1 to Senate Bill 359 [relating to demerit points for traffic convictions] was not germane under Assembly Rule 54 (3) (f) [substantial expansion of scope].

[Note:] A bill introduced by JCRAR "to support the objection" to promulgation of a proposed administrative rule must be very narrowly drafted so as not to interfere with administrative rule-making generally.

The speaker [Jackamonis] ruled the amendment not germane under Assembly Rule 54 (3) (f) and the point of order well taken. The speaker stated that amendments which might otherwise be germane to the bill, are not germane in this case because of the limited scope of Senate Bill 359. The bill was introduced pursuant to section 227.018 (5) (e) of the Wisconsin Statutes to fulfill the statutory purpose of ratifying the action of the Joint Committee for Review of Administrative Rules.

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Assembly Journal of October 17, 1985 ..... Page: 488

Point of order:

Representative Seery rose to the point of order that assembly substitute amendment 1 to Assembly Bill 460 [relating to prohibiting basement insulation requirements in rental unit energy efficiency regulation] was not germane under Assembly Rule 54.

[Note:] Introduced by JCRAR, AB 460 was limited to the narrow purpose of prohibiting DILHR, in adopting rules under statute 101.122 (2) (a), from including "any requirement for interior or exterior foundation insulation or basement ceiling insulation".

A.Sub.1 dealt with a different subject and, consequently, changed the nature or purpose of the proposal as is prohibited by A.Rule 54 (1). Looking only at "insulation", the substitute created several statutes (in the nature of rules) and, in addition, permitted DILHR to implement these statutes under the department's general "chap. 227" rule-making authority. The substitute also contained a subdivision "1o" which, based on furnace specifications, exempted certain housing from insulation requirements. Furnaces were not mentioned in the original bill.

The speaker [Loftus] ruled the point of order well taken.

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Here are examples of explicit restrictions:

**Senate Rule 50 (10) Amendments to a revision bill are germane, but amendments to a revisor's revision or correction bill are germane only if they make corrections and do not add new substantive material.**

Wis. Stats.

111.92(1)

(1)

111.92(1)(a)

(a) Any tentative agreement reached between the department, acting for the state, and any labor organization representing a collective bargaining unit specified in s. 111.825 (1) or (2) shall, after official ratification by the labor organization, be submitted by the department to the joint committee on employment relations, which shall hold a public hearing before determining its approval or disapproval. If the committee approves the tentative agreement, it shall introduce in a bill or companion bills, to be put on the calendar or referred to the appropriate scheduling committee of each house, that portion

of the tentative agreement which requires legislative action for implementation, such as salary and wage adjustments, changes in fringe benefits, and any proposed amendments, deletions or additions to existing law. Such bill or companion bills are not subject to ss. 13.093 (1), 13.50 (6) (a) and (b) and 16.47 (2). The committee may, however, submit suitable portions of the tentative agreement to appropriate legislative committees for advisory recommendations on the proposed terms. The committee shall accompany the introduction of such proposed legislation with a message that informs the legislature of the committee's concurrence with the matters under consideration and which recommends the passage of such legislation without change. If the joint committee on employment relations does not approve the tentative agreement, it shall be returned to the parties for renegotiation. **If the legislature does not adopt without change that portion of the tentative agreement introduced by the joint committee on employment relations, the tentative agreement shall be returned to the parties for renegotiation.**

**Joint Rule 82 (1)**

(1) The veto review session shall be a floor period limited to action on:

**Joint Rule 82 (1) (a)**

(a) Gubernatorial vetoes or partial vetoes.

**Joint Rule 82 (1) (b)**

(b) Pending nominations for appointments requiring senate confirmation.

**Joint Rule 82 (1) (c)**

(c) Revisor's correction or revision bills.

**Joint Rule 82 (1) (d)**

(d) Reconciliation bills introduced by the organization committee of either house that resolve conflicts between mutually inconsistent acts of the legislative session and proposals recalled for further legislative action under joint rule 60 (2).

**Joint Rule 82 (1) (e)**

(e) Bills introduced by the joint committee on employment relations for the ratification of state employe collective bargaining contracts under section 111.92 (1) of the statutes.

**Joint Rule 82 (1) (f)**

(f) Resolutions or joint resolutions introduced by the committee on organization of either house.

**Joint Rule 82 (1) (g)**

(g) Bills or joint resolutions specified under joint rule 83 (4) (b).

**Assembly Rule 93. Special, extended or extraordinary sessions.** Unless otherwise provided by the assembly for a specific special, extended or extraordinary session, the rules of the assembly adopted for the regular session shall, subject to the following modifications, apply to each special session called by the governor and to each extended or extraordinary session called by the assembly and senate organization committees or called by a joint resolution approved by both houses:

**Assembly Rule 93 (1)**

(1) No proposal, or amendment thereto, may be considered by the assembly unless it is germane to the session call or pertains to the organization of the legislature.

**Assembly Rule 93 (2)**

(2) Proposals may be offered for introduction only by the assembly committees on finance, organization or rules, or by the joint committees on employment relations, finance or organization.

**Assembly Rule 93 (3)**

(3) No notice of hearings before committees shall be required other than posting on the legislative bulletin boards, and no schedule of committee activities need be published.

**Assembly Rule 93 (4)**

(4) All measures referred to a calendar may be taken up immediately. A calendar need not be provided.

**Assembly Rule 93 (5)**

(5) No motion to postpone a proposal to a day or time certain shall be allowed.

**Assembly Rule 93 (6)**

**(6) All motions to reconsider shall be taken up immediately unless a different time is set by majority vote for a specific motion to reconsider.**

**Assembly Rule 93 (7)**

**(7) All motions to advance a proposal to its 3rd reading, and all motions to message a proposal to the other house may be adopted by a majority of the members present and voting.**