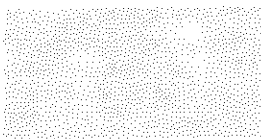


## 2005-06 SESSION

### COMMITTEE HEARING RECORDS

#### Assembly Committee on Campaigns & Elections (AC-CE)



Donny Sperank  
Dan Mica  
Mark  
Theresa Anderson

Sample:

#### Record of Comm. Proceedings ... RCP

- 05hrAC-EdR\_RCP\_pt01a
- 05hrAC-EdR\_RCP\_pt01b
- 05hrAC-EdR\_RCP\_pt02

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

➤ \*\*

➤ Committee Hearings ... CH

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Hearing Records ... HR

➤ \*\*

➤ Miscellaneous ... Misc

➤ **05hr\_AC-CE\_Misc\_pt08b**

➤ Record of Comm. Proceedings ... RCP

➤ \*\*

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## Judge may have to state case before court

Posted: Feb. 21, 2006



**Cary Spivak &  
Dan Bice**

E-MAIL

**Charles Schudson.**

Appeals Court Judge **Joan Kessler** may soon be fighting to maintain her honor - and her job - before the state Supreme Court.

Sources tell us that a special panel this month gave the green light for officials to file a complaint with the high court, accusing Kessler of intentionally providing false information to a special state investigator as he looked into a complaint filed against her by her 2004 election opponent, former Appeals Court Judge

The ball now is in the hands of **Bruce Rosen**, a prominent Madison attorney who was hired by the state Office of Lawyer Regulation to investigate the complaint. Rosen could recommend anything from a private reprimand to filing a disciplinary complaint with the Supreme Court.

Realistically, though, sources say his only choice is whether or when to file a Supreme Court complaint. No sitting judge could accept a reprimand for lying to investigators, the sources agreed, and continue to pass judgment on the actions of others.

If a charge is filed, Kessler, a former U.S. attorney, is prepared for war.

"She absolutely denies any wrongdoing whatsoever," said her lawyer, **Thomas Shriner**. "She specifically denies providing false information to Mr. Rosen. She is not going to agree to any resolution of the charge that does not include full exoneration of her.

"If a complaint is filed, she will defend herself vigorously, and she expects to be vindicated."

Kessler knocked Schudson off the bench in a bitter race in which she ran ads pointing to what she maintained were ethical lapses by the long-term incumbent. In one ad, she criticized Schudson for violating Supreme Court rules by sending a letter to a federal judge who was preparing to sentence a lawyer convicted of defrauding some 200 clients out of \$77,000. Sitting judges are not permitted to use their office to weigh in on the sentencing of a pal in another court.

Advertisement

The ad contended that Schudson was under investigation by the state Judicial Commission, even though he admitted to violating the little-known rule.

After the election, Schudson filed a confidential complaint against Kessler with three agencies, including the Office of Lawyer Regulation, alleging that her campaign had smeared him with "numerous false allegations" during the election. Investigations of lawyers are confidential, but word of this leaked out when Shriner filed a motion with the Supreme Court, attempting to put the kibosh on the probe, arguing that the lawyer disciplinary agency had no authority over Kessler, now that she had donned judicial robes.

On a 5-2 vote, the justices chose not to intervene, declining to rule on the merits of Shriner's argument.

For more than a year, Rosen doggedly pursued the investigation, and the review panel in December agreed that there was enough evidence to file disciplinary charges alleging that Kessler had knowingly provided false information or engaged "in conduct involving dishonesty, fraud, deceit or misrepresentation."

Rosen and the special panel were brought into this case because Kessler had done work for the Office of Lawyer Regulation.

At Shriner's request, the special panel this month reconsidered the matter, including additional information provided by Shriner, and reached the same decision it had two months earlier.

If Rosen slaps Kessler with charges, look for Shriner to resurrect his argument that the state regulators who police lawyers have no jurisdiction over a sitting judge. The only agency that could go after a judge is the state Judicial Commission, whose members are appointed by the Supreme Court and governor. In earlier pleadings, Shriner argued that the Judicial Commission also shouldn't investigate Kessler because she had violated no rules.

"Joan Kessler has done nothing wrong," Shriner said.

Officials with the Office of Lawyer Regulation have argued it was their case because Kessler was still a practicing lawyer at the time of the alleged infractions.

Shriner said he spoke to us Tuesday evening only because details of this top-secret matter - and the possibility of a complaint against Kessler - had leaked out, obviously irritating the **Foley & Lardner** lawyer. Before being elected to the state Court of Appeals, Kessler was a partner with Shriner at Foley, specializing in divorce cases.

The Kessler name is well-known in Democratic circles; she was appointed federal prosecutor by **President Carter** in 1978 and held that post until 1981. Her husband, **Fred Kessler**, served in the state Legislature in the 1960s and early '70s and was a Milwaukee County judge from 1972-'81 and 1986-'88.

In a surprise move, he ran and won a seat in the Assembly in 2004.

