

Inside

Page 2

Capitol digest
D.C. group threatens to sue WDC

Page 3

Flip-flopers at the trough
Loan sharks make record donations
Elite donors fuel "527" groups

Page 4

WDC flags violations, 7 donors fined
Going to court in defense of reform

Make People Matter



More Than Money!

April 2010

Edition No. 69

On the Web:

www.wisdcm.org

State board closes 'issue ad' loophole

The state Government Accountability Board on March 23 struck a long overdue and decisive blow for the public's right to know and for accountability in election advertising with its unanimous approval of new rules closing the "issue ad" loophole special interest groups have long exploited to avoid disclosure of election-related activity and operate outside Wisconsin's campaign finance laws.

The Democracy Campaign has sought to close this loophole for well over 10 years, but doing so has taken on even greater importance in light of the U.S. Supreme Court decision in *Citizens United v. Federal Election Commission* giving corporations a free rein to spend on elections.

The board approved the rules last year and submitted them to the Legislature for approval before asking lawmakers to return them to the board pending the outcome of the *Citizens United* case. The court ruled on the case in January and while a bare majority held that corporations may not be prevented from spending treasury funds on election advertising, eight of the nine justices upheld disclosure of such spending, clearing the way for the GAB to reapprove its rules and resubmit them to the Legislature.



Image courtesy of Lisa Larson (lisalarsonart.com)

The rules take effect unless both houses of the Legislature introduce and pass legislation blocking their implementation within 30 days.

The GAB also directed its staff to develop new rules creating registration, reporting and advertising disclaimer requirements for corporate election spending, another much-needed countermeasure to the *Citizens United* ruling. Democracy Campaign director Mike McCabe appeared before the board at the March meeting to speak in favor of both the issue ad disclosure and corporate election spending rules.

The board will take up the corporate election spending rules at its May 10 meeting.



Capitol Digest

Shareholder consent for corporate spending

Legislation requiring corporations to notify and get permission from shareholders in order to use their money for political campaigning was approved by a Senate committee on March 16 and passed the full Senate April 13. The Democracy Campaign testified in favor of the legislation, Senate Bill 540, at a March 10 public hearing.

Campaign finance disclosure

For weeks WDC's director has been meeting with legislative sponsors of Senate Bill 43 and companion legislation in the lower house, Assembly Bill 63, in search of agreement on changes needed in light of the U.S. Supreme Court ruling in *Citizens United v. FEC*, which rendered one of the bill's 13 sections unenforceable. SB 43 was passed by the Senate on a bipartisan 26-7 vote on January 19, two days before the high court's decision was issued. The legislation would cement in state law the rules approved in March by the state Government Accountability Board.

Reporting of out-of-state money

Reform legislation (AB 104) long sought by WDC requiring out-of-state political committees to comply with the same campaign finance disclosure requirements as in-state committees was unanimously approved by an Assembly committee last December and passed unanimously by the full Assembly on February 16. The Democracy Campaign sent a memo to senators on April 9 urging them to act on the bill.

Technical corrections to Impartial Justice Act

A repair bill (AB 913) making clarifications and technical modifications to the system of public financing for state Supreme Court elections established last year is working its way through both houses, with the blessing of WDC.

Saving community television

Legislation (AB 721 in the Assembly and SB 582 in the Senate) repairing damage done by last session's "Video Competition Act" to funding and channel placement for public access TV stations recently got committee approval in both houses and continues to work its way through the legislative process. The Democracy Campaign strongly supports the legislation.

D.C. group threatens WDC with trademark infringement lawsuit

Immediately after the U.S. Supreme Court issued its ruling January 21 in *Citizens United v. Federal Election Commission* that corporations can spend unlimited amounts of money on elections, the Democracy Campaign organized a protest called "Citizens United Against Citizens United." An online petition (www.wisdc.org/wdc_petition.php) was started along with a Facebook group, and WDC helped organize a February 16 march from the State Capitol to the federal courthouse in Madison.

On March 15, a letter arrived by certified mail from a law firm in Virginia representing the Washington, D.C.-based interest group Citizens United claiming that our protest was an infringement on the group's trademark. The cease-and-desist letter demanded that WDC stop using the name and "destroy all writings" referring to it.



After consulting with several attorneys with expertise in trademark law, the Democracy Campaign was convinced that Citizens United's claim was groundless, but in the interest of not encouraging frivolous litigation the decision was made to change the name of the protest to United Citizens Against Citizens United.

On March 18 the Democracy Campaign sent a letter to the attorney for Citizens United informing him that WDC "will not stop its constitutionally protected right to publicize and organize against the United States Supreme Court's decision . . . (n)or will the WDC stop referring to the case as 'Citizens United.' Doing so does not infringe any trademark of the Citizens United organization that you represent." WDC has heard nothing further from the group or its attorney.

