

**Proposal to Replace Wisconsin Statutes, Chapter 11, with a Simple Law
By Wisconsin Right to Life, Inc., and
Wisconsin Right to Life State Political Action Committee
December 22, 2014**

In addition to the following, Wisconsin Right to Life, Inc. ("WRTL"), and Wisconsin Right to Life State Political Action Committee ("WRTL-SPAC") recommend repealing GAB 1.28, GAB 1.91, GAB 1.42(1) (the regulatory oath for independent disbursements), and GAB 1.42(5) (the regulatory attribution and disclaimer requirement), and adjusting for inflation every dollar figure below.

WRTL and WRTL-SPAC also recommend repealing law authorizing "John Doe proceedings" in Wisconsin. *O'Keefe v. Chisholm*, 769 F.3d 936, 937 (7th Cir.2014) (citing WIS. STAT. 968.26)).

WRTL and WRTL-SPAC understand that some in the Wisconsin Legislature wish to amend contribution limits and restructure, or redefine the duties of, the Government Accountability Board. WRTL and WRTL-SPAC take no position on those issues at this time, yet they would be available to offer input on proposals by members of the Wisconsin Legislature.

§ 1. Definitions

As used in this chapter:

(1) "Political committee" means any person other than an individual, or any combination of two or more persons not related by marriage, which:

(a) In a two-year general-election cycle makes \$5,000 or more in contributions or spends \$5,000 or more for express advocacy, and

(b) 1 is under the control of a candidate or candidates in their capacities as candidates, or

2 A says in its organizational documents or its public statements that it has the major purpose of nominating, electing, or defeating a candidate or candidates, or passing or defeating a referendum or referenda, or

B devotes the majority of its spending in a two-year general-election cycle to contributions or independent expenditures.

(2) "Two-year general-election cycle" means the time beginning on the first Wednesday after the first Monday in November in an even-numbered year, and ending on the first Tuesday after the first Monday in November two years later.

(3) "Contribution" means:

(a) a direct donation to an organization that is registered as a political committee with the Government Accountability Board, or

(b) an indirect donation, *i.e.*:

1 a donation to such an organization *via* an intermediary, or

2 express advocacy that is coordinated with

A a candidate for state- or local-government office in Wisconsin who is clearly identified in the express advocacy, or

B the clearly identified candidate's political committee.

(4) "Express advocacy" and "expressly advocate" mean express words of advocacy of nomination, election, or defeat of a clearly identified candidate for state- or local-government office in Wisconsin, or passage or defeat of a clearly identified state- or local-government referendum in Wisconsin, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Senate," "vote against," "defeat," or "reject." Appeal-to-vote speech, *i.e.*, the "functional equivalent of express advocacy," is not a form of express advocacy.

(5) "Clearly identified" means:

(a) the name of the candidate or referendum appears,

(b) a photograph or drawing of the candidate appears, or

(c) the identity of the candidate or referendum is apparent by unambiguous reference.

(6) "Independent expenditure" means express advocacy that is not coordinated with the clearly identified candidate or the clearly identified candidate's political committee under **Section 1(3)(b)2**.

(7) (a) Express advocacy is "coordinated" under **Section 1(3)(b)2** if it is either created, produced, or distributed at the request or suggestion of:

1 the candidate or the candidate's political committee, or

2 the person paying for the express advocacy, and the candidate or the candidate's political committee assents to the request or suggestion of the person. Such assent leads to coordination only when the person paying for the express advocacy

A consults with the candidate or the candidate's political committee about the express advocacy, and

B the candidate or the candidate's political committee assents,

before the express advocacy occurs.

(b) Safe harbor. The following are not coordinated:

1 A candidate's or a political party's response to an inquiry about that candidate's or political party's positions on legislative or policy issues.

2 An endorsement of a candidate or referendum.

3 Soliciting contributions for a candidate, a referendum, or a political committee.

§ 2. Political-committee registration and recordkeeping

(1) Every political committee shall, within 14 days of becoming a political committee, file a registration statement with the Government Accountability Board.

