

Campaign Finance Reform

"...electoral integrity is essential to a functioning democracy and justifies limits on the free flow of campaign cash."

Robert Post, former Dean of Yale Law School

INTRODUCTION

Money in politics has been a concern of the League of Women Voters since 1973 and its adoption of a campaign finance advocacy position. Today, with little apparent Congressional appetite for regulating campaign spending at the federal level, the states and local governments have again taken on the role of "laboratories of democracy" in coming up with innovative proposals. We hope this report will provide an impetus to encourage our members, both as a League and individuals, to consider ways we can make a difference.

THE LWVUS POSITION

The following statement of position was announced by the LWVUS board in April 2016 and is the basis for League action not only at the national and state level but also locally.

CAMPAIGN FINANCE

The League of Women Voters believes that the **methods of financing** political campaigns should:

- Enhance political equality for all citizen
- Ensure maximum participation by citizens in the political process; protect representative democracy from being distorted by big spending in election campaigns
- Provide voters sufficient information about candidates and campaign issues to make informed choices; ensure transparency and the public's right to know who is using money to influence elections
- Enable candidates to compete equitably for public office; ensure that candidates have sufficient funds to communicate their messages to the public; and combat corruption and undue influence in government

The League believes that **political corruption** includes the following:

- A candidate or officeholder agrees to vote or work in favor of a donor's interests in exchange for a campaign contribution
- An officeholder or staff gives greater access to donors
- An officeholder votes or works to support policies that reflect the preferences of individuals or organizations in order to attract contributions from them
- A candidate or officeholder seeks political contributions implying that there will be retribution unless a donation is given
- The results of the political process consistently favor the interests of significant campaign

contributors

In order to achieve the goals for campaign finance regulation, the League supports:

- Public financing of elections, either voluntary or mandatory, in which candidates must abide by reasonable spending limits
- Enhanced enforcement of campaign finance laws that includes changes to ensure that regulatory agencies are properly funded, staffed, and structured to avoid partisan deadlock in the decision making process
- Abolishing Super PACs and abolishing spending coordinated or directed by candidates (other than a candidate's own campaign committee)
- Restrictions on direct donations and bundling by lobbyists, which may include monetary limits as well as other regulations

Until full public financing of elections is enacted, limits on election spending are needed in order to meet the League's goals for protecting democratic processes. Among the different entities that spend money to influence elections, the League supports the following comparative limits:

- Higher spending limits for political parties, genuinely non-partisan voter registration and get-out-the-vote organizations and activities, and candidates' spending money raised from contributors
- Mid-level spending limits for individual citizens (including wealthy individuals), Political Action Committees (with funds contributed by individuals associated with the sponsoring organization, such as employees, stockholders, members and volunteers), and candidates spending their own money
- Lower spending limits for trade associations, labor unions and non-profit organizations from their general treasury funds
- Severely restricted spending by for-profit organizations spending from their corporate treasury funds
- No limits on spending by bona fide newspapers, television, and other media, including the Internet, except to address partisan abuse or use of the media to evade campaign finance regulations

This position applicable to all federal campaigns for public office: presidential and congressional, primaries as well as general elections. It also may be applied to state and local campaigns.

AFTER CITIZENS UNITED

As of a result of Congressional inaction, most recent changes in campaign finance regulation have come from decisions of the US Supreme Court. The best known is *Citizens United v. FEC*, in which the LWVUS was involved as a "friend of the court." The League argued that corporate spending in elections should not be equated with the First Amendment rights of individual citizens.

The Citizens United decision has opened the door to a plethora of soft money entering into political campaign. Donations give donors access and influence even when the money is not given directly to their campaign. Most legislators reveal that the mere threat of spending for the other candidate changes behavior in the legislator. Outside spending by groups affect the legislative agenda. Soft money may be used to manipulate the legislative calendar. By failing to act on legislation that is opposed by influential corporations or specific large donors, legislative leaders cater to the wishes of those with the most money.

A secondary effect of the increase in outside spending is the need that members feel to spend more time fundraising. There is a greater urgency to raise as much money as they can to counter or add to the outside spending. As a result, members spend more time on the phone asking for money.

STATES

While federal laws regulate the use of money in federal elections, the states themselves implement and enforce campaign finance laws for state candidates. Consequently, there is considerable variation in campaign finance laws from state to state.

