

REPORTS & BOOKS PUBLISHED BETWEEN 2010-2012



The State of Campaign Finance Policy: Recent Developments and Issues for Congress - Congressional Research Service (CRS) Report 7-5700

Author: R. Sam Garrett

Date: April 29, 2011

Publisher: www.crs.gov R41542

http://assets.opencrs.com/rpts/R41542_20110429.pdf (27 pages)

Summary:

Campaign finance policy is arguably at a crossroads. For decades, Congress, regulatory agencies, and courts have emphasized the need to reduce potential corruption by providing public disclosure of information about campaign contributions and expenditures. Preventing corruption and enhancing transparency remain prominent themes in campaign finance policy, but what those goals mean and how they should be accomplished appears to be in flux.

Both minor and major changes have occurred in campaign finance policy since 2002, when Congress last substantially amended campaign finance law via the Bipartisan Campaign Reform Act (BCRA). More recently, the Supreme Court's 2010 ruling in *Citizens United v. Federal Election Commission* and a related lower-court decision, *SpeechNow.org v. Federal Election Commission*, arguably represent the most fundamental changes to campaign finance law in decades. During the 111th Congress, the House responded by enacting the DISCLOSE Act (H.R. 5175; S. 3295; S. 3628). The Senate declined to do so.

Campaign finance issues continue developing in Congress, at regulatory agencies, and in the courts. In January 2011, the House passed legislation (H.R. 359) that would repeal the presidential public financing program. The House and Senate have held hearings on two bills. S. 750 (see also S. 749 and H.R. 1404) is the latest version of the Fair Elections Now Act (FENA), which would publicly finance Senate campaigns. The Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights held a hearing on the bill in April 2011. The Committee on House Administration, Subcommittee on Elections, held an April 2011 hearing on H.R. 672. That measure, which is not primarily a campaign finance bill, proposes to eliminate the Election Assistance Commission (EAC) and transfer some functions to the Federal Election Commission (FEC). In addition, in March 2011, the Supreme Court of the United States heard arguments in *Arizona Free Enterprise, et al. v. Bennett and McComish v. Bennett*. That case addresses state-level public financing issues, but may also be relevant for federal policymaking.

Fundraising and spending in the 2010 election cycle suggest that previously prohibited sources and amounts of funds will continue to be a factor in federal elections. Activities by independent-expenditure-only political action committees (commonly called super PACs) and tax-exempt organizations that are typically not political committees (e.g., many Internal Revenue Code 501(c) and 527 organizations) may be particularly prominent.

Despite recent changes, some traditional aspects of campaign finance policy, such as disclosure requirements and most contribution limits, remain unchanged. Issues such as the presidential public financing program and the FEC may require congressional attention regardless of more recent developments. As Congress decides how or whether to revisit law surrounding political campaigns, it may be appropriate to take stock of the current landscape and to examine what has changed, what has not, and what policy options might be relevant. This report provides a starting point for doing so. It includes an overview of selected historical and recent developments. It also provides comments on how those events might affect future policy considerations. This report will be updated as events warrant.

Source: http://www.amazon.com/State-Campaign-Finance-Policy-ebook/dp/B0050IU9W6/ref=sr_1_1?s=books&ie=UTF8&qid=1321889212&sr=1-1
(Kindle edition available from Amazon for \$0.99)



Legislative Options After *Citizens United v. FEC*: Constitutional and Legal Issues - Congressional Research Service (CRS) Report 7-5700

Author: L. Paige Whitaker, *et al*

Date: July 27, 2010

Publisher: www.crs.gov R41096

http://assets.opencrs.com/rpts/R41096_20100727.pdf (31 pages)

Summary:

In *Citizens United v. FEC*, the Supreme Court invalidated two provisions of the Federal Election Campaign Act (FECA), finding that they were unconstitutional under the First Amendment. The decision struck down the long-standing prohibition on corporations using their general treasury funds to make independent expenditures, and Section 203 of the Bipartisan Campaign Reform Act of 2002 (BCRA), prohibiting corporations from using their general treasury funds for "electioneering communications." BCRA defines "electioneering communication" as any broadcast, cable, or satellite communication that refers to a clearly identified federal candidate made within 60 days of a general election or 30 days of a primary. The Court determined that these prohibitions constitute a "ban on speech" in violation of the First Amendment. The Court, however, upheld the disclaimer and disclosure requirements in Sections 201 and 311 of BCRA as applied to a movie regarding a presidential candidate that was produced by *Citizens United*, a tax-exempt corporation, and the broadcast advertisements it planned to run promoting the movie.