*Cary Spivak and Dan Bice can be contacted by phone at (414) 223-5468 or e-mail at [sb@journalssentinel.com](mailto:sb@journalssentinel.com). Read their blog at [www.jsonline.com/links/spiceblog](http://www.jsonline.com/links/spiceblog).*

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**PRESS RELEASES**

**Sen. Ellis: Praises Assembly Committee Action on Senate Bill 1**

3/2/2006

State Sen. Michael G. Ellis praised the action of the Assembly Campaigns and Elections Committee when it recommended concurrence in Senate Bill 1, his bill to merge the state Ethics and Elections board into a new Government Accountability Board.

"The Assembly Committee today adopted a substitute amendment that actually enhances the bill," Ellis said. "I urge the full Assembly to concur in this bill.

"The amendment adopted by the Assembly is the work product of a number of legislators who committed themselves to working together to ensure a strong, workable bill. The bill will go a long way toward strengthening our ability to enforce state ethics, elections and lobbying laws. That will help restore the public's confidence in the integrity of our government at a time when it is critically needed," Ellis said.

Ellis said a number of legislators from both parties worked hard to craft a bill that will greatly enhance current law and one that should garner strong support when it comes to a final vote. He particularly praised the efforts of Representatives Steve Freese, the committee chair, and Rep. Mark Gundrum who presented a number of thoughtful changes that helped strengthen the bill.

"As a former prosecutor, Mark Gundrum brought a wealth of knowledge and expertise to the table as we worked to improve this bill, and he played a major role in making a strong, effective bill," Ellis said. "His support will be crucial to help ensure passage of the bill in the Assembly."

The bill, which was recommended 5-1 by the committee, would merge the state Ethics and Elections Board into a single Government Accountability Board. Most importantly, the bill also creates an Enforcement Division that will have authority to investigate and prosecute alleged violations of state ethics, elections and lobby laws by public officials. Another critical component is that the new agency will be nonpartisan and will have much greater independence than the current agencies have.

"Some people may have been skeptical that legislators would work together to craft a bill that would enhance the ability regulate and enforce laws affecting themselves and other public officials," Ellis said. "The work product that came out of the Assembly committee today should lay those fears to rest.

"Today's action by the committee gives strong momentum to Senate Bill 1. I urge the full Assembly to support this bill and continue its movement through the state Legislature," Ellis said.

He added that he will work to ensure the Senate concurs in the changes made today by the Assembly and he looks forward to sending a strong bipartisan bill to the governor.

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## Freese bill aims to rein in state campaign funds

Published Wednesday, March 1, 2006 8:14:08 AM Central Time

By **Brian Gray**

of the Times

MONROE -- A bill State Rep. Steve Freese calls "the best hope for real (campaign) reform before the next statewide election" may be voted on this week by the Assembly.

The campaign reform bill authored by Freese, a Republican from Dodgeville, was passed last Wednesday 4-2 by the Assembly Campaigns and Elections Committee. Terri Griffiths of Freese's office said an Assembly vote hasn't yet been scheduled, "but we're hoping it goes to the full Assembly by Thursday."

The bill proposed by Freese, who has been in the Assembly since 1990 and serves as Speaker Pro Tempore, would:

- \* Increase the current checkoff on the state income tax from \$1 to \$5 with an option to direct the money to a specific political party. The \$4 does not increase or decrease the refund for state income tax.

Griffiths said the designation would allow people to support a specific party but added it is unlikely more money would go to one party over another.

"I think there would still be a lot of people who wouldn't designate their money to go to a specific party," so the donations would be virtually equal, she said.

- \* Creates a public endowment from the money received and individuals, unions and corporations could contribute to the fund. The money in the fund, Griffiths said, would provide matching funds for candidates who are targets of issue ads.

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- \* Provides increased funds for candidates who take public grants as long as they agree to abide by spending limits.

- \* Prohibits fund-raising during the state budget process, eliminates legislative campaign committees and limits the amount of money a candidate can receive from out-of-state contributors.

- \* Bans transfers from federal campaign accounts to state campaign accounts, effective Jan. 1, 2007.

- \* Makes the bill effective for the 2006 September primary and November general election.

Griffiths said Freese has been a longtime supporter of campaign finance reform and said the recent campaign scandals in Madison show things need to change.

She said the goal of the bill is to increase the number of candidates who use public money for campaigns. "Most candidates don't take the public grant money," she admitted. But, she added, she hoped more would in the future. "We believe the bill would reduce the amount spent for campaigns."

Current Wisconsin statutes limit campaign spending to \$1.78 million for governor, \$17,250 for Assembly candidates and \$34,500 for Senate candidates -- if they accept full government spending grants. Candidates who don't accept government funding can spend a varying amount of money on their campaigns, depending on how much money they raise.

For example, according to WisPolitics.com, Gov. Jim Doyle has already raised about \$6 million for the 2006 election.

WisPolitics.com said on its Web site the bill would "provide a gigantic measure of reform for Wisconsin's currently corrupted campaign finance system that has been in part to blame for the worst political scandal in Wisconsin's history -- the Legislative caucus scandal."

