

SENATE BILL REPORT

SJM 8000

As of January 10, 2017

Brief Description: Asking congress to call a limited convention, authorized under Article V of the United States Constitution, for the purpose of proposing a free and fair elections amendment to that Constitution.

Sponsors: Senators Takko, Nelson, Billig, Conway, Hunt, Ranker, Frockt, Rolfes, Wellman, Hobbs, Van De Wege, Palumbo, Keiser, Darneille, Rivers, Miloscia and Kuderer.

Brief History:

Committee Activity: State Government: 1/11/17.

Brief Summary of Joint Memorial

- Requests that Congress call a convention to amend the Constitution regarding campaign finance and political spending.

SENATE COMMITTEE ON STATE GOVERNMENT

Staff: Samuel Brown (786-7470)

Background: Campaign Finance. There are a series of federal laws regulating the financing of political campaigns and disclosure of campaign contributions. Two primary examples are the Federal Election Campaign Act, enacted in 1971, and the Bipartisan Campaign Reform Act (BCRA), enacted in 2002.

The United States Supreme Court has considered the constitutionality of aspects of these laws on numerous occasions. While provisions requiring disclosure have been upheld, recent opinions have found provisions limiting amounts individuals or entities may contribute to violate constitutional free speech protections. In the 2010 case of *Citizens United v. Federal Election Commission*, the Court struck down a BCRA provision prohibiting the use of corporate or union general treasury funds to pay for independent political advertisements. In 2014, the Court found that a BCRA provision limiting the aggregate amount an individual can contribute to congressional elections during an election cycle violated the First Amendment in the case known as *McCutcheon v. Federal Election Commission*.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Constitutional Amendment Process. Under Article V of the United States Constitution, there are two methods for amending the Constitution:

1. Congress may propose an amendment if approved by a two-thirds vote in both the House and Senate.
2. Congress must call a constitutional convention to propose amendments when requested by two-thirds of state legislatures.

Any amendment proposed under either method must be ratified by three-fourths of state legislatures to take effect.

Legislatures in Vermont and California have approved resolutions requesting that Congress call a convention to amend the Constitution in response to the Supreme Court's opinion in *Citizens United v. Federal Election Commission*.

Initiative 735. In 2016, Washington voters passed Initiative 735, which requested that Washington's congressional delegation propose a constitutional amendment providing the following:

- constitutionally enumerated rights apply only to individual persons;
- spending money is not free speech protected under the First Amendment and the government is fully empowered to regulate campaign finance to ensure no person or entity gains undue influence over government and the political process;
- all political contributions and expenditures must be disclosed before an election in an accessible manner; and
- the proposed amendment does not limit the people's First Amendment rights.

Summary of Joint Memorial: The Legislature requests that Congress call a convention for the purpose of amending the Constitution on the issue of campaign finance and political spending as soon as two-thirds of the states have submitted requests for a constitutional convention.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Staff Summary of Public Testimony: PRO: Polls show a lack of support for our current campaign finance system. The cost of running a federal campaign is steep. Elections should be free of corrupting influences and outside spending so that any person can run for office. Our country is moving from engagement to anger and apathy, and Americans are concerned that our democracy is in jeopardy because of government corruption. No law regarding campaign finance can be protected from court challenge without a constitutional amendment. Why should a corporation, labor union, or hedge fund from another state be able to come into my legislative district and influence my representatives? Until we use this process and force Congress to do something, nothing will happen. The scope of a constitutional convention can be limited to this single issue. Most constitutional amendments have begun with state legislatures taking action like this and Congress responding.

CON: Writing detailed law into the Constitution is ineffective. There are no guarantees convention delegates would be free from the influence of big money. This is a continuing application with no sunset. The wording of the request lacks specifics and doesn't limit raising other topics at the constitutional convention. There are concerns that the constitutional convention could become a breakaway convention. If Congress won't follow the existing Constitution, why would they follow a new one?

Persons Testifying: PRO: Senator Dean Takko, Prime Sponsor; Sarah Steever; Celice Carlough; Mark Sabol, Ph.D, citizen; Michael Monetta, Wolf-PAC; Michael Savoca, "Government of the People"; Toni Stefnik, Move to Amend Kitsap; Martin Talarico, Democracy Spring WA.

CON: Stephen Richter; Charles Beck; Ezekiel Lyen, citizen.

Persons Signed In To Testify But Not Testifying: No one.