



## **Amendment W Overrides Constitution – Grows Government – Allows Unlimited Rules**

A growing coalition opposing Constitutional Amendment W is warning that its passage would grow government and saddle citizens with a powerful, unrestrained ethics tribunal.

“Amendment W adds an entirely new Article to the South Dakota Constitution that claims to be superior to all other Articles of the existing Constitution. It creates an unelected ethics tribunal that has the power to pass rules that cannot be altered by any other branch of government and that may not be referred to a vote of the people as are laws passed by the legislature,” said David Owen, chairman of the W is Wrong coalition.

“This new tribunal will have the power adopt rules that deal with many subjects including “conflicts of interest” for elected officials and all public employees. The tribunal could adopt rules that require all public employees, including teachers and law enforcement officers, to make public their federal tax returns. Elected officials could be included as well. And businesses holding public contracts could be forced to disclose their financial statements, ownership structure and private details of family members that don’t even have a financial tie to the business – rules have been voted down in the past by South Dakota voters. Once adopted by the tribunal, there is nothing that can be done to alter or stop that rule from going into effect,” Owen said.

Owen added that the ethics tribunal will only have to hold public hearings to adopt the rules. There is no review by elected representatives, the rule cannot be referred to the voters and a court challenge would have no basis because Amendment W claims to have control over every other provision of the constitution. The only way to change the actions of the non-elected ethics board is return to the voters for a statewide vote. Amendment W is too poorly written and confusing, over rides the entire constitution and gives too much power to an unelected board.

Amendment W is Wrong – Vote NO on Amendment W

[www.wiswrong.com](http://www.wiswrong.com)

**Paid for by the W is Wrong Committee – PO Box 190 Pierre, SD 57501 – Reference sheet attached**

**Below are citations from Amendment W that back up claims of the media release above.**

**Amendment W Overrides Constitution** - Amendment W proclaims superiority over all other provisions of the state constitution with this language: *“In any case of a conflict between any provision of this Article and any other provision contained in this Constitution, the provisions of this Article shall control.* (Section 2; Subsection 17, second paragraph).

**Ethics Board operates separately from other branches of government** - This language clearly separates the Ethics Board from other branches of government: *“The State Government Accountability Board is as an independent entity, notwithstanding any other provision of the constitution of South Dakota, including Article II* (that says the powers of the state are divided between Executive, Legislative and Judicial branches) . . . (Section 2 subsection 15; paragraph 3).

**Board Granted Rules Authority** - The Board is granted authority to adopt rules dealing with the following subjects *“Adopt ethics rules, subject to rulemaking procedures as defined by law\*, including provisions on campaign finance, conflicts of interest, confidential information, use of position, contracts with government agencies, legislative recusal, and financial interest disclosure, to which any elected or appointed official, judge, or employee of state or local government shall be subject”* (section 2; Subsection 15 (3).)

\*The reference to “rulemaking procedures as defined by law” only deals with the use of public notice and public hearings. It does not allow the legislature to review or potentially amend rules written by a new branch of Government. In fact the provisions for review by the legislative rule committee to see if the rules fit the laws passed by the legislature will not apply to rules passed by the ethics board.

**Judicial Review** - the language in Amendment W that refers to the actions of the Ethics Tribunal as being subject to Judicial Review is meaningless – challenges would have to be for federal rights violations because of language in Amendment W give it complete control over the state constitution. There is no meaningful legal review possible.

Amendment W is Wrong – Vote NO on Amendment W.

Paid for by the W is Wrong Committee – PO Box 190 Pierre, SD 57501