Freese said he was pleased to see the bill receive support from both Democrats and Republicans in committee.

"This is a good bipartisan compromise that will vastly improve our elections and public policy-making process," Freese said. "And we will have

a foundation for more reform in the future."

*Brian Gray can be reached at*

*[bgray@themonroetimes.com](mailto:bgray@themonroetimes.com)*

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STATE REPRESENTATIVE  
**FREDERICK P. KESSLER**

WISCONSIN STATE ASSEMBLY

12TH DISTRICT

March 6, 2006

Rep. Steve Freese, Chair  
Campaigns & Elections Committee  
State Capitol, Room 115-West  
Madison, WI 53703

Dear Steve:

I spoke with Russ Whitesel from the Legislative Council on Friday about Assembly Substitute Amendment 5 to Senate Bill 1 which we voted on in committee before the draft was available. I was stunned when I read it. It was totally absent of what was agreed to over a week ago and you indicated would be incorporated into ASA 5.

My two major concerns that were not included are:

1. District Attorneys or special prosecutors must come back to the Government Accountability Board for **reauthorization** to continue the investigation every 180 days. This requires an affirmative decision of the Board, which is entirely different from language that would allow the Board to terminate the prosecution or the investigation.
2. The language in a previous amendment that gave prosecutorial duties to retired judges and lawyers must be included. It was my understanding that there will not be full-time special prosecutors/investigators as full-time employees of the Government Accountability Board.

Russ Whitesel said that a list is being developed to make sure everybody has their concerns addressed. This is my list.

Yours sincerely,

A handwritten signature in dark ink, appearing to be 'F. Kessler'.

FREDERICK P. KESSLER  
State Representative  
12<sup>th</sup> Assembly District

FPK:sl

cc: Russ Whitesel





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## WISCONSIN LEGISLATIVE COUNCIL

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

TO: REPRESENTATIVE STEPHEN FREESE

FROM: Ronald Sklansky, Senior Staff Attorney *RS*

RE: 2005 Senate Bill 1

DATE: February 27, 2006

2005 Senate Bill 1, as amended by the Senate, creates a new agency entitled the Government Accountability Board to regulate the election, lobby, and ethics laws of Wisconsin. This memorandum briefly compares Senate Bill 1 with the provisions of Assembly Substitute Amendment 1 to Senate Bill 1 and with a substitute amendment (LRB-0578/1) proposed by Representative Mark Gundrum.

### **GOVERNMENT ACCOUNTABILITY BOARD**

#### **A. Senate Bill 1**

##### ***1. Creation***

Senate Bill 1 in effect combines the powers and duties of the current Elections Board and Ethics Board into a new entity entitled the Government Accountability Board (board). The new body consists of four persons nominated by the Governor, and appointed with the advice and consent of the Senate. A member may not be an officer or employee of a registrant under the campaign finance law. Except for initial appointments, members will serve for four-year terms.

The members of the board will be appointed from nominations submitted to the Governor by a nominating committee consisting of:

- a. The Chief Justice of the Supreme Court.
- b. The Dean of the Marquette University Law School.
- c. The Dean of the University of Wisconsin Law School.

The nominating committee also must convene and make recommendations to the Governor when vacancies occur on the board. The Chief Justice serves as chairperson of the committee. No person may be nominated by the committee unless the person receives the unanimous approval of the committee.

## ***2. Board Employees***

The board is required to employ an executive director outside the classified service and is required to employ its own legal counsel. The board will have three division administrators. The administrator of the Enforcement Division may be removed from office only by the executive director for cause.

### **B. Substitute Amendment 1**

#### ***1. Creation***

Substitute Amendment 1 increases the membership of the board from four to seven. Six members of the board may not be officers or employees of registrants under the campaign finance law. Four of these six members must have prosecutorial experience. The seventh member must be a retired judge.

The non-judge members of the board will be nominated by a nominating committee consisting of the Chief Justice and the Deans of the Marquette University and University of Wisconsin Law Schools. These nominees must receive the unanimous approval of the nominating committee. The retired judge will be selected randomly by the Chief Justice. All seven members of the board must receive confirmation from both houses of the Legislature. The board's actions will be taken by a simple majority of the board. The board's investigatory proceedings, except for the results of a vote on a board action, may be conducted in closed session and, prior to public proceedings regarding violations of the law, all of the board's investigatory materials will be confidential.

#### ***2. Board Employees***

Substitute Amendment 1 makes no change to the provisions of Senate Bill 1.

### **C. Proposed Substitute Amendment 2**

#### ***1. Creation***

The proposed substitute amendment changes the name of the board to the Government Accountability and Integrity Board and increases the membership of the body from four to seven. Four members of the board must have prosecutorial experience, two members of the board must have prior service as a nonpartisan elective official of a local governmental unit, and one member of the board must be a retired judge.

