



LEAGUE OF WOMEN VOTERS® OF WISCONSIN EDUCATION FUND

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CITIZENS' RIGHTS

INDIVIDUAL LIBERTIES

At its 2003 Convention, the League of Women Voters of Wisconsin adopted a study of "The Role of State and Local Governments of Wisconsin in protecting individual liberties, including the USA Patriot Act".

The study was a response to federal legislation and executive orders and regulations after the attack of 9/11/01 that were judged by the LWVUS and local Leagues in Wisconsin to weaken and abridge constitutionally guaranteed individual rights. Leagues recognized that security is a major function of government, but that in times of crisis governments tend to go to excesses which infringe on the equally important protection of

constitutionally guaranteed liberties. The LWVUS position on individual liberties adequately covers advocacy at the national level of government. The goal of taking a state consensus was to empower Wisconsin state and local Leagues to advocate for action to protect individual liberties on the state and local levels of government. Consensus was taken in the spring of 2004, returning a clear consensus supporting the following position. The new position on Individual Liberties was adopted by the Board of the LWVWI in May.

VOTING RIGHTS

The Wisconsin League has based its voting rights action on the League principle that every citizen should be protected in the right to vote and on the specific positions above, reflecting member convictions that protecting the right to vote is indivisibly part of the League's basic purpose. League's voting rights actions have been taken not only to ensure access to the electoral process but to extend and enhance that process and the government's role therein.

In 1977-78 the legislature enacted major election law changes, which the League supported. These included: the establishment of registration at the polls; the option for students to designate their student address as their place of residence for voting purposes; repeal of the 6 month residency requirement; and the requirement that all communities have voter registration.

There have been many proposals for change in election laws, some of which were enacted. Because they would not necessarily make the legislature more responsive to the voters, the League has supported a number of these, opposed a few and has watched them all. The following is a summary.

Changes enacted that were supported by the League:

- 1) 1st Tuesday in January deadline for filing nomination papers for spring elections in order to leave enough time for voting by absentee ballot, 1979.
- 2) Authorization for special registration deputies and additional officials at the polls, 1978.
- 3) Provision for training for election officials and clerks, 1978.
- 4) Definition of identification needs for registration, 1978.
- 5) Automatic sending of absentee ballots to registered voters confined indefinitely to a home or institution, 1978.
- 6) Constitutional amendment requiring primaries in recall elections as in regular elections, 1981.
- 7) Referendum questions worded so that a positive vote means approval and a negative vote means disapproval, 1986.
- 8) All polling places accessible to persons in wheel chairs by 1982, 1986.
- 9) Where voting machines are used there must be a notice informing voters that a separate ballot must be cast (lever pulled) for

president/vice president and another for all other candidates rather than just one vote for the straight party ticket, 1986.

- 10) Minimum pay of \$25 for election officials, 1986.

The 1989-90 legislature enacted an omnibus bill on election laws. It was supported by the League because of its improvements in election law. The changes included giving military spouses and dependents the same voting privileges as military electors, special absentee voting provisions, tightening of recall petition procedures, restricting use of stickers in voting, increased authority of election inspectors and so forth. The League did question the provision that gives the Elections Board authority to exempt a polling place from the handicapped accessibility requirement and reassigning the voter to another polling place. League believed that it might result in unnecessary and extended difficulty for some handicapped people to vote.

In the past several years, the League has been instrumental in protecting our voting rights and helping defeat proposals that would make voting more difficult or disenfranchise some citizens. The League, in cooperation with a Voting Rights Coalition that has formed, testified against and supported the Governor's repeated veto of the bill that would require a state-issued photo id to vote (2005, 2006). LWV-WI also testified against a bill that would end Election Day registration (2006) and that bill was not brought to the floor for a vote.

The League has successfully opposed various bills introduced in almost every session to repeal the mandatory provision for registration availability in high schools and to repeal the requirement for registration at polling places.

In 1991 we opposed attempts to change the dates of spring elections and related deadlines for the sole purpose of favorably affecting the date of Wisconsin's presidential preference primary and its role in the presidential nomination process. Our concerns have been that spring elections are scheduled when best suited for Wisconsin and thus that polling days do not occur when the winter weather is more likely and that

nomination paper filing dates are not any more affected by the holiday season than at present.

In 1992 we opposed term limitations because we believe that limits deny voters the right to choose those they want to represent them.

Other bills we acted on: support for impartial captions on referenda on the ballot (1991); concerns about filing date changes in "open seat" contests (1993).