- In the 2015-2016 election cycle, 12 states, including Oregon, permitted unlimited contributions from individuals to state political candidates
- In the remaining states, contributions limits ranged dramatically from \$500 to \$41,400
- Some states had limits that applied to each calendar year, while other states had limits applying only to an election year or a two year or four year election cycle
- Reporting and disclosure requirements also varied significantly from state to state
- While all states required names and addresses of campaign contributors, 37 states sought additional information that included information regarding the donor's employer

While the amounts and sources of contributions are useful information, it is also important to understand how and when that information is made public. According to the National Conference of State Legislatures, 30 states required some form of electronic recording by candidates and committees in the 2015-2016 election cycle, but many states still use paper filing which can be lost, buried, or delayed. Campaigns can also take advantage of the timing of donations and reporting; if a campaign can wait two weeks to report sources of funding, the influx of money can be timed for reporting to happen after the election occurs.

In Oregon the electronic system of reporting is called ORESTAR. Every transaction is posted as soon as it is reported, and campaigns are required to process contributions exceeding \$100 within seven days. Contributions made from out of state are highlighted in red on ORESTAR. Candidates in Oregon cannot accept money from foreign nationals, but foreign nationals may contribute to ballot measures.

REFORM

A *Washington Post* survey showed 85% of voters believe our campaign finance system is flawed and needs fundamental change, or a complete rebuild. In addition, most voters believe in the importance of transparency and want to keep big money from distorting our democracy. With that in mind, many communities have made efforts to reform campaign finance. One major avenue of campaign finance reform is public financing, and this can take various forms. Today there are 27 active programs in states, counties, and cities across the country that provide public funds to candidates for political office. Public funds may be managed through a campaign finance office, an ethics commission, or the secretary of state.

- **Small-Donor Matching Programs**

Matching fund programs match small contributions to qualifying candidates with public funds according to a specified ratio. Today's highest matching funds ratio is in New York City, where participating candidates receive \$6 for every \$1 in small contributions. This means that a \$50 contribution from an individual donor can actually be worth \$300 or more to a participating candidate. The goal is to amplify the voices of regular voters by giving incentives to candidates seeking donations from a broad base of constituents rather than a few wealthy donors.

- **Grant-based Programs**

Grant-based programs (often referred to as "clean elections," "fair elections" or "citizen-funded elections") provide full funding for candidates to run their campaigns. Participating candidates receive a lump-sum grant from a public fund and no further fundraising is required or allowed, so every participating candidate has equal resources with which to campaign. To qualify for the program, candidates must raise a threshold number of very small contributions (often \$5) to demonstrate broad support in the community. Given the challenge of increasing outside spending, newer systems may allow for further fundraising.

- **Voucher Programs**

Voucher programs provide a coupon to individuals to donate to a candidate (or sometimes a party or political committee), who can then redeem the voucher for campaign funds.

- **Tax Credits/Refunds**

Tax credit programs, like the ones in Oregon, generally allow those who file long-form tax returns to claim a full or partial credit for small political contributions made during the filing year to candidates (and sometimes parties or PACs). The tax credit can be refundable (available to those without tax liability) or not. Other programs refund the contributor's money immediately, so donors do not have to wait for tax time.

Matching funds, voucher and tax credit/refund programs often (but need not) require participating candidates to accept restrictions on their fundraising or spending in order to qualify for public funds.

Close to home, in 2016 Portland, Mayor Charlie Hales declared that he would not run for re-election so that he could focus on running the city. The biggest obstacle to doing the job he was elected to do was the time drain that comes with fundraising for campaigns. He and City Council member Amanda Fritz sought out ways to create a new public financing system for the city. They copied and modified the popular system in New York City where every \$1 from small donors is matched with \$6 of public funds. The council adopted the new program on December 14, and it is set to go into effect for the 2020 elections.

Public campaign funding programs have been successful in diversifying the donor base of candidates in terms of class and race. In some places, these programs have also succeeded in diversifying the gender, racial, and class makeup of candidate pools. Program benefits may include:

- **Greater racial and class diversity among donors**
- **More women running for office**
- **Increased number of donors**
- **More quality time with constituents**

Voters from Maine to California have considered a wide range of reform proposals, from public financing to ranked choice voting, and nearly across the board these ballot measures have passed. Some of these reforms are innovative. South Dakota will become the first state to use a democracy credit public financing system and has, for all intents and purposes, banned Super PACs by making it impossible for Super PACs to contribute to state candidates, PACs, party committees, or ballot measures. Missouri voters reinstated contribution limits in their state after they were repealed by the legislature.