All members of the board must be appointed from nominations submitted to the Governor by a nominating committee consisting of one Court of Appeals judge from each of the Court of Appeals districts. The Court of Appeals judges must be chosen as members by lot by the Chief Justice of the Supreme Court in the presence of the other justices of the Supreme Court. The nominees to the board

must receive the unanimous approval of the nominating committee. The nominees also must receive confirmation from both houses of the Legislature. Any action by the board requires the affirmative vote of at least four members. The board's investigatory proceedings, except the results of a vote on a board action, may be conducted in closed session and, prior to public proceedings regarding violations of the law, all of the board's investigatory materials, including the full text of a complaint received by the board, will be confidential. No person other than a person who is the subject of an investigation by the board may provide access to any record of the board that is not subject to access to any person other than a member, employee, or agent of the board. A person who violates this provision may be fined not more than \$500 or imprisoned for not more than 30 days or both.

## ***2. Board Employees***

The proposed substitute amendment makes no change to the provisions of Senate Bill 1.

### **ENFORCEMENT DIVISION**

#### **A. Senate Bill 1**

##### ***1. Creation***

Senate Bill 1 creates an Enforcement Division that is attached to the board. An administrator, who will be appointed by the executive director of the board, with the advice and consent of the board, will direct and supervise the Enforcement Division. The administrator will serve a term of not less than four years nor more than six years.

##### ***2. Powers and Duties of Enforcement Division***

The Enforcement Division is required to investigate and prosecute alleged violations of laws administered by the board, including civil and criminal actions brought by the board, and must assist district attorneys and the Attorney General in prosecuting criminal actions referred to them by the Enforcement Division. The board must employ at least one full-time attorney and at least one full-time investigator within the Enforcement Division.

Any person may file a complaint with the Enforcement Division alleging a violation of the election, lobbying, or ethics laws. The division must investigate the complaint unless the Enforcement Division finds the complaint to be without merit. The Enforcement Division may on its own, or upon direction of the board, investigate any potential violation of the election, ethics, or lobby laws whenever the division has probable cause to believe that a violation has occurred. If the complaint concerns a question as to whether an election official or a private person is acting in conformity with the law or rules of the board, the person filing the complaint must serve a copy of the complaint upon that official or private person and that official or private person becomes a party to the case. An election official or private person may move to dismiss a complaint if it is clearly without merit. If the Enforcement Division finds, in response to a motion, that a complaint is clearly without merit, the division must dismiss the complaint. If the division does not dismiss a complaint, the division must issue a proposed decision, which must include findings of fact and conclusions of law and may include an order. The order may require an election official or a private person to act in conformity with the relevant laws or

rules of the board or may impose a civil penalty for such violations for which a civil penalty is applicable.

Generally, the Enforcement Division may, with or without approval of the board, prosecute any civil or criminal violation of election, lobby, and ethics laws in the name of the board. However, prior to commencing a criminal prosecution, the Enforcement Division must notify the district attorney for the county in which the violation is alleged to have occurred. If the district attorney notifies the Enforcement Division that a criminal prosecution will not be commenced, or the district attorney fails to commence a prosecution within 30 days after receiving notice from the Enforcement Division, the Enforcement Division may, with the approval of the board, commence a criminal prosecution regarding that alleged violation. The jurisdiction of the Enforcement Division is concurrent with the jurisdiction of the board, the district attorneys, and the Attorney General to conduct investigations and enforce the election, lobby, and ethics laws. The Enforcement Division may request assistance from the Department of Justice.

The Enforcement Division may subpoena and bring before it any person and require the production of any papers, books, or other records relevant to an investigation and may obtain an order from a circuit court to permit the inspection and copying of records of a financial institution to obtain evidence of violation of election, lobby, or ethics laws. Prior to issuing a subpoena or obtaining a search warrant, the Enforcement Division must submit a written request to do so to the board. If the board does not disapprove the request within seven days of receiving the request, the Enforcement Division may proceed to issue the subpoena or obtain the search warrant.

If the Enforcement Division issues a decision that contains an order, the order is effective upon service of the order notwithstanding any appeal to the board or a circuit court except that the Enforcement Division may stay such an order pending an appeal.

The Enforcement Division is bound by applicable laws, rules, formal opinions, and actions of the board, except that the Enforcement Division may nonacquiesce in any formal opinion or action of the board by publishing a notice of nonacquiescence in the Wisconsin Administrative Register. Following publication of the notice, the Enforcement Division is not bound by the formal opinion or action in which nonacquiescence has been registered.

A party aggrieved by an Enforcement Division decision may, within 20 days, appeal to the board, which may affirm, modify, or reverse an order of the Enforcement Division. The Enforcement Division or a defendant may seek judicial review of the board's decision.

If the Enforcement Division finds, by a preponderance of the evidence, that a complaint is frivolous, the division may order the complainant to forfeit not more than the greater of \$500 or the expenses incurred in investigating the complaint. Upon request of the division, the Attorney General must begin proceedings to recover the amount of any unpaid forfeiture.

