



## Legal News

### Board members question Bar sponsorship of campaign committee

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Throughout the past several weeks, the Wisconsin Judicial Campaign Integrity Committee (WJCIC) has been both commended and condemned for its actions in this year's state Supreme Court election.

On Feb. 29, some members of the State Bar of Wisconsin's Board of Governors called for the Bar to suspend sponsorship of the WJCIC and one criticized President Thomas J. Basting, Sr., for his administrative authority to create the committee.

The board ultimately voted to support Basting's formation of the committee, but the issue of whether or not the State Bar should be formally associated with the WJCIC was tabled until after the election.

#### **Motion to Withdraw**

Gov. Michael J. Morse, who proposed withdrawal, questioned the ability of the Bar to be formally associated with an organization which polices the speech of state Supreme Court candidates.

"I just do not believe that this quasi-governmental agency that people are mandated to belong to at the cost of their license, should be regulating or affecting speech for the positions that govern us," said Morse, who supported the committee in concept.

In a separate interview, Morse declined to say whether the recent allegations of impartiality against the WJCIC prompted his presentation. He indicated the board had not met since December so the February meeting was his first opportunity since then to raise concerns expressed by his constituency.

Basting defended the level of participation State Bar staff currently have with the WJCIC and indicated the organization would operate independent of the bar in the future.

"We are not speech police," said Basting. "I formed this committee with the idea that it would be a group of citizens in fact exercising their First Amendment rights to comment on judicial elections and campaigns and how they are being run."

#### **Support in Principle**

While he had no objections to the work being done by the committee, Morse suggested it be done by someone other than members of the State Bar.

In his proposal, Morse recommended the bar absorb WJCIC expenses to date, by way of the State Bar President's Fund, and gradually withdraw bar staff from the committee. He also suggested removal of any references to the bar as a sponsor in WJCIC materials.

A second aspect of the proposal included a provision that the Bar donate \$1,000 to the WJCIC from the State Bar President's Fund.

"I believe the bar can still be involved by authorizing grants," said Morse.

#### **Separation Suggestion**

Other members of the board agreed that the bar should separate itself from the committee, but less drastically.

Gov. Margaret Wrenn Hickey suggested the board ratify the work done up to that point by the WJCIC and establish a timeline for full withdrawal.

But that initiative failed to garner support and ultimately, the board simply agreed to endorse Basting's initial formation of the WJCIC as an ad hoc committee and address Morse's proposal after the April 1 election.

Morse questioned the authority of the president to create the WJCIC without board approval of membership and funding. Basting cited at least 15 other instances where past presidents formed ad hoc committees and in none of those cases was board authorization a prerequisite.

#### **Bad Timing**

Reluctance by board members to vote on the provision to immediately pull out of the WJCIC was also affected by the timing of the proposal. More than a few members of the board were caught off-guard by the proposal, which was disseminated via e-mail only one day prior to the meeting.

Gov. J. David Rice was the first to suggest tabling the issue until after the election in an effort to maintain some level of support for the WJCIC.

"We should take it up in an atmosphere that doesn't undermine what the president has done rather than do it on 24 hours notice and three weeks away from the election," said Rice.

Basting also took issue with the timing of the proposal, especially after he had openly updated the board throughout the past year on the formation and goals of the committee.

"I don't think the word sandbagging properly describes what's going on here," said Basting.

Morse conceded that the objection was poorly timed, but necessary to potentially prevent similar committees from being formed by the bar in the future.

"I think this sets us on a dangerous path if we are to be creating committees of this type with non-members who are approving or regulating or influencing speech," said Morse.

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TODO: 101 N. Robinson Ave., Ste. 101, Oklahoma City, OK, 73102 |  
TODO: P.O. Box 26370, Oklahoma City, OK, 73126-0370 | (405) 235-3100  
TODO: 415 S. Boston Ave., Ste. 101, Tulsa, OK 74103 | (918) 295-0098