As a result of the Court's ruling, federal campaign finance law no longer restricts corporate or, most likely, labor union use of general treasury funds to make independent expenditures for any communication expressly advocating election or defeat of a candidate. In addition, the law now also permits corporate and union treasury funding of electioneering communications. However, the law prohibiting contributions to candidates, political parties, and political action committees (PACs) from corporate and labor union general measures still applies.

In response to the Supreme Court's ruling, various proposals have been discussed and legislation has been introduced in the 111th Congress. This report provides an analysis of the constitutional and legal issues raised by several proposals, organized by regulatory topic: increasing disclaimer requirements, increasing disclosure for tax-exempt organizations, requiring shareholder notification and approval, restricting U.S. subsidiaries of foreign corporations, restricting political expenditures by government contractors and grantees, taxing corporate independent expenditures, and providing public financing for congressional campaigns. The report also addresses amending the constitution.



Campaign Finance Policy After *Citizens United v. Federal Election Commission*: Issues and Options for Congress - Congressional Research Service (CRS) Report 7-5700

Author: R. Sam Garrett

Date: February 1, 2010

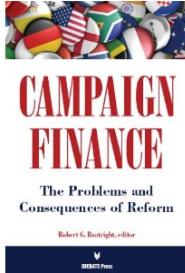
Publisher: www.crs.gov R41054

http://assets.opencrs.com/rpts/R41054_20100201.pdf (11 pages)

Summary:

Following the Supreme Court's January 21, 2010, ruling in *Citizens United v. Federal Election Commission*, questions have emerged about which policy options could be available to Congress. This report provides an overview of selected campaign finance policy options that may be relevant. It also briefly comments on how *Citizens United* might affect political advertising. A complete understanding of how *Citizens United* will affect the campaign and policy environments is likely to be unavailable until at least the conclusion of the 2010 election cycle. If Congress pursues additional legislation, at least two broad choices could be relevant. First, Congress could provide candidates or parties with additional access to funds to combat corporate influence in elections. Second, Congress

could restrict spending under certain conditions or require those making expenditures post-Citizens United to provide additional information to voters or regulators. Options within both approaches could generate substantial debate. Some may contend that the only way to provide Congress with the power to directly affect the content of the ruling would be to amend the Constitution.



Campaign Finance-The Problems and Consequences of Reform

Author/editor: Robert G. Boatright

Date: October 1, 2011

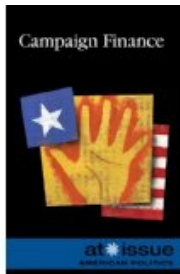
ISBN-10: 1617700193 | ISBN-13: 978-1617700194

Publisher: International Debate Education Association

Description:

Virtually all democracies struggle with the question of how to finance election campaigns. Although politicians often propose campaign finance reforms as a means of gaining short-term advantage over their opponents, campaign finance laws can be evaluated with reference to broader democratic goals, including the prevention of corruption, encouraging competitive elections and voter choice, enabling citizens and citizen groups to provide information to politicians, and promoting political and economic equality. The articles in this volume describe patterns in the financing of different types of campaigns in the United States and in other democracies, with particular attention to how campaign finance law relates to democratic values.

Source: http://www.amazon.com/Campaign-Finance--Problems-Consequences-Reform/dp/1617700193/ref=sr_1_8?s=books&ie=UTF8&qid=1321891344&sr=1-8



Campaign Finance (At Issue Series)

Author: David M. Haugen

Date: August 23, 2010

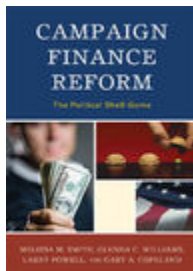
ISBN-10: 0737748737 | ISBN-13: 978-0737748734

Publisher: Greenhaven Press

Description:

The At Issue series includes a wide range of opinion on a single controversial subject. Each volume includes primary and secondary sources from a variety of perspectives -- eyewitnesses, scientific journals, government officials and many others. Extensive bibliographies and annotated lists of relevant organizations to contact offer a gateway to future research.