### ***3. Budget Requests***

All budget requests by the Enforcement Division must be submitted by the board to the Department of Administration without change except as concurred in by the Enforcement Division.

**B. Substitute Amendment 1**

**1. Creation**

Substitute Amendment 1 makes no change to the provisions of Senate Bill 1 relating to the creation of the Enforcement Division.

**2. Powers and Duties of Enforcement Division**

Substitute Amendment 1 makes the following changes to the provisions of Senate Bill 1 relating to the powers and duties of the board and the Enforcement Division:

a. The board and a district attorney may not conduct simultaneous investigations. The board and a district attorney shall share investigatory information regarding possible violations under the board's jurisdictions and, if it appears that simultaneous investigations may begin or have begun, the board's investigation will continue and the district attorney's investigation will be suspended. If a district attorney is conducting an investigation, and the board is not, the district attorney may refer the investigation to the board at any time. Before a district attorney may commence a criminal prosecution, the district attorney must provide written notice to the board. If the board will not commence a criminal prosecution within 30 days of the notice, the district attorney may proceed.

b. The board's seven-day passive review period, relating to the issuance of a subpoena or obtaining a search warrant, is extended to a 10-day passive review period.

c. A defendant in a criminal case relating to the violation of a law under the board's jurisdiction has the right to one change of venue. The second venue will be randomly selected by the Chief Justice of the Wisconsin Supreme Court from the remainder of the counties in the state, with the exception of the defendant's county of residence.

**3. Budget Requests**

Senate Substitute Amendment 1 makes no change to the provisions of Senate Bill 1.

**C. The Proposed Substitute Amendment**

**1. Creation**

The proposed substitute amendment does not attach an Enforcement Division to the board. All three divisions in the board, the Enforcement Division, the Accountability and Integrity Division, and the Elections Division, will be under the direction and supervision of administrators who will be appointed by the board. The administrator of the Enforcement Division will serve for a term of not less than four years nor more than six years expiring on September 1 of an odd-numbered year. Further, this administrator must be an attorney licensed to practice law in Wisconsin who has criminal justice experience.

## ***2. Powers and Duties of Enforcement Division***

The proposed substitute amendment removes the independent authority of the Enforcement Division. Instead, the division acts, under the direction and supervision of the board, to investigate and prosecute alleged violations of laws administered by the board. Further, with respect to the laws under the board's jurisdiction, only the board may investigate and prosecute civil or criminal actions, although the division may on its own motion commence an investigation of a potential violation. Jurisdiction over these matters is removed from other entities such as the Attorney General and district attorneys. Finally, the authority of the board to apply for a subpoena is removed.

The proposed substitute amendment creates a new process for acting on complaints. The administrator of the Enforcement Division must make an initial determination as to whether there is reasonable suspicion that a violation of the law has occurred and whether an investigation is appropriate. The board must be notified within 10 days of the opening of an investigation of any matter. If, within this 10-day period, a member of the board requests the chairperson to call a meeting of the board and the member requests that the investigation be suspended until the meeting is held, the administrator must suspend the investigation until the board directs the investigation to proceed. A meeting must be held within 10 working days after an investigation is suspended. If the board believes that there is reasonable suspicion that a violation of the law has occurred or is occurring, the board may proceed with the investigation and may retain an investigator. If the board retains an investigator, the administrator must submit to the board the names of three qualified individuals who may serve. An investigator who is retained by the board must make periodic reports, but in no case may the interval for reporting exceed 90 days. If the board authorizes the administrator to investigate a matter without retaining an investigator, the administrator must make periodic reports to the board, but in no case may the reporting interval exceed 90 days. If, after receiving a report, the board does not vote to continue an investigation for an additional period not exceeding 90 days, the investigation is terminated at the end of the reporting interval. At the conclusion of an investigation, the administrator must present to the board one of the following:

- a. A recommendation to make a finding that probable causes exists to believe that one or more violations of the law have occurred or are occurring, together with a recommended course of action.
- b. A recommendation for further investigation of the matter together with facts supporting that course of action.
- c. A recommendation to terminate the investigation due to lack of sufficient evidence to indicate that a violation of the law has occurred or is occurring.

The Enforcement Division may file a complaint only upon authorization by the board. The division may request the assistance of special counsel and submit to the board the names of three qualified individuals to serve as special counsel. This person must be a retired judge or an attorney who, at the time of appointment, has senior status as a member of the State Bar of Wisconsin, as defined by the Supreme Court. When the board authorizes commencement of a prosecution and the prosecution is not concluded in circuit court or settled within six months of the date of the authorization, the administrator of the Enforcement Division or any special counsel may not proceed with the prosecution and must move to dismiss it, unless the board authorizes the prosecution to proceed for an additional period, not to exceed six months. The board may, by rule, prescribe categories of civil offenses that the board will agree to compromise and settle without a formal investigation upon payment of specified

amounts by the alleged offender. The board may authorize the administrator of the Enforcement Division to settle these charges if the offenses, in the aggregate, do not involve payment of more than \$500. No employee of the Enforcement Division, no investigator, and no special counsel may, while so employed or retained, or for 12 months after ceasing to be so employed or retained, become a candidate for state or local office.

