



ROBIN J. VOS

SPEAKER OF THE WISCONSIN STATE ASSEMBLY

Testimony on Assembly Bill 387 and Senate Bill 292

Before the Assembly Committee on Campaigns and Elections and the Senate Committee on
Elections and Local Government

October 13, 2015

“Congress shall make no law...abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”
First Amendment to the United States Constitution.

“Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press.” Article 1, Section 3 of the Wisconsin Constitution.

Our state and federal constitutions enshrine the freedom of speech as the supreme law of the land. For too long our campaign finance statutes, enshrined in Chapter 11, have been vague, overbroad, and unconstitutional. The bills before us today address those serious flaws.

“Wisconsin’s foundational campaign-finance law is in serious need of legislative attention to account for developments in the Supreme Court’s jurisprudence protecting political speech.” The Seventh Circuit Court of Appeals challenged the legislature with those words last May. The goal of Assembly Bill 387 is to answer that challenge, and protect a free and vigorous debate of candidates and issues in Wisconsin.

Chapter 11 has not had a major revision since it was created in 1973. Since that time the courts have developed a clearer understanding of the government’s ability to regulate speech. Unfortunately, Wisconsin’s statutes have not been updated to mark the boundaries of the government’s authority to regulate election-related speech. In the absence of legislative action, regulators have attempted to burden speech in ways that violate our Constitution. While the courts have protected our First Amendment rights, they have also made it clear that the legislature must act.

Even if you disagree with the Supreme Court decisions on these issues, we still must update our statutes so people know what the law is, and what they can and cannot do. Unclear, vague, and unconstitutional statutes only make it harder to engage in the political process. Citizens have a right to know what the law is. The goal of the bill is to codify these decisions so the public has clear direction on what activity is regulated and what is not.

Current law is far too burdensome on individuals or groups wanting to engage in the political process. This proposal respects the line between express advocacy and issue advocacy and protects the ability to engage in the political process by only regulating groups engaged in express advocacy. Following the lead of the courts, this bill protects from government regulation those engaging in issue debate, discussion, and advocacy.

While the discussion of issues is beyond the scope of this chapter, AB 387 imposes reporting and disclosure requirements on Independent Expenditure Committees, or Super PACs. The courts have told us these actors have the right to participate in the process, but we are imposing reporting and disclosure requirements on that activity. This proposal also imposes reporting requirements on one-time express advocacy made by other actors who may engage in the electoral process. Further, AB 387 regulates coordination of campaign activity, by codifying a Government Accountability Board opinion and applying it to express advocacy.

AB 387 also increases the number of finance reports filed, so that citizens know who is contributing to our campaigns. Candidates will have to report six times during even years and quarterly during odd years. Large late contributions to candidates must still be reported within 48 hours.

This bill creates fairness, treating unions and corporations the same. We must acknowledge that corporations, like unions, have the constitutional right to engage in our political process. The Supreme Court has acknowledged this and 28 states already allow some form of corporate contributions. AB 387 still prohibits corporate money going to candidates.

Finally, this bill encourages more money to go to accountable, transparent actors by doubling the contribution limits that currently exist in Chapter 11. The cost of everything has gone up since 1973, including the cost of running elections. Unfortunately, our contribution limits have not increased, making campaigns more dependent on unaccountable third party groups. Adjusted for inflation, our limits would be five times what they are under current law – this bill only doubles them. This proposal received bipartisan support last session, and I hope it will again, because it brings more money into the light of day.

This bill will make our campaigns more transparent and accessible, and give clear guidance to those wishing to participate in the process. Thank you again for the opportunity to testify on this important proposal and I am happy to answer any questions.