Election problems in the close 2000 and 2004 presidential races increased worries of voter fraud. Though multiple studies revealed voter fraud to be overwhelmingly minimal and rarely intentional, the League went on the defense to protect an individual's right to vote without the undue barriers of providing a state-issued, photo identification card with current address.

In 2002, the federal government passed the Help America Vote Act (HAVA), which required, among other things, that states produce and use a statewide, electronic voter registration database by the Fall 2006 mid-term elections. The League monitored the database implementation process and advocated that the required process of matching voter registration records to other government databases (i.e., social security and Department of Motor Vehicles records) not put any voter in jeopardy of being inappropriately dropped from the registration list. During this time, the Wisconsin State Elections Board also purchased new electronic voting machines and the state League advocated for a paper voting record using the newly adopted LWVUS position on fair voting machine technology.

In the 2005-2006 session, the League successfully supported a bill with sweeping administrative changes intended in large part to comply with HAVA. Specific provisions the League supported included: authorizing municipalities to establish alternate absentee ballot voting sites in lieu of the clerk's office; extending prohibitions against electioneering to include the clerk's office and/or absentee voting site; requiring all municipal clerks to receive election training at least once every two years; requiring clerks to train all poll workers other

than chief inspectors, who continue to be trained and certified under current law, as well as special registration deputies and special voting deputies pursuant to rules developed by the elections board. The League also expressed concerns about some aspects of the bill, all of which passed, including: the lack of a provision for removing the felon designation from a person's name on the statewide voter registration list when his/her voting rights are restored; a requirement that a person registering to vote at the poll to affirm publicly her/his felon status; moving the deadline for pre-registration from the 2nd Wednesday preceding the election to the 3rd Wednesday preceding the election; an exemption from requiring the clerk to appoint special registration deputies; the lack of appropriation for training requirements; a requirement that students who use identification to register which does not contain their local address receive a certification from their educational institution. The League also noted that we believe all absentee ballots should be counted on election day.

In the January 2007 Special Session of the Legislature, the League was influential in the passage of a major government reform measure, which combined the Wisconsin State Elections Board and the Wisconsin Ethics Board into a new Government Accountability Board with an Enforcement Division. While Elections Board members were appointed by the Governor, the new Government Accountability Board members will be retired judges nominated by the Governor and confirmed by the Senate. The Government Accountability Board was given power and a budget with which to investigate and prosecute elections, ethics and lobbying violations.

The League initially supported this reform legislation, but withdrew support when major flaws were revealed. Last-minute amendments made the legislation workable and the League applauded its passage.

In June 2005, Convention delegates approved a two-year study of Voting Rights. In June 2007, Convention delegates approved a two-year extension of the study to cover all aspects of

election administration. This resulted in the revised position (above) which was approved by delegates of the May 2009 Annual Meeting.

CAMPAIGN FINANCE

Based on the specific campaign finance positions as adopted by the LWVUS in 1974, the Wisconsin League has had many opportunities to act in the area of campaign finance reform. The issues, proposals and solutions are very similar at the state level and the positions have been and remain timely.

In 1974 the State Elections Board was created and modern campaign finance regulation got its start in Wisconsin. In 1977 the legislature established a 45% limit on combined PAC funds and public grants as a percentage of spending limits. Thus, this means that a candidate who takes a full public grant cannot take any PAC money. The Wisconsin Election Campaign Fund was established to provide partial public funding for state elections through a check-off on the income tax form. Also in these years legislation was enacted which created contribution limits, spending limits when public funding is used, full disclosure and reporting requirements, and threshold contribution and minimum vote level to qualify for public funds. The League strongly supported all of this and has worked since then to maintain and improve the system.

Several times we have successfully opposed legislation which would have replaced the income tax check-off with an add-on, meaning we would no longer have had public funding. We also opposed attempts to: 1) repeal special reporting of large contributions in the final two weeks; 2) raise the threshold level at which registration and reporting begins (this was done in 1986); 3) raise the amount of personal funds a candidate can spend without reporting (this level was raised from \$100 to \$1,000 in 1986).