The proposed substitute amendment also provides the same right to a change of venue as found in Assembly Substitute Amendment 1.

### ***3. Budget Requests***

The proposed substitute amendment does not authorize the Enforcement Division to make budget requests.

## **ADVICE FROM EXECUTIVE DIRECTOR**

### **A. Senate Bill 1**

Current law provides that a person may request a formal opinion from the Elections Board with respect to the person's authority or responsibilities under Wisconsin's election laws. No person acting in good faith upon a formal opinion issued to the person by the board will be subject to civil or criminal prosecution, if the material facts are as stated in the opinion request. Similarly, an individual may request an advisory opinion from the Ethics Board regarding the propriety of any matter regarding the application of Wisconsin's ethics or lobby laws. It is *prima facie* evidence of intent to comply with these laws when a person refers a matter to the board and abides by the board's advisory opinion, if the material facts are as stated in the opinion request.

Senate Bill 1 retains current law providing that a person may request a formal opinion from the board's executive director with respect to the person's authority or responsibilities under Wisconsin's election laws. The executive director may consult with the board before issuing a formal opinion. Senate Bill 1 also provides that a person seeking advice as to the applicability of Wisconsin's election, ethics, or lobby laws must present the opinion request to the executive director of the board. The executive director may issue an opinion. Prior to issuing an opinion, the executive director may consult with the board, and, in the case of an opinion regarding Wisconsin's ethics or lobby laws, must not reveal any information to the board that would identify the requester of the opinion.

### **B. The Substitute Amendment**

Substitute Amendment 1 makes no change to the provisions of Senate Bill 1 relating to advice from the executive director, except that the current law provision regarding a formal opinion under the Election Law is removed.

### **C. The Proposed Substitute Amendment**

The proposed substitute amendment retains current law providing that a person may request a formal opinion from the board with respect to the person's authority or responsibilities under Wisconsin's election laws. The proposed substitute amendment also provides that an individual may request of the board an advisory opinion regarding the applicability of Wisconsin's election, ethics, or

lobby laws. The board must review a request for an advisory opinion and may advise the person making the request. As under current law, the board's deliberations and actions upon the requests must be in meetings not open to the public. The substitute amendment also provides that if any act that is referenced in the opinion is prohibited by law, the executive director of the board must include in the opinion a citation to the legal authority prohibiting the act. If no legal authority clearly prohibits an act that is referenced in the opinion, the executive director must so state.

### **EFFECTIVE DATE AND INTERIM MANAGEMENT**

#### **A. Senate Bill 1**

The provisions of the bill relating to the creation of the board and the Enforcement Division generally take effect on the day after publication of the bill as an act. The remaining provisions generally take effect on the first day of the sixth month beginning after the date of publication.

Further, the Director of the Legislative Council staff is required to serve as executive director of the board, without additional compensation for that service, until such time as the board initially appoints an executive director and the appointee qualifies to take office. The executive director of the Legislative Council staff is vested with full authority and responsibility to carry out all functions of the executive director of the board, the Enforcement Division, and the administrator of the Enforcement Division prior to appointment and qualification of the initial executive director, including the retention and termination of all staff not transferred to the board that the board is authorized to employ under the bill.

#### **B. Substitute Amendment 1**

Substitute Amendment 1 provides that the process by which the board will be created and operated will take effect on the day after publication of the new law. The remainder of the provisions of the substitute amendment will take effect on June 1, 2007.

#### **C. The Proposed Substitute Amendment**

The proposed substitute amendment provides that the process by which the board will be created and operated will take effect on January 1, 2007. The remainder of the provisions of the proposed substitute amendment will take effect on July 1, 2007.

### **LOCAL OFFICIALS**

Substitute Amendment 1 provides that local public officials must comply with the state Ethics Code and that the board's jurisdiction will be expanded to allow it to begin civil and criminal actions against local officials. Neither Senate Bill 1 nor the proposed substitute amendment provide that local public officials must comply with the Ethics Code.

RS:all:ksm



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## **Editorial: Ethics, elections merger needs Assembly vote**

March 7, 2006

The merger of the state Ethics and Elections boards, which will make the combined board stronger, moves a step closer to reality.

The bill that details the merger passed the Assembly Campaigns and Elections Committee last week. Now it moves on to the full Assembly for a vote, which we hope is scheduled this week.

The bill, authored by Sen. Michael Ellis, R-Neenah, combines the Ethics Board and the Elections Board into a Government Accountability Board. The new board would have broader enforcement power to prosecute violations of state ethics, elections and lobbying laws.

The state Senate had passed the bill last fall and would have to agree with the changes made to it since then. But first, it has to get through the Assembly. That means it has to be scheduled for a vote.

We urge Assembly leaders to put this bill on the calendar before the legislative session ends Thursday.