- (a) The registration statement shall include the political committee's name and address.
 - (b) If the political committee is a candidate's or a political party's political committee, the registration statement shall identify the candidate or political party, and the political committee's name shall include the name of the candidate or political party.
 - (c) If the political committee is one that an organization has formed separately from itself, the registration statement shall identify the organization, and the political committee's name shall include the separate organization's name.
 - (d) The registration statement shall also include the names and addresses of the political committee's depository accounts.
- (2) Every political committee shall have one treasurer. The registration statement shall include the treasurer's name and address.
- (3) A candidate's campaign may not register as more than one political committee.
- (4) A political committee shall amend the information in its registration statement by filing a new statement within 14 days of any change.
- (5) The political-committee treasurer shall
 - (a) record the political committee's receipts and disbursements, including the name and address of the source of each receipt and the payee for each disbursement,
 - (b) itemize by date, purpose, and amount all receipts and disbursements of \$100 or more, and
 - (c) maintain each record in an organized and legible manner for at least three years after the report to which the record pertains.
- (6) Every intermediary that receives a contribution for a political committee shall, within 14 days, forward to the political committee's treasurer the contribution, the date of the contribution, and the contributor's name and address.

(7) A political committee's money shall remain segregated from other persons'.

(8) To terminate, a political committee shall file a termination statement with the Government Accountability Board.

§ 3. Political-committee reporting

(1) A political committee's treasurer shall certify – *via* either a declaration or an affidavit – and file the following reports with the Government Accountability Board:

(a) For a candidate's political committee or a political committee for a referendum or referenda:

1 a pre-election report by the seventh day before any election in which the candidate seeks nomination or election or such a referendum is on the ballot, with the report including information since the previous report and through the 14th day before the election, and

2 a post-general-election report by the 28th day after any general election in which the candidate seeks election or such a referendum is on the ballot, with the report including information since the previous report and through the 21st day after the election, and

(b) For any other political committee:

1 a pre-election report by the seventh day before any regularly scheduled primary or general election for which the political committee makes a contribution or engages in express advocacy, with the report including information since the previous report and through the 14th day before the election, and

2 a post-general-election report by the 28th day after any regularly scheduled general election, with the report including information since the previous report and through the 21st day after the election.

(c) In addition, all political committees shall file a report by January 31 and a report by July 31, with the report including information since the previous report and through the preceding December 31 and June 30, respectively.

(2) Each report shall include:

(a) the total amount of cash on hand, outstanding loans received, and outstanding loans made at the beginning of the reporting period,

(b) the total amount of all receipts for the reporting period,

(c) the name and address of:

1 each person who made a loan to the political committee, and every other political committee that made a contribution to the political committee, during the reporting period, with each loan and each such contribution itemized by date, purpose, and amount, and

2 each person, the aggregate receipts from which are \$500 or more during the two-year general-election cycle, with each receipt from the person during the reporting period itemized by date, purpose, and amount,

(d) the total amount of all disbursements for the reporting period,

(e) the name and address of:

1 each person to which the political committee made a loan, and every other political committee to which the political committee made a contribution, during the reporting period, with each loan and each such contribution itemized by date, purpose, and amount, and

2 each person, the aggregate disbursements to which are \$500 or more during the two-year general-election cycle, with each disbursement to the payee during the reporting period itemized by date, purpose, and amount,

(f) the total amount of cash on hand, outstanding loans received, and outstanding loans made at the end of the reporting period, and

(g) for every political committee making independent expenditures as defined in **Section 1(6)**, a certification – *via* either a declaration or an affidavit – that such disbursements are not coordinated under **Section 1(3)(b)(2)**.

§ 4. Seventy-two-hour reporting

(1) If a political committee

(a) receives \$500 or more from a person in the 15 days before an election, and

(b) engages in express advocacy *vis-à-vis* the election in the 15 days before the election,

the political committee shall report to the Government Accountability Board within 72 hours the name and address of the person, with such receipt or receipts itemized by date, purpose, and amount. The political committee shall also report the receipt or receipts in a regular report under **Section 3**.

(2) If a political committee – other than a candidate’s political committee or a political committee for a referendum or referenda when the candidate or such a referendum is on the ballot –

(a) spends \$500 or more for express advocacy *vis-à-vis* an election in the 15 days before the election,

the political committee shall report to the Government Accountability Board within 72 hours the name and address of the payee, with such disbursement or disbursements itemized by date, purpose, and amount. The political committee shall also report the disbursement or disbursements in a regular report under **Section 3**.