Source: http://www.amazon.com/Campaign-Finance-Issue-David-Haugen/dp/0737748737/ref=sr_1_15?s=books&ie=UTF8&qid=1321893321&sr=1-15



Campaign Finance Reform: The Political Shell Game (Lexington Studies in Political Communication)

Authors: Melissa M. Smith, Glenda C. Williams, Larry Powell, and Gary A. Copeland

Date: June 5, 2010

ISBN-10: 0739145657 | ISBN-13: 978-0739145654

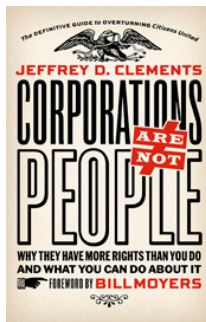
Publisher: Lexington Books

Description:

For decades, campaign finance reform has been an on-going topic of discussion. In particular, the Bipartisan Campaign Reform Act of 2002 (BCRA) was heralded as a major breakthrough
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Democracy in the Balance

in controlling the flow of money into campaigns. Almost immediately, political players found other ways to financially manipulate the new laws. *Campaign Finance Reform: The Political Shell Game* provides an in-depth look at the history of political campaign finance reform with special emphasis on legislative, FEC, and federal court actions from the 1970s to present. In particular, the authors examine the ways that campaigns and independent groups have sought to make end-runs around existing campaign finance rules. Oftentimes the loopholes they find make a significant impact on an election, sparking the next round of campaign finance reform. New rules are then enacted, and new loopholes are found. Like a big political shell game, the amount of money in politics never actually decreases, but instead moves around - one organization to another.

Source: http://www.amazon.com/Campaign-Finance-Reform-Political-Communication/dp/0739145657/ref=sr_1_1?s=books&ie=UTF8&qid=1321899788&sr=1-1



Corporations Are Not People: Why They Have More Rights Than You Do and What You Can Do About It

Author: Jeffrey D. Clements

Date: January 9, 2012

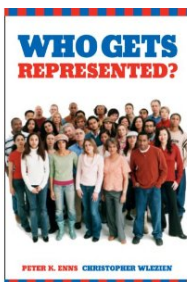
ISBN-10: 1609941055 | ISBN-13: 978-1609941055

Publisher: Berrett-Koehler Publishers

Description:

This is the first practical guide for every citizen on the problem of corporate personhood and the tools we have to overturn it. Jeff Clements explains why the Citizens United case is the final win in a campaign for corporate domination of the state that began in the 1970s under Richard Nixon. More than this, Clements shows how unfettered corporate rights will impact public health, energy policy, the environment, and the justice system. Where Thom Hartmann's *Unequal Protection* provides a much-needed detailed legal history of corporate personhood, *Corporations Are Not People* answers the reader's question: "What does Citizens United mean to me?" And, even more important, it provides a solution: a Constitutional amendment, included in the book, which would reverse Citizens United. The book's ultimate goal is to give every citizen the tools and talking points to overturn corporate personhood state by state, community by community with petitions, house party kits, draft letters, shareholder resolutions, and much more.

Source: http://www.amazon.com/Corporations-Are-Not-People-Rights/dp/1609941055/ref=sr_1_1?s=books&ie=UTF8&qid=1330446799&sr=1-1



Who Gets Represented?

Author/editor: Peter K. Enns and Christopher Wlezien (editor)

Date: January 1, 2011

ISBN-10: 0871542420 | ISBN-13: 978-0871542427

Publisher: Russell Sage Foundation

Description:

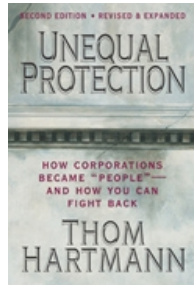
One person, one vote the bedrock principle of a democratic society does not require the government to represent the interests of all citizens equally.

While it is evident that policymakers favor the interests of some citizens at the expense of others, it is not always evident when and how group interests differ or what it means when they do. *Who Gets Represented?* challenges the usual assumption that the preferences of any one group (women, African Americans, or the middle class) are incompatible with the preferences of other groups. Taking unequal representation as a given, the book analyzes differences across income, education, racial, and partisan groups and investigates whether and how differences in group opinion matter with regard to political representation. Part I examines opinions among social and racial groups. Part II examines how group

interests translate into policy outcomes, with a focus on differences in representation between income groups.

Enns and Wlezien point out early in the book that citizens should rarely expect policy to match their own policy preferences. Yet, *Who Gets Represented?* confirms that group interests matter in political representation and investigates how they matter. The book upends several long-held assumptions, among them that certain groups will always or will never have common interests. Similarities among group opinions are as significant as differences for understanding political representation. As such, *Who Gets Represented?* is a rigorous addition to the study of public policy and political inequality.