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## **Editorial: Assembly must pass ethics reform bill**

March 7, 2006

The state Assembly can take a bold step this week to bring meaningful changes to politics and political ethics in Wisconsin by agreeing to Senate Bill 1.

The measure will combine the State Elections Board and the State Ethics Board into a single, more powerful Government Accountability Board to regulate pre-election campaign activities and the performance of public officials. The measure passed the Senate last week on bipartisan vote of 28 to 5.

There is urgency to get this bill before the Assembly, since the Legislature appears ready to adjourn the current session at the end of the week. Leaving Senate Bill 1 on the table would be a mistake.

Creation of the Government Accountability Board establishes the mechanism to investigate and prosecute allegations of wrongdoing and corruption by public officials.

Its time has come.

We've seen what comes from "politics as usual" in Madison — political campaigns being run out of government offices by government employees on government time. Legislative leaders such as Chuck Chvala and Brian Burke were convicted of felonies in conjunction with this kind of activity. Rep. Scott Jensen is on trial right now, accused of the same kind of corruption.

Gov. Jim Doyle has indicated his support for the Government Accountability Board.

Though the bill in the Assembly differs slightly from the version passed by the Senate last November, the differences would not appear to be a stumbling block to Senate agreement.

The Assembly must create the Government Accountability Board this week by passing Senate Bill 1.

Another bill that deserves consideration by the Legislature is Assembly Bill 226, a campaign-finance reform measure that limits the amount of money that can be spent on political campaigns and tightens up the way money can be raised by political candidates.

The bill has the support of the Assembly Committee on Campaigns and Elections — which also has endorsed a companion bill to fully fund the reform measure — one of the failings of a Senate bill that was defeated.

This bill would set a spending limit of \$4 million per candidate on the 2006 governor's race and would also prevent lawmakers from raising campaign money while the state budget is under consideration — a move to keep special interests at bay. The bill also requires greater disclosure by groups using so-called issue ads in political campaigns.

Assembly Bill 226 isn't scheduled for action, so the likelihood of it getting on the Assembly calendar this week is slim.

We agree with non-partisan Common Cause in Wisconsin that Assembly Bill 226 is a realistic method of campaign finance reform and for the Legislature and the governor to ignore it would be irresponsible.

More than five years ago, Wisconsin voters overwhelmingly said they wanted campaign-finance reform.

We are still waiting.



# TERRI MCCORMICK

WISCONSIN STATE REPRESENTATIVE

CHAIR, COMMITTEE ON ECONOMIC DEVELOPMENT  
VICE-CHAIR, COMMITTEE ON JUDICIARY  
COMMITTEE ON PUBLIC HEALTH  
COMMITTEE ON INSURANCE  
56<sup>TH</sup> ASSEMBLY DISTRICT

## Testimony for SB 1 -- Joint Committee on Finance -- 1/25/05

- Mr. Chairman, Committee Members, Thank you for allowing me to testify before you today on this very important piece of legislation.
- As you are no doubt well aware, legislators from both sides of the aisle have recently pled guilty to using their legislative offices as campaign headquarters, using taxpayer money to win reelection, and using positions of leadership to solicit campaign contributions from special interest groups in exchange for action on legislation
- The caucus scandal, combined with years of increased spending on pork projects and special interest legislation has gradually eroded Wisconsin's reputation as a "Clean Government" state.
- A recent poll from the Wisconsin Policy Research Institute found that only 6% of Wisconsin residents believe that their elected officials are putting their interests ahead of special interests.
- And that was before it became public that dozens of U.S. Representatives have received millions of dollars in illegal contributions and favors from lobbyists.
- It is time that we put honesty and integrity back into Government.
- Senator Ellis' Bill is a tremendous step in the right direction.
- As you know, SB 1 would merge the state Ethics and Elections Boards into a new "Government Accountability Board."
- The key component of the new Agency is the Enforcement Division, which "is empowered to investigate violations and bring civil and criminal actions to enforce the elections, ethics, and lobbying regulation laws" of the state.
- Wisconsin needs an agency with the independent authority to investigate ethics violations so that our elected leaders can be held accountable for their decisions.

**Griffiths, Terri**

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**From:** Common Cause In Wisconsin/Jay Heck [ccwisjwh@itis.com]  
**Sent:** Wednesday, March 08, 2006 1:16 PM  
**To:** Undisclosed-Recipient:  
**Subject:** Reform & Merger of State Ethics & Elections Boards Postponed Until April

**CONTACT:** Jay Heck - 608/256-  
2686  
2006

**RELEASE:** March 8,

## **Reform & Merger of State Ethics & Elections Boards Postponed Until April**

### **Senate Bill 1 Will Not Get a Vote in Assembly This Week But Will Be Next Month**

As the Wisconsin Legislature scrambles to finish most of its 2005-06 legislative session this week, one critical reform measure that had been expected to get a vote in the Assembly tomorrow will apparently not be on the calendar-- SENATE BILL 1, legislation that would abolish the existing ineffective State Elections and State Ethics Boards and combine them into a single **Government Accountability Board** with greatly enhanced powers to investigate and prosecute possible corruption and wrongdoing at both the state and local levels. The Assembly Campaign & Elections Committee last week voted 5 to 1 to advance Senate Bill 1 with some modifications from the version of Senate Bill 1, that passed with an overwhelming, bipartisan margin of 28 to 5 in the State Senate, last November 1st. The measure's author, Sen. **Michael Ellis** (R-Neenah) supports the modified version, as does CC/WI and others who worked to reach bipartisan agreement. The Chair of the Committee, Rep. **Stephen Freese** (R-Dodgeville) did a very commendable job in insisting on a strong reform measure and resisted attempts to greatly weaken Senate Bill 1.

