

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

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> Executive Sessions ... ES

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> Record of Comm. Proceedings ... RCP

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*Information Collected For Or  
Against Proposal*

> Appointments ... Appt

> \*\*

> Clearinghouse Rules ... CRule

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

> **01hr\_ab0295\_AC-CE\_pt01**

> Miscellaneous ... Misc

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# WISCONSIN EDUCATION ASSOCIATION COUNCIL

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Affiliated with the National Education Association

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## Testimony to the Assembly Committee on Campaigns and Elections in Opposition to Assembly Bill 295

September 13, 2001

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

In recent years, WEAC has supported a number of campaign finance reform proposals, including the recommendations of Governor Thompson's Blue Ribbon Commission on Campaign Finance Reform, also known as the Kettl Commission. This session, WEAC is again supporting the Impartial Justice bill, which would provide full public financing for Wisconsin Supreme Court races.

WEAC opposes Assembly Bill 295 because it has too many constitutional and practical problems. They include:

### "Independent Expenditure" Definition Overly Broad

The bill attempts to define as "independent expenditures" all expenditures made for the purpose of making a communication during the 60-day period preceding an election that contain a reference to a clearly identified candidate for Governor, State Senator, or State Representative. By doing this, it subjects legitimate issue ads to the same regulations as independent expenditures and prohibits corporations from engaging in issue ads.

Such an approach has been held unconstitutional under *Buckley v. Valeo*, *Wisconsin Election Bd. v. WMC*, and *N.C. Right to Life, Inc. v. Bartlett*, 168 F.3d 705 (4<sup>th</sup> Cir. 1999), *Maine Right to Life Comm. v. FEC*, 98 F.3d 1 (1<sup>st</sup> Cir. 1996), *Iowa Right to Life v. Williams*, 187 F.3d 963 (8<sup>th</sup> Cir. 1999). The Wisconsin Supreme Court stated in *WMC*:

"Buckley stands for the proposition that it is unconstitutional to place reporting or disclosure requirements on communications which do not expressly advocate the election or defeat of a clearly identified candidate."

### Independent Expenditure Reporting Raises Concerns

The U.S. Supreme Court has recognized that making independent expenditures is core First Amendment activity, subject only to reporting requirements, and not monetary limitations. Any proposed legislation cannot be seen as chilling or limiting the ability of those wishing to engage in such speech.

Stan Johnson, President  
Michael A. Butera, Executive Director

In the real world of campaigns, money is sometimes spent, or an obligation incurred, long before the actual communication is made. In some cases, even when money has been spent, the communication is ultimately never made.

AB 295 would require 24-hour reporting for the 60 days prior to an election, from the date of making an expenditure or "incurring the obligation" to make an expenditure. WEAC believes these provisions are unconstitutional because they:

- 1) Constitute prior restraint on political speech;
- 2) Would force individuals and committees to publicly disclose their intended First Amendment activity before they engage in them; and
- 3) Would chill and limit the ability of parties wishing to engage in such speech.

### **Linking Public Funding to Expenditures and Obligations, Rather Than Communications, Causes Problems**

Under the bill, candidates receive public funding bumps based on independent expenditures or obligations to make independent expenditures against them by independent committees. As noted above, money is sometimes spent in anticipation of making a communication, but the communication is ultimately never made. In this circumstance, a candidate would receive a public funding bump based on a communication that never occurred. This is a major problem. The bill should link public funding to actual communications.

### **Bill's Impact on Chapter 11 Needs to Be Considered**

AB 295 applies only to campaigns for Governor, State Senator, and State Representative, and not other campaigns. This raises a number of concerns. For example, how will it impact the remainder of Chapter 11 to have a narrow definition of "independent expenditure" that applies only to races for Governor, State Senator, and State Representative?