As word spread of Citizens United's threat to sue WDC, the protest's Facebook group grew by more than 400 people in a matter of days and there was a new and prolonged surge of activity on the online petition. Printed petitions were mailed in early April to the Supreme Court's public information office and delivered to the district offices of U.S. Senators Herb Kohl and Russ Feingold.

Flip-flops on DNR bill rewarded

Seventeen legislators who supported legislation to return control of the state Department of Natural Resources to a citizen board but then reversed course and opposed overriding the governor's veto of the bill received \$703,743 since 2005 from special interests who oppose the legislation, a Democracy Campaign report issued in late March showed.

During the same period – from 2005 through 2009 – the 17 legislators received no contributions from individuals or groups that support returning oversight of the DNR and appointment of the agency's secretary to the Natural Resources Board.

“Politicians robotically insist that campaign contributions do not influence their position on issues and claim that any appearance otherwise is purely coincidental. Well, then let's just say our findings represent one whale of a coincidence,” WDC executive director Mike McCabe said.

Six of the 17 representatives – Democrats Leon Young and Josh Zepnick and Republicans Ed Brooks, Steve Kestell, Thomas Lothian and Brett Davis – were sponsors of the bill. The others either voted for the legislation earlier this session or supported it in the 2007-2008 legislative session.

Elite donors funnel cash to '527s'

So-called “527” groups that effectively operate as shadow party organizations and often pollute state and national elections with negative advertising, misleading mailings and other deceptive electioneering raised more than \$1.5 million from Wisconsin in 2009.

The money came from just 452 Wisconsin contributors, including wealthy individuals, corporations, labor unions and an Indian tribe. More than half of the record \$1.53 million in donations came from the top two donors.

The contributions smashed the previous non-election-year record of \$1.12 million set in 2007 by \$414,019 or 37%. Last year's contributions were 138% more than the \$642,349 Wisconsin contributors gave to 527s in 2005, 165% more than the \$577,413 contributed in 2003 and 178% more than the \$551,988 given in 2001.

527s are named for the section of the IRS tax code under which they are organized.

Loan sharks play stifling defense with big campaign contributions

Payday lenders contributed nearly \$75,000 to state policymakers and candidates in 2009 – an industry record in a non-election year – including \$65,440 to current legislators in an effort to water down or derail proposals to regulate the industry. The 2009 donations came on the heels of a record \$149,150 in campaign contributions by the industry in 2008 to all candidates for statewide office and the legislature. Of that, \$98,350 was accepted by current legislators.

Most of the money went to four fundraising committees controlled by Democratic and Republican leaders in both houses of the legislature.

In addition to the campaign contributions, seven organizations representing payday lenders or auto title loan companies spent \$583,658 on lobbying against interest rate caps on the industry's transactions.

Both houses have passed payday lending bills, but neither includes any limit on the interest rates lenders can charge. Wisconsin is the only state that does not regulate payday lenders, whose interest rates routinely exceed 500% a year.

It's a Party!

**Come celebrate WDC's
first 15 years with us**

Annual Membership Meeting

**Thursday, May 6, 2010
4:30 – 6:30 p.m.**

**Samba Brazilian Grill, 3rd floor
240 West Gilman Street
Madison**

RSVP by Friday, April 30

**Call 608-255-4260
or e-mail meyer@wisdc.org**

Big donors pay stiff fines

In late March the state Government Accountability Board announced hefty fines assessed to seven big campaign donors flagged by the Democracy Campaign last October for running afoul of state limits on campaign contributions.

The GAB collected more than \$23,000 in fines from the seven who exceeded the \$10,000 limit on aggregate campaign donations to candidates for state and local office in 2008. Two of the seven were fined more than \$3,000 and two others were fined \$6,000 or more. The enforcement action stands in sharp contrast to the track record of the elections board the GAB replaced, which routinely did little or nothing to violators.

WDC defending Impartial Justice

In early February the Democracy Campaign joined with the League of Women Voters of Wisconsin and Common Cau

Cause in Wisconsin in seeking to intervene in two federal lawsuits aimed at overturning Wisconsin's Impartial Justice Act creating publicly financed state Supreme Court elections.

On March 11, U.S. District Judge Barbara Crabb denied the groups' motion to join the cases as intervening defendants but granted the alternative request to participate as *amicus curiae* or "friend of the court." By granting friend-of-the-court status, the court invited the three groups to submit briefs on issues involved in the cases.

In her order, Judge Crabb recognized "the experience the proposed intervenors have to offer" and wrote that there is "no doubt that it will be valuable in resolving this case."

One of the lawsuits, filed by Wisconsin Right to Life, seeks to have a portion of the new law struck down. The other, filed by Jefferson County Circuit Judge Randy Koschnick, seeks to have the entire law overturned.



210 N. Bassett St. Suite 215
Madison, WI 53703

608 255-4260
www.wisdc.org