Many good changes have been made in the campaign finance system with our support:

- 1) Public financing has been extended to special elections;
- 2) Conduits must register with the state and report contributions passed through to candidates;

- 3) Committees which spend independently (without the knowledge or cooperation of the candidate) must specifically report any disbursements of more than \$20 within the last 10 days before an election;
- 4) Tax forms now inform the tax filer that checking off does not increase liability;
- 5) There is a provision for voluntary unrestricted contributions to the Wisconsin Elections Campaign Fund;
- 6) \$1 will be transferred to the fund for taxpayers whose liability is less than \$1 or who have a refund;
- 7) Legislative and party campaign committees cannot spend independently without registering as a PAC; this imposes lower limits on a committee's direct contributions to candidates;
- 8) Candidates do not need to limit spending even if receiving a grant if the opponent does not accept a grant, unless the opponent voluntarily agrees to accept the spending limit;
- 9) A candidate must return grant money (in order to accept PAC money) more than three weeks before the election, so that this action will be reported before the election.

The League supported a number of bills which did not pass. One bill would have increased the check-off to \$2 to maintain the level of the fund. We also supported a proposal allowing the Elections Board to set aside 3% of the election fund be used for public information about the purpose and effect of the fund. Other provisions we supported would:

- 1) Exempt a candidates' travel expenses from spending limits, if paid for by committee;
- 2) Prohibit a candidate from withdrawing voluntary acceptance of spending limits later than a week after the primary;
- 3) Subject the costs of all thank you ads to campaign finance limitations;
- 4) Establish a sliding scale which would allow primary survivors in state elections a portion of the grant beginning with 20% for those who receive 1% of the vote;
- 5) Provide state funding for U.S. campaigns.

One major proposal, which the League supports, is a call for passage of a constitutional amendment to both the federal and state

constitutions to allow campaign-spending limits. We believe that this is a necessary component for any lasting solution to campaign finance excesses and abuses.

In 1991-92 League continued to lobby for these and other changes, many of which were included in the Legislative Council bill in 1993. This proposal has been reintroduced in every session, but has never been passed.

In 1997, the League was generally critical of the report of the Governor's Blue Ribbon Commission on Campaign Finance Reform because of its failure to recommend comprehensive reform including: a sure source of enough public funding; control of spending levels; lowering contribution levels and other provisions. The League did support prompt electronic filing of contributions and reports by all candidates; requiring out-of-state organizations with campaign activity in Wisconsin to abide by Wisconsin laws; limiting PAC-to PAC and Campaign-to-campaign contributions; counting money left over from one campaign against the spending limit to the next.

League also urged other provisions, not included in the Commission report: adequate enforcement of election laws through prompt review of complaints and increase in fines; increasing the income tax check-off and allowing a small portion to be used for public education about the role of the funds in financing campaigns.

One of the commission's recommendations was enacted. Candidates could voluntarily file financial reports electronically in the 1998 elections, but are required to do so after January 1, 1999.

In 1996, the League joined the coalition, Wisconsin Democracy Campaign, to intensify the educational, organizing and lobbying efforts for campaign reform, and to closely monitor elections until such time as legislation passed. In 1998, the coalition has publicized the sources of funds and their expenditure in the most expensive campaigns Wisconsin has seen.

RIGHT TO PRIVACY IN REPRODUCTIVE CHOICES

In 1983 Wisconsin Leagues concurred with Leagues across the nation in support of a national position to allow action to protect the individual's constitutional right to privacy in reproductive matters. This right had been guaranteed by the 1973 Supreme Court decision in the Roe vs. Wade case. The decision prohibits states from restricting the right to abortion during the first trimester, allows regulation to protect health and safety during the second and permits prohibition during the third trimester except to save the life or health of a pregnant woman.

Occasions for action came very quickly and continue to the present time. In taking action the League has worked cooperatively with the Reproductive Rights Task Force of the Wisconsin Women's Network. For the most part, action has been successful in maintaining the legal right to choose. Although anti-choice activists have failed to get abortion banned, they have had considerable success in gaining separate restrictions one at a time.

League has opposed all four major restrictions enacted into law. The first restriction denies the use of public funds to pay for abortions. Because most hospitals receive public funds, they have been unable to provide abortion services to Medicaid patients, who must now seek private funding. League has supported a number of bills in unsuccessful attempts to restore this funding.

The second restriction, passed in 1992, requires consent of an adult for a minor to have an abortion. The original bill called for "parental consent," but we were able to get modification to allow consent to be given by a close family member, a member of the clergy, or the court and to provide for anonymity. The League holds that the majority of teens do tell their parents, but for those who, for whatever reason, cannot talk to their parents, and who will be responsible for a child for 18 years if abortion is not available, the right of personal choice should not be restricted.

