

# SENATE BILL REPORT

## HJM 4001

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As of March 27, 2013

**Brief Description:** Requesting an amendment to the United States Constitution to return the authority to regulate election campaign contributions to congress and state legislatures.

**Sponsors:** Representatives Pedersen, Hope, Carlyle, Goodman, Kagi, Sells, Van De Wege, Haigh, Springer, Lytton, Tharinger, Jinkins, Hunt, Cody, Morrell, Ormsby, Hudgins, Pettigrew, Moeller, Upthegrove, Reykdal, Fitzgibbon, Ryu, Liias, Roberts, Maxwell, Sawyer, Riccelli, Farrell, Pollet, Moscoso, Santos and Hansen.

**Brief History:** Passed House: 3/07/13, 55-42.

**Committee Activity:** Governmental Operations: 3/26/13.

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### SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

**Staff:** Samuel Brown (786-7470)

**Background:** In 1972, the passage of Initiative 276 created the Public Disclosure Commission (PDC) and required the disclosure of financial and other information by public officials, candidates, and others. In 1992, a second initiative, Initiative 134, imposed contribution limits on elections for statewide and legislative office and other restrictions on fundraising and independent campaign expenditures. The PDC implements and enforces both initiatives and other state laws affecting campaign financing and disclosure of campaign contributions.

There are a series of federal laws affecting campaign finance and disclosure. The Federal Election Campaign Act, adopted in 1971 and amended in 1974, prohibits foreign contributions and expenditures in federal, state, and local elections. The Bipartisan Campaign Reform Act (BCRA), sometimes referred to as the McCain-Feingold Act after its sponsors and enacted in 2002, extended prohibitions on the use of corporate general treasury funds to prohibit their use in electioneering communications. The BCRA also contains disclaimer and disclosure requirements. The Federal Election Commission implements and enforces federal campaign finance and disclosure law.

In *Citizens United v. Federal Election Commission (Citizens United)*, decided in January 2010, 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. As a result, corporations and labor organizations are no longer subject to

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bans on independent spending and the use of general treasury funds for federal campaign advertising. Washington has no laws prohibiting the use of corporate or union general treasury funds for campaign advertising.

Seven state Legislatures passed memorials or resolutions expressing disagreement with the *Citizens United* holding and seek a constitutional amendment addressing the ruling in response. Those states include the following:

- Hawaii;
- New Mexico;
- Vermont;
- Rhode Island;
- California;
- Massachusetts; and
- New Jersey.

A majority of members of two other state Legislatures, in Maryland and Connecticut, signed letters to Congress requesting that it send a constitutional amendment to the states for ratification addressing *Citizens United's* holding regarding the use of general treasury funds for independent expenditures. Voters in Montana and Colorado passed ballot measures last fall urging lawmakers to seek a constitutional amendment addressing *Citizens United*.

**Summary of Bill:** The Legislature requests that Congress pass and send to the states for ratification a constitutional amendment returning the authority to regulate campaign financing to Congress and state Legislatures.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Staff Summary of Public Testimony:** PRO: The way money is deployed in our politics is a threat to our democracy and the reality and perception of individual citizens being able to have a voice and influence the political process. In the special election to fill a congressional seat in Chicago, an outside group favoring gun control spent more than \$2 million to defeat a candidate who supported gun rights. This was more than was spent by all other candidates combined. The executive and legislative branches ought to be able to set some boundaries about campaign spending and disclosure. There is no reason one party or another should let financial benefits outweigh their ability to represent constituents. The Supreme Court made a significant error and also overturned Montana's limitation on campaign spending. Those with more money have a louder voice that can cloud the public's ability to hear those with less money. Individuals under tax status 527 can now use corporate money to run TV ads within 60 days of a general election. Super political action committees are outspent by more advanced and secretive forms of political marketing. Allowing these groups to have more of a say than individual people is injustice. If this went to voters, there would not be many people voting against it. Over 20,000 people signed a petition in support of a constitutional amendment.

**Persons Testifying:** PRO: Representative Pedersen, prime sponsor; Senator Kline; Chris Esh, WashPIRG; Kirk Ludden, Real Legalization; Jim Street, WA Coalition to Amend the Constitution; Garrison King, Mike Harness, citizens.

**Signed in, Unable to Testify & Submitted Written Testimony:** Arielle Davis, Free Speech for People.