

SENATE BILL REPORT

SJM 8007

As of March 1, 2011

Brief Description: Requesting Congress to amend the United States Constitution that provides corporations are not persons under the laws of the United States or any of its jurisdictional subdivisions.

Sponsors: Senators Kline, Conway and Kohl-Welles.

Brief History:

Committee Activity: Judiciary: 2/18/11 [DPF].

SENATE COMMITTEE ON JUDICIARY

Staff: Lidia Mori (786-7755)

Background: Prior to the ruling in *Citizen United v Federal Election Commission*, federal law prohibited corporations and unions from using their general treasury funds to make independent expenditures for speech defined as an electioneering communication or for speech expressly advocating the election or defeat of a candidate. An electioneering communication is defined as any broadcast, cable, or satellite communication that refers to a clearly identified candidate for federal office and is made within 30 days of a primary or 60 days of a general election.

In *Citizen United v. Federal Election Commission*, the United States Supreme Court held that the Government may regulate corporate political speech through disclaimer and disclosure requirements, but it may not suppress that speech altogether. The Court rejected the position that political speech of corporations or other associations should be treated differently under the First Amendment because such associations are not natural persons. In overruling prior case law, the Court stated it provides no basis for allowing the Government to limit corporate independent expenditures.

Summary of Bill: The memorialists, the Senate, and House of Representatives of the state of Washington, represent and petition, among other things, the following:

- free and fair elections are essential to American democracy and effective self-governance and individual persons are rightfully recognized as the human beings who vote in elections;
- corporations are legal entities that governments create and can exist in perpetuity and simultaneously in many nations;

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- corporations do not vote in elections and should not be categorized as persons for purposes related to elections for public office;
- corporations are not mentioned in the United States Constitution as adopted, nor have Congress and the states recognized corporations as legal persons in any subsequent federal constitutional amendment;
- the Fourteenth Amendment's prohibition on a state denying equal protection to a person applies to a state's treatment of private corporations as stated by Chief Justice Waite during the 1885-1886 United States Supreme Court term;
- this brief but extraordinarily significant comment of Chief Justice Waite sanctioned private corporations to sue municipal and state governments for adopting laws that violate a corporation's rights even when those laws serve to protect and defend the rights of human persons;
- the United States Supreme Court most recently applied this legal position in its decision *Citizens United v. the Federal Election Commission* and eliminated many restrictions, including any total prohibition, on corporate spending in the electoral process;
- the Court in *Citizens* has created a new and unequal playing field between human beings and corporations with respect to campaign financing, negating over a century of precedent prohibiting corporate contributions to federal election campaigns;
- corporations are not and have never been human beings;
- the profits and institutional survival of large corporations are often in direct conflict with the essential needs and rights of human beings;
- large corporations have used their so called rights to successfully seek the judicial reversal of democratically enacted laws passed at the municipal, state, and federal levels aimed at curbing corporate abuse; and
- the only way to reverse this intolerable societal reality is to amend the United States Constitution to define persons as human beings and not corporations.

The memorialists respectfully resolve that the General Assembly urges Congress to propose an amendment to the United States Constitution for the states' consideration which provides that corporations are not persons under the laws of the United States or any of its jurisdictional subdivisions.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.