Some campaign finance reform efforts focus on lobbying. San Francisco voters approved an initiative that prohibits lobbyists from making gifts, including gifts of travel, to any city officer. The initiative also includes a tailored ban on lobbyist contributions and bundling: i.e., you can't contribute to the Mayor if you lobby the Mayor.

Other reform efforts focus on contribution limits. In Oregon, Multnomah County voters approved a \$500 limit on contributions to any candidate from any individual or political action committees. The measure also limits the amount of money that can be spent independently (separate from money given directly to candidates) supporting or opposing a candidate. Finally, it requires that political advertisements disclose the real identities or the principal funders of the ad.

LWVUS efforts underscore the importance of campaign finance laws and the broad bipartisan support at every level of government for changing the role of money in our political system. Before the most recent presidential election, groups were organizing to bring challenges to Citizens United before the Supreme Court. It seems unlikely that the opinions of the court will shift, but reform efforts at the state and local level remind us where the power for change originates.

This does not mean, however, the LWVUS is backing down from efforts at a national level. Although it would be difficult to pass campaign finance reform at a national level, LWVUS has been actively engaged in campaign finance reform. The League works to stop the influence of money in politics by trying to:

1. **Improve Disclosure:** Supreme Court Justice Anthony Kennedy said: “Disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way.” Citizens have a right to know who is trying to influence their vote and disclosure of donations and spending is necessary to shine a light on secret money. The League is a longtime supporter of the DISCLOSE Act and we will continue to push for passage of this important piece of legislation.
2. **Establish a Public Financing System:** The League believes that public financing is the best long-term solution to getting big money out of politics. States like Arizona, Connecticut and Maine have had success in public financing with state house and statewide elections. The League continues to look for ways to limit the size and type of contributions from all sources as a means of combating undue influence in the election process.
3. **Strengthen Regulations on Coordination:** The Federal Election Commission (FEC) is the federal agency in charge of our nation’s campaign finance laws. Under existing law, the FEC can work to define coordination as a way of cutting back on the so-called independent expenditures that really are coordinated with candidate campaigns but has refused to do so.
4. **Vote:** If the American public wants to get money out of politics, it’s time to take our elections back. Voting is the most powerful form of expression that a single citizen has. When citizens vote, politicians have to listen. We must improve voter turnout and engage within our communities to combat the undue influence of money in our political system. Get registered!

ACTION

What can we, as a League or as individuals, do to make a difference? As a League, it is important to engage in public education; to help shape an informed electorate, to help others learn how to make their voices heard, and to continue our efforts to implement change.

- **Visit lww.org** to sign up for email alerts that will direct us to contact our representatives when legislation regarding campaign finance (among other things) is in the works.
- Continue to **write, email, and call our representatives** to let them know what is important to us as voters. We all need to speak up and make an effort to be heard.
- LWVLC could **create talking points using league positions** for those wanting support or direction for contacting legislators. Give people the tools they need to engage in the legislative process.
- **Teach.** Civic education has all but disappeared, but we have skilled and knowledgeable volunteers who can reach out to the community.
- **Network** with other organizations that encourage civil discourse.
- Most importantly, we need to stay alert and **VOTE**.

STUDY QUESTIONS

*In what ways have you seen money influence politics?

*Besides various forms of public financing, what other proposals could reduce the influence of money in politics?

*What other groups or organizations could partner with LWV in efforts for campaign finance reforms?

*Are we keeping members up to date on campaign finance? If not, how could we do it better? Should we support legislation to shorten the length of campaigns?

*Could our LWVLC spearhead a campaign to change campaign laws in Eugene and Springfield? How would we start?

*85% of Americans think the funding of campaigns is messed up but do not rank it as a priority. Why?

Definitions

Dark Money

Political spending, the source of which is not disclosed under current regulations. This is typically accomplished through an arrangement whereby the originating donor contributes to a nonprofit corporation (that is not required to disclose) and that in turn makes an expenditure disclosed under the name of the corporation rather than the originating donor.