In 1985 a law was enacted containing a number of provisions intended to reduce the number of abortions. It should be noted that while the League supports the right to choose abortion, it also supports programs to reduce teen pregnancies under Social Policy positions. These positions combined with the reproductive rights position allowed the League support the bill that became law.

In 1996 the third major restriction was adopted, requiring a 24-hour waiting period between the first consultation and the actual procedure. The law also requires the doctor to provide state-prepared information about all aspects of the procedure and all options open to the client if the pregnancy were to continue. League opposition was based on the lack of accessibility of clinics in most parts of the state, causing many clients undue problems of cost, time, transportation, and confidentiality. Objection to the "informed consent" requirement was on the grounds of state interference with a doctor's practice. The concerns of pro-choice advocates that the information required provide unbiased content resulted in very comprehensive, medically accurate materials.

Last of the four major restrictions was enacted in 1997. The term "partial birth abortion" was designed to shock the public to gain support for anti-abortion legislation. The term is not used by the medical community; it implies that a healthy, viable fetus is aborted at the request of pregnant woman. Under Roe vs. Wade and Wisconsin law, third trimester abortion is illegal unless the life and health of the woman is at stake. If the fetus is healthy and viable, the doctor would choose to induce live birth. If the fetus is not healthy, the doctor might choose this procedure as the best means of protecting a woman's ability to conceive in the future.

Although the bill became law, a suit in federal court contests its constitutionality. The U.S. 7th District Court of Appeals in November 1998 enjoined enforcement until trial determines its constitutionality.

The 1989 U.S. Supreme Court's Webster vs. Missouri decision, giving states more authority to limit the right to abortion if the restrictions

did not place an “undue burden” on the woman, stimulated a number of bills.

The League continues to work for bills to remove Wisconsin’s existing criminal sanctions for performing an abortion, none of which have passed. Thus the law remains in place if the Supreme Court should overturn *Roe vs. Wade*.

The League has supported with some small success efforts to prevent opponents from blocking access to abortion services although picketing and demonstrations are still allowed.

Abortion opponents wanted the durable power of attorney for health care law to exempt pregnant women. In a compromise supported by the League, a bill passed containing a legal form for a “durable power of attorney” for health care, with a checklist to be marked if the appointed attorney is to have the power to make decisions for a woman who is pregnant. Other conditions also require check-off.

In 1989 League joined other groups objecting to the action of the state attorney general in signing for Wisconsin an amicus curiae brief to the U.S. Supreme court that urged the overturn of the *Roe vs. Wade* decision. League argued that Wisconsin has taken no such position either legislatively or by citizen vote.

League has also opposed a number of bills which have sought to define the fetus as an “unborn child” in order to establish a legal status for a fetus, as well as bills that create some 20 penalties for intended or unintended injury or death to an “unborn” child. We have opposed another bill which prohibits use of public funds or use of public facilities to programs which provide information on abortion, and prohibit public employees from taking part in such programs.

Another bill would confine pregnant women with drug dependencies to treatment centers, opposed because of denial of personal freedom and because such facilities are not available in most places. An effort to permit pharmacists to refuse to provide prescriptions on the basis of their own beliefs has been opposed because it would deny contraceptives and abortifacients

and anything else to customers. A bill that would protect doctor from being sued for failing to inform a pregnant woman about the condition of the fetus in time for an abortion was also opposed.

None of these latter bills has passed, but they and others seeking new restrictions are sure to be introduced in the future.

(For other action affecting women, see *Social Policy*.)

GUN CONTROL

State action on gun control is based on national position, adopted in 1992 and found in *Impact on Issues, 1998-2000*. Using these positions, the League first lobbied in 1992 for safety education and hand gun control laws, supporting limiting the accessibility of hand guns, regulating ownership, establishing a waiting period for the purchase of guns, and licensing ownership with annual renewal.

In 1995, League vigorously but unsuccessfully opposed a bill preempting the right of local communities to pass gun control laws which were more stringent than the laws of the state. We supported a bill requiring trigger locks on hand guns and a bill which would prohibit an abuser or harasser from buying a gun while under a restraining order.

In the 1997-98 session, a constitutional amendment was passed which would add a clause guaranteeing the right to bear arms. League opposed the amendment because the federal constitution already guarantees this right, and because it causes confusion for police officers in enforcing the law. However, because of the great public support for the amendment, League decided not to waste resources and limited its action to education on the issue in the ensuing referendum. The amendment passed by a large majority in 1998.
