



June 28, 2018

South Dakota Chamber Opposes Amendment W Commits to the formation of a coalition to defeat the Amendment Declaring “W is Wrong”

Pierre, SD. The South Dakota Chamber of Commerce and Industry announced today that its Board voted unanimously to oppose the Massachusetts proposal on the South Dakota ballot this fall referred to as “Amendment W”.

Amendment W creates an entirely new Article of the South Dakota Constitution and declares that the new article is superior to all other sections of the constitution. It creates a non-elected tribunal called “*The State Government Accountability Board*”; forces the legislature and Governor to fund it and allows that Board to go to court for more money.

“No other state has anything like Amendment W,” said President of the South Dakota Chamber of Commerce and Industry David Owen, “Only two other states even mention an ethics board in their constitution and neither of them overrides the legislative process for funding and oversight.”

Amendment W is ill-conceived, poorly written and violates standards of fairness by

1. Creating an experimental Article of the South Dakota Constitution and declaring that the new article is superior to all other sections of the constitution by blatantly stating “*If there are any conflicts with any other provisions of the constitution and the new article, this article shall control.*”
2. Further securing this power by using the phrase “*notwithstanding any other provision of the constitution*” four times, including a specific reference to Article II which states “*The powers of the government of the state are divided into three distinct departments, the legislative, executive and judicial; and the powers and duties of each are prescribed by this Constitution.*”
3. Creating a non-elected tribunal called “*The State Government Accountability Board*” and giving it unprecedented powers to “*Investigate any allegation of bribery, theft, or embezzlement of public funds, or any violation of this Article, ethics rule, or state law related to government ethics, campaign finance, lobbying, government contracts, or corruption by any elected or appointed official, judge, or employee of any state or local government and to issue subpoenas related to the investigation;*”
4. Giving this non-elected tribunal authority over all “non-federal elected officials” starting with the Governor and ending with members of special local districts including road, irrigation, fire and ambulance districts and precinct chairmen and chairwomen.

5. Empowering this non-elected tribunal with authority over every public employee working for state, county and local governments. Teachers, police officers and street cleaners will be subject to investigations, subpoenas and fines issued by the new ethics tribunal.
6. Requiring members of the Board to disclose conflicts of interest and an expectation that they recuse themselves from participating in any investigation that deals with those conflicts but allowing them to vote on the same conflicts if ***“the board member's vote is necessary to resolve the matter”*** . . . meaning that a member of the board with a conflict of interest will only vote when it matters most.
7. Using the Constitution to appropriate an annual budget for the new board of \$389,000 (increasing with inflation). This would conflict with the Constitution requiring that appropriations be in the annual budget or in a separate spending bill and passed with a 2/3rds majority of both the Senate and House of Representatives.
8. Also empowering the new Board to intervene in any civil lawsuit. ***“The board may intervene as a matter of right in any civil action involving any government entity, agency, or instrumentality alleged to be in violation of any mandate or prohibition under this Article and to and in any civil action relating to the board's powers or thesufficiency of resources provided for the board's implementation and operation.”***

The Financial Reports - Out of state idea - Funded by out of state donors

Promoters of Amendment W claim to be a South Dakota group calling themselves “Represent South Dakota”. Financial reports from 2017 and from this year’s pre-primary report prove that the effort has been 100% funded by a Massachusetts organization known as “Represent US”. For calendar year 2017 the Amendment W campaign reported to have raised \$369,588 and spent \$362,348; leaving a balance of \$7,240.

2017 notable contributions were:

- Represent US – Florence, MA - \$121,000
- End Citizens United Non-Federal - \$15,000 (in-kind)
- Donated by Represent US - \$47,238

Plus, a supplemental report that is 191 pages of individual contributions — many multiple \$1, \$3 and \$5 listings – totaling \$233,588 and not one from South Dakota. The last eight donations were responsible for 50% of the total. This report sets the stage of a deceptive claim that there are thousands of supporters of Amendment W who gave small contributions.

Conclusion

These facts are clear: Amendment W is completely - **Wrong for South Dakota** and should be defeated in November.

Thank you for your support of the South Dakota Chamber of Commerce and Industry.