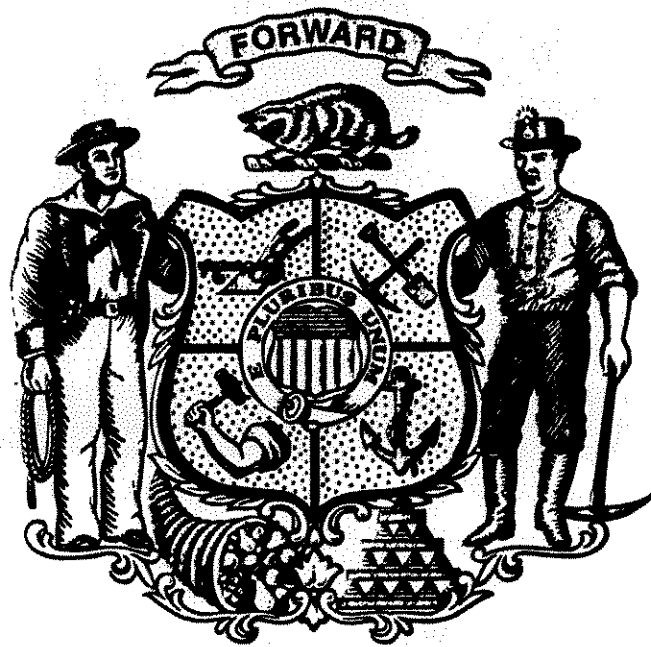
### **The \$5 Qualifying Contributions Should Go to the Candidates' Campaign Accounts, Not the Clean Elections Fund**

Under the bill, in order to qualify for a public grant, a candidate must raise a specified number of \$5 qualifying contributions from state electors and, in the case of a candidate for legislative office, an elector of the district in which the candidate seeks office.

From a practical standpoint, it makes more sense to treat the five-dollar contributions as contributions to the candidates' campaign accounts. People will be more likely to give the five dollars if they know their money is going to the candidate and not the State of Wisconsin. Also, those contributions could serve as part of the seed money to get the campaign up and running.

**WEAC encourages the committee to oppose AB 295 and instead look for ways to enact campaign finance reforms that are comprehensive, equitable, and practical. Thank you.**

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deserves a  
Great School!*



HERMAN HOLTZMAN  
8501 OLD SAUK ROAD  
MIDDLETON, WI 53562

TESTIMONY BEFORE THE COMMITTEE ON CAMPAIGNS AND ELECTIONS  
SEPTEMBER 13, 2001

WELL, HERE WE ARE AGAIN, ANOTHER HEARING. WHY ARE WE WASTING ANY MORE TIME ON THIS? EVEN IF YOU VOTE IN FAVOR OF "IMPARTIAL JUSTICE" OR THE RISSER-POCAN FULL PUBLIC FUNDING BILL, THEY ARE NOT GOING ANYWHERE. WHY?

SPEAKER SCOTT JENSEN WON'T LET IT. AND THIS COMMITTEE AND MANY OF THE OTHER LEGISLATORS WILL NOT DO ANYTHING ABOUT IT, AS WAS THE CASE IN THE LAST SESSION WHEN THE SENATE PASSED "INPARTIAL JUSTICE" BY A 30-3 VOTE AND SCOTT JENSEN REFUSED TO SCHEDULE IT FOR A VOTE. IF THERE WAS ANY ATTEMPT TO FORCE JENSEN TO SCHEDULE A VOTE, IT FAILED. WHY IS JENSEN SO POWERFUL?

MONEY

JENSEN SPENT OVER \$300,000 AND RECEIVED 70% OF THE VOTE IN A VERY SAFE DISTRICT IN THE LAST ELECTION. HE HAD TAKEN OPPOSITION FROM A YOUNG STUDENT WHO SPENT ONLY \$10,000. HE SPENT ABOUT \$135,000 JUST ON MAILINGS. WITH ALL THAT MONEY, COULD HE HELP OR HINDER YOUR RE-ELECTION?

SCOTT JENSEN SAID, "THE PEOPLE WANT JUDGES TO BE IMPARTIAL, BUT CONTRIBUTORS WANT JUDGES TO BE PARTIAL". DO JENSEN'S MANY CONTRIBUTORS EXPECT IMPARTIAL LEGISLATION? THE PEOPLE ALSO WANT LEGISLATORS TO BE IMPARTIAL AND THE ONLY WAY TO GET IT IS TO PROVIDE FOR FULL PUBLIC FUNDING OF ELECTIONS.

TV CHANNEL 3, ON THEIR MAY 31, 1999 EDITORIAL STATED, "THERE MUST BE COURAGEOUS LAWMAKERS WHO WILL DO WHAT'S RIGHT RATHER THEN WHAT CHUCK CHVALA OR SCOTT JENSEN TELL THEM TO DO.

HERMAN HOLTZMAN  
8501 OLD SAUK ROAD  
MIDDLETON, WI 53562

I DISTRIBUTED A HANDOUT AT YOUR HEARING LAST SESSION TITLED THE CASE FOR FULL PUBLIC FINANCING. APPARENTLY IT WAS IGNORED. IT LISTED 20 REASONS IN FAVOR OF FULL PUBLIC FUNDING FOR CAMPAIGNS AND ONLY ONE REASON AGAINST, WHICH I NOW CHANGE FROM 'SOME LEGISLATORS WON'T VOTE FOR IT' TO, "SCOTT JENSEN WON'T LET YOU VOTE FOR IT".