Perhaps there is still some great discomfort on the part of many legislators with having to vote on a strong reform measure, but for whatever reason, the Assembly leadership has postponed consideration of Senate Bill 1 until the April floor session.

While extremely disappointed with this sudden development, CC/WI will continue to press for, and work to ensure that the Assembly leadership keeps its word to Senator Ellis and Representative Freese to bring Senate Bill 1 up for consideration in late April when it is possible that some other needed reforms may be considered as well. Ellis and Freese have apparently been assured that this action is not being taken to kill the reform measure, but rather to postpone it.

Citizens need to redouble efforts to put pressure on the State Representatives to consider and vote for Senate Bill 1 no later than the end of April. There can and must be no delay beyond that point!

Newspapers all over Wisconsin are extremely supportive of passage of Senate Bill 1 and of attempts to weaken it. Below is a segment from *Wisconsin Radio Network* that you can listen to explaining the need for Senate Bill 1 and below that are recent editorials supportive of the measure: "Assembly Could Act on Reform Measure Soon" - *Wisconsin Radio Network* - March 6, 2006: <http://www.wrn.com/gestalt/go.cfm?objectid=10673B1C-80E9-4C87-B8A50BDA6CDDAC51&dbtranslator=local.cfm>

And here are the editorials that have been issued just in the last few days

"Don't Water Down Strong Reform Bill" - *Wisconsin State Journal* - March 8, 2006: <http://www.madison.com/wsj/home/opinion/index.php?ntid=75381&ntpid=1>

"Assembly Must Pass Ethics Reform Bill" - *The Sheboygan Press* - March 7, 2006: <http://www.sheboygan-press.com/apps/pbcs.dll/article?AID=/20060307/SHE06/603070475/1883>

"Create a New Effective State Ethics Watchdog" - *LaCrosse Tribune* - March 6, 2006 <http://www.lacrossetribune.com/articles/2006/03/06/opinion/01edit.txt>

"Elections, Ethics Merger Needs An Assembly Vote" - *Appleton Post Crescent* - March 7, 2006 <http://www.postcrescent.com/apps/pbcs.dll/article?AID=/20060307/APC0602/603070513/1036/APCOpinion>

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**Want Good Government? Join Common Cause in Wisconsin!**

**Call 608/256-2686, reply to this message or write:**

**Common Cause in Wisconsin**

**P.O. Box 2597**

**Madison, WI 53701-2597.**

**First-time individual membership is just \$25, family membership \$40, students- \$15**

March 3, 2006

Dear Representative Freeze:

We are a concerned group of students interested in restoring integrity to Wisconsin's State Government. Since the beginning of the semester, we have collected signatures on campus in support of the passage of Senate Bill 1. We urge you to support this bill and ensure its passage before the end of this floor session.

We have collected 623 signatures total. 1 signatures are from your district.

Again, please support the passage of Senate Bill 1. Your constituents are counting on you.

Name	Street	City	Zip
Kristiane Stapleton	315 N Franklin St #2	Madison	53703
Ryan Wolf	6001 W. Dayton St #36	Madison	53715
Angeli Brown	328 Russell St #1	Madison	53704
TIM MCCREARY	501 E ARMS STREET	Wisc Dells	53965 AD40
Ginger Rubinstein	630 N. Frances #402	Madison	53703
Don Pennington	7818 County W <del>South Wayne WI</del>	South Wayne	53587 AD51
CHRIS FLEISSNER	134 N. BUTLER #2	MADISON	53706
Daniel P. Barabak	W169 N 107 90 REDWOOD CANY	GERMANTOWN	53022 AD24
John C. Gurdawski	W169 N 107 90 REDWOOD CANY	GERMANTOWN WI	53022 AD24
D. ERIC A. Schechter	812 Jeniff St. <del>Madis</del>	Madison	53703
Steve Triglinsky	408 N. Henry St. H1	Madison	53706
<del>Frank Gustafson</del>	<del>1014 Mount Curve Ave</del>	<del>Mpls, MN</del>	<del>55405</del>
Ryan Reszel	26 Lathrop St.	Madison, WI	53726
Danniel Ko	1900 Willow Dr	Madison, WI	53706
Esty Dinnic	1706 Sched Rd.	Madison, WI	53704
Patrick Kleven	509 N. Lake St #407	Madison, WI	53703