Hard Money

When cash is contributed directly to a political candidate, it is known as a "hard money" contribution. These contributions may only come from an individual or a political action committee, and must follow the strict limits set forth by the FEC.

Maximum amount an individual may contribute - to candidates: \$2,500, to national party: \$30,800, to state, district & local party \$10,000,
To any other political committee \$5,000 in any calendar year

Soft Money

When cash is contributed to a political party with no limits attached to the amount that can be received, this is known as a "soft money" contribution. The funds can come from individuals and political action committees as with "hard money", but they can also come from any other source, such as [corporations](#). The law says that this money can only be used for "party-building activities" such as advocating the passage of a law and voter registration, and not for advocating a particular candidate in an election.

Bundling

Bundling refers to the legal practice of combining several small individual campaign contributions into one large contribution. Lobbyists for a business or organization, for instance, might collect contributions from employees or association members and present those checks to a candidate at the same time. The reporting threshold for lobbyist's in 2018 is \$18,200.

Contribution restriction

Contribution restrictions include limits on the sources and amounts of money that federal candidates, parties, and certain registered political committees (PACs) can accept.

Corruption.

In *Buckley v. Valeo* (1976), the Supreme Court ruled that corruption or the appearance of corruption is a justification for limiting free speech rights in campaign finance law. The current Court has continuously narrowed the definition of corruption as a quid pro quo exchange. This fails to recognize the corruption of the political process when millionaires and billionaires can spend unlimited sums in an election. It also fails to recognize the subtle influence or favored access granted to a large donor by an elected official who was supported by big spending.

Disclose Act

The **Democracy Is Strengthened by Casting Light On Spending in Elections Act**, commonly known as the DISCLOSE Act and also known as H.R. 5175 (S.3628-Senate).

To amend the [Federal Election Campaign Act of 1971](#) to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such

elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes.

Electioneering Communications

Advertisements that do not expressly advocate the election or defeat of a candidate but that are nevertheless aimed at influencing the outcome of an election.

Expenditure restriction

A limitation on money spent directly to influence a federal election. Expenditure restrictions include caps on the amount of money a candidate can spend on her own campaign and complete bans on spending by particular entities like corporations and unions.

Express Advocacy

Political communications that explicitly advocate for the defeat or election of a clearly identified federal candidate. *Citizens United v. FEC (2010)* allowed corporations, unions and non-profit groups to use their general treasuries to fund express advocacy so long as it was not done in coordination with a candidate.

Foreign Nationals

A foreign national is, "A [person](#) who was born outside the jurisdiction of the United States, is a citizen of a foreign country, and has not become a naturalized [U.S. citizen](#) under U.S. law. However, the precise definition of "foreign national" depends on the context. For example, contrary to the above, [2 U.S.C. § 441e](#), which prohibits foreign nationals from making political contributions, defines "foreign national" to exclude [legal permanent residents](#).

Independent expenditure

An expenditure that is not coordinated with any candidate or political party committee

Issue Advocacy

Political communications in the form of advertising that is framed around an issue. Outside the election cycle, many groups use issue ads as part of their lobbying campaigns, but close to an election they can point a voter toward or against a candidate even if the ad doesn't contain express advocacy. Congress and the Court have not been able to agree what constitutes a "true" issue ad and a "sham" one for regulating contributions and expenditures in elections. Issue ads that explicitly mention or depict a candidate that are broadcast within 30 days of a primary election or 60 days of a general election must be reported to the FEC as electioneering communications.

Super Pac

A political committee that can solicit and spend unlimited sums of money in any form and from any source. Can only make independent expenditures. Also called independent expenditure-only committees. Created after the Citizen United decision in 2010.

Sunlight Foundation

You can read more about the Disclose Act on the Sunlight Foundations website, <https://sunlightfoundation.com/2012/07/12/what-you-should-know-about-the-disclose-act-part-1-what-is-the-disclose-act/>.

Abbreviations

IRS – Internal Revenue Service

FCC - Federal Communications Commission

FECA - Federal Election Campaign Act (1971)

FEC - Federal Election Commission (1974) 6 members

BCRA - Bipartisan Campaign Reform Act aka McCain–Feingold Act, 2002

PAC - Political Action Committee. Limit \$5000. May contribute directly to candidate or political party

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