I ADDED A QUOTE FROM JOHN NICHOLS' BOOK, IT'S THE MEDIA STUPID, "CONSIDER HOW POWERFUL THE MEDIA AND COMMUNICATION LOBBIES ARE IN WASHINGTON, D.C., AS THEY ROUTINELY USE THE CAMPAIGN CONTRIBUTION SCALPEL TO REMOVE POLITICIANS' BACKBONES".

ANOTHER HANDOUT IS AN ARTICLE I WROTE FOR MATURE LIFESTYLES TITLES "WHAT HAPPENED TO CAMPAIGN FINANCE REFORM ON THE WAY TO THE 2000 ELECTION? NOTHING! PLEASE READ IT.

FINALLY, A GUEST COLUMN APPEARED IN THE WISCONSIN STATE JOURNAL ON OCTOBER 26, 2000 AUTHORED BY REP. FREESE AND REP. TRAVIS WHICH CONTAINED THE FOLLOWING STATEMENTS: "THE ONLY WAY CANDIDATES CAN BE REQUIRED TO ABIDE BY SPENDING LIMITS IS TO RECEIVE PUBLIC CAMPAIGN FINANCING AND THE MONEY THE PUBLIC WILL SAVE BY AVOIDING POLITICAL PAYBACKS WILL FAR SURPASS THE MODEST AMOUNTS A SENSIBLE PUBLIC FINANCING PROGRAM WOULD COST. MAYBE AFTER THE- UNDER-THE TABLE SPENDING ORGY WE ARE ABOUT TO SEE OCCURS, THE PUBLIC AND LEGISLATORS FROM BOTH PARTIES WILL BE WILLING TO REVISE OUR QUARTER CENTURY OLD CAMPAIGN FINANCE LAWS". YOU DON'T STATE FULL PUBLIC FUNDING, BUT THAT IS THE ONLY WAY TO ELIMINATE THE UNDER-THE-TABLE SPENDING ORGY.

AS YOU CAN SEE, I'M NO YOUNGSTER AND I HAVEN'T THE TIME TO WAIT WHILE THE LEGISLATORS PLAY GAMES. POLLS HAVE SHOWN THE PUBLIC HAS ALREADY SPOKEN. WILL THE LEGISLATORS? PLEASE VOTE FOR AB 295 AND AB 303.



# What happened to campaign finance reform on the way to the 2000 election? NOTHING

by **Herman Holtzman**,  
guest columnist

Why do we need campaign finance reform? The appearance of corruptive influence of money and the crush of misleading TV and radio ads along with the low voter turnout indicate the present system is a failure. At the rate money is flowing into the system, it will only get worse. Not only is money given to candidates, but independent organizations proliferate that use issue ads as campaign ads and refuse to disclose their sources of money.

After the '96 election, when millions of dollars were spent by candidates and independent organizations and almost all incumbents were returned to office, Governor Thompson appointed a Blue Ribbon Commission chaired by Prof. Don Kettl to reform the system. Because the commission was stacked with people that created the present system, another group called The Citizens Panel on a Clean Elections Option was formed, chaired by retired Supreme Court Chief Justice Nathan Heffernan.

Prof. Kettl's commission recommended 25 percent public funding. Chief Justice Nathan Heffernan's Citizens' Panel recommended full public funding. In the current Legislative session, Sen. Ellis recommended 33 1/3 percent, Sen. Burke and Rep. Freese recommended 50 percent and Sen. Clausen recommended from 57 percent to 75 percent public funding. The only bill for full public funding is called

"Impartial Justice," the name given to the bill authored by Rep. Bock and Sen. George, but it is only for the election of State Supreme Court Justices.

A candidate for Supreme Court Justice, in order to become eligible for public funding, is required to get 1,000 qualifying contributions of \$5 to \$100 and an aggregate amount of \$5,000 to \$15,000. This provides seed money and demonstrates their viability. After the candidates become eligible, they receive \$100,000 for the primary election. This bill is the only one that provides public funds for candidates running in the primary elections. Those candidates winning their primaries then receive \$300,000 for the general election. That may seem like a lot of money for a state-wide race, but it amounts to less than \$.25 for each Wisconsin taxpayer per year. What better 25 cent investment can we make than to provide for "impartial justice".

The Impartial Justice Bill is cosponsored by nine Assembly Democrats, five Senate Democrats and three Senate Republicans. Where are the other legislators? Probably afraid that "impartial justice" is the first step to "impartial legislation." And why not? Full public funding for all state offices would cost less than \$2 per Wisconsin taxpayer per year.

All the bills are stuck in committee and may never see the light of day. Even if a bill does come out of a committee on campaign reform and clears the Committee on Joint Finance, most legislators will not vote for any public funding,

some may vote for partial public funding and only a few will vote for full public funding. In other words, nothing will pass.

Who could be against campaign finance reform? Coming up with a recipe acceptable to all is not easy, or even possible. Most incumbents are not willing to change because they already have the advantage as evidenced by over 90 percent being returned to office. Challengers want any change that will give them the advantage or just level the playing field. Since incumbents decide, they may posture as being for reform and support bills they know will not pass. In other words, nothing will pass.

Besides politicians not willing to reform campaigns, we have a political/industrial complex who want to retain the present system. Corporations gladly give to both political parties to gain access and influence legislation which may provide a huge return on their contribution investment. It is predicted that \$2,000,000,000 will be spent in the 2000 election on TV ads. One of the largest lobbying organizations is the media oligopoly which will dispense little political news coverage but an overwhelming number of TV ads. Political consultants, paid campaign workers, professional fundraisers can hardly wait for the next election. What would happen to all these companies and people if the candidates agreed to accept full public funding and agreed to spending limits?

*Herman Holtzman is a retired civil engineer who is taking an active, independent role in campaign finance issues.*



# Elections based on people, not money

by **Herman Holtzman**  
guest columnist

Many politicians and organizations feel that any change for reform has to be done in baby steps in spite of polls that show the vast majority of the public want sweeping and fundamental change. Although the current partial-public-funding Bills do not eliminate the corruptive influence of money, they contain provisions that should be incorporated in a full funding bill such as matching funds against big spending opponents and independent organizations. If people in Wisconsin could vote directly for an initiative as they did in Maine, Vermont, Massachusetts and Arizona, we would have full public funding of elections in Wisconsin.

It is obvious that the only way to eliminate the corruptive influence of money or the appearance of corruption is to eliminate private money from campaigns. And the only way this can be done is to provide full public grants to all eligible candidates that will agree to spending limits. The goals of campaign reform should be:

- Educating voters on issues instead of image
- Eliminating the corruptive influence of money
- Simplifying campaigns.

Full public funding of campaigns (Clean Money Option) is the only method that can accomplish these goals. In addition, from a constitutional perspective, it is the least susceptible to challenge, according to E. Joshua Rosenkranz, execu-

utive director of the Brennan Center for Justice at New York University School of Law. The advantages of the Clean Money Option are that it:

- Restores the public's faith in the election process
- Eliminates perception of corruption, bribery, coercion and blackmail
- Saves taxpayers many times the cost of public funding when the dependence of money is eliminated from policy making
- Eliminates time and expense of fundraising and reporting contributions
- Provides financial help to encourage good candidates to participate in the primary election
- Allows time for candidates to study issues, respond to candidates' questionnaires and participate in meaningful debates
- Minimizes obnoxious, misleading and one-sided bumper sticker TV and radio ads
- Eliminates incumbents' war chests.

In order to implement the Clean Money Option, we have to change the culture of how campaigns are run. Now, when a person considers running for office, the first question is "how much money can you raise?" rather than "what do you stand for?" Public relations firms have been able to convince many people including a few thousand teenagers every day to smoke in spite of health warnings. A good PR firm can generate a culture change regarding elections by doing the following:

- Developing an expectation by vot-

ers to have clean and fair campaigns and react against candidates and independent groups that escalate the cost of elections and try to drown out each other.

- Convincing people that public financing is much less costly than the policies created by big money interests.
- Advising voters that public financing of the campaign will only cost less than \$2 per year per taxpayer.
- Promoting the idea of candidates' voluntary acceptance of the prescribed limits.
- Developing public opinion against candidates that do not accept public funding and spending limits.
- Promoting the need and desirability for substantive debates of the issues.
- Developing an atmosphere for the debates so people will want to listen.
- Providing incentives to maximize discussion of the issues and minimize obnoxious TV ads.
- Providing incentives for independent groups to participate in debates rather than one sided negative ads.
- Developing an awareness so people will want to participate in the election.

It took 72 years from the first Women's Rights convention until the 19th amendment to the U.S. Constitution was passed giving women the right to vote. How long will we have to wait to get elections based on people instead of money?

*Herman Holtzman is a retired civil engineer who is taking an active, independent role in campaign finance issues.*

# ANALYSIS OF NOVEMBER 2000 ASSEMBLY ELECTION

Only 1 of 90 incumbents did not get reelected.

Only 26.3% of the races were competitive

Only 4.4% of incumbents faced a primary election challenge.

Only 7.8% of challengers faced a primary election challenge.

Of candidates for the nine open seats, 61.1% faced a primary election challenge.

None of the 38 incumbents who were unopposed in the general election faced opposition in the primary election

Most amount of money spent by a candidate: \$305,579 (opponent spent \$10,112 and received 30% of the votes)

Noncompetitive and unopposed races accounted for 81.1% of the 99 races

**There were 17 competitive contested races where winner received less than 60% of the vote:**

Average spending by winners: \$51,889 (29% spent less than \$40,000 \*)

Average spending by losers: \$38,429 (47% spent less than \$40,000)

**There were 35 noncompetitive contested races where winner received more than 60% of the vote:**

Average spending by winners: \$36,726 \*\* (71% spent less than \$40,000)

Average spending by losers: \$10,483 (100% spent less than \$40,000)

**There were 9 open races:**

All but one race retained the party of the retiring incumbent

Average spending for winners: \$64,313 (11% spent less than \$40,000)

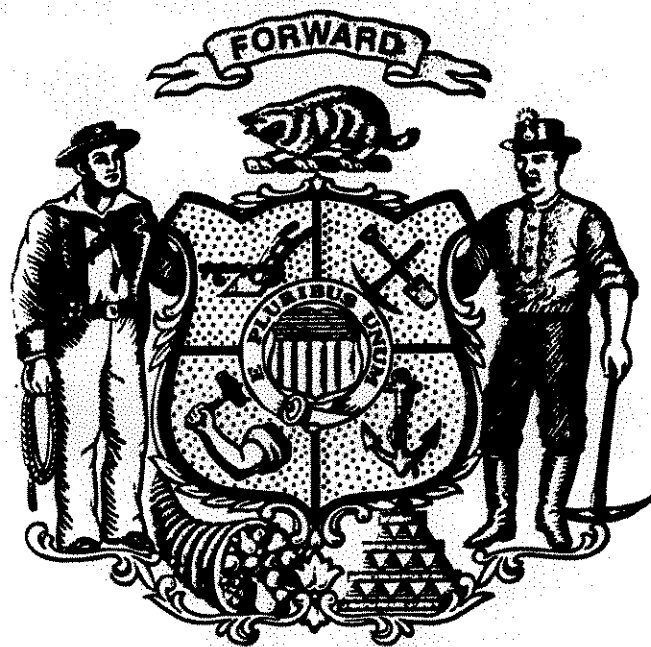
Average spending for losers: \$37,847 (44% spent less than \$40,000)

**There were 38 uncontested races (all incumbents):**

Average spending for unopposed candidates: \$13,750 (89.5% spent less than \$40,000)

\* The effective spending limit based on full public funding of \$30,000 and eliminating the cost of fund raising at 25%.

\*\* If the unusually high spending of \$305,579 was eliminated, the spending average becomes \$28,818.



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September 14, 2001

Rep. Bonnie Ladwig  
PO Box 8952  
Madison, WI 53708-8952

Dear Rep. Ladwig,


After our short debate at yesterday's hearing I tried to understand your vehement opposition to using General Purpose Revenue for fully funding election campaigns. Being unopposed in both the last primary and general elections is an indication that you are doing an excellent job for your constituents. Or, could it be that no one was willing to challenge you because of your \$41,883 war chest. In addition, with no opposition, you still managed to spend \$40,375 on your campaign. Are you opposing using tax money for campaigns as an excuse to protect your incumbency?

Were you present when I quoted Rep. Freese, who wrote, "the money the public will save by avoiding political paybacks will far surpass the modest amounts a sensible public financing program would cost"? Do you think it is proper to use \$4,000,000 of taxpayer money to finance the legislative caucuses in view of the recent revelations of improper use for campaign purposes?

Why not consider full public financing as an investment in good government. The returns on this investment could provide sufficient funds to support the programs you mentioned that were cut from the budget.

Please review the 20 reasons I presented for full public financing and then convince yourself and Rep. Scott Jensen to support AB 295 and AB 303.

Sincerely,

  
Herman Holtzman

Copy: Rep. Stephen Freese  
Rep. Mark Pocan