Source: http://www.amazon.com/Who-Gets-Represented-Peter-Enns/dp/0871542420/ref=sr_1_1?s=books&ie=UTF8&qid=1330453551&sr=1-1



Unequal Protection: How Corporations Became "People" - And How You Can Fight Back

Author: Thom Hartmann

Date: June 14, 2010

ISBN-10: 1605095591 | ISBN-13: 978-1605095592

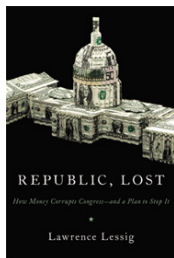
Publisher: Berrett-Koehler Publishers; 2nd edition

Description: Was the Boston Tea Party the first WTO-style protest against transnational corporations? Did Supreme Court sell out America's citizens in the nineteenth century, with consequences lasting to this day? Is there a way for American citizens to recover democracy of, by, and for the people?

Thom Hartmann takes on these most difficult questions and tells a startling story that will forever change your understanding of American history. Amongst a deep historical context, Hartmann describes the history of the Fourteenth Amendment--created at the end of the Civil War to grant basic rights to freed slaves--and how it has been used by lawyers representing corporate interests to extend additional rights to businesses far more frequently than to freed slaves. Prior to 1886, corporations were referred to in U.S. law as "artificial persons." But in 1886, after a series of cases brought by lawyers representing the expanding railroad interests, the Supreme Court ruled that corporations were "persons" and entitled to the same rights granted to people under the Bill of Rights. Since this ruling, America has lost the legal structures that allowed for people to control corporate behavior.

It's time for "we, the people" to take back our lives. In this revised and expanded second edition, Hartmann incorporates specific examples from today's headlines, and proposes specific legal remedies that could truly save the world from political, economic, and ecological disaster.

Source: http://www.amazon.com/Unequal-Protection-Corporations-Became-People/dp/1605095591/ref=sr_1_1?s=books&ie=UTF8&qid=1330451648&sr=1-1



Republic, Lost: How Money Corrupts Congress--and a Plan to Stop It

Author: Lawrence Lessig

Date: October 5, 2011

ISBN-10: 0446576433 | ISBN-13: 978- 0446576437

Publisher: Twelve; 1 edition

Description:

In an era when special interests funnel huge amounts of money into our government--driven by shifts in campaign-finance rules and brought to new levels by the Supreme Court in *Citizens United v. Federal Election Commission*--trust in our government has reached an all-time low. More than ever before, Americans believe that money buys results in Congress, and that business interests wield control over our legislature.

With heartfelt urgency and a keen desire for righting wrongs, Harvard law professor Lawrence Lessig

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Democracy in the Balance

takes a clear-eyed look at how we arrived at this crisis: how fundamentally good people, with good intentions, have allowed our democracy to be co-opted by outside interests, and how this exploitation has become entrenched in the system. Rejecting simple labels and reductive logic - and instead using examples that resonate as powerfully on the Right as on the Left - Lessig seeks out the root causes of our situation. He plumbs the issues of campaign financing and corporate lobbying, revealing the human faces and follies that have allowed corruption to take such a foothold in our system. And ultimately he calls for widespread mobilization and a new Constitutional Convention, presenting achievable solutions for regaining control of our corrupted-but redeemable-representational system. In this way, Lessig plots a roadmap for returning our republic to its intended greatness. While America may be divided, Lessig vividly champions the idea that we can succeed if we accept that corruption is our common enemy and that we must find a way to fight against it.

Source: http://www.amazon.com/Republic-Lost-Money-Corrupts-Congress--/dp/0446576433/ref=sr_1_1?s=books&ie=UTF8&qid=1330455447&sr=1-1

ONLINE RESOURCES: SHORT-LIST OF HELPFUL WEBSITES

<http://www.lwv.org/our-work/improving-elections/money-in-elections> - A direct link to the League of Women Voters efforts in addressing money in elections.

<http://www.brennancenter.org/> - The Brennan Center for Justice at New York University School of Law is a nonpartisan public policy and law institute that focuses on the fundamental issues of democracy and justice.

<http://www.campaignlegalcenter.org/> - The Campaign Legal Center is a nonpartisan, nonprofit organization which works in the areas of campaign finance and elections, political communication and government ethics.

<http://www.democracy21.org/> - Democracy 21, and its education arm, Democracy 21 Education Fund, work to eliminate the undue influence of big money in American politics and to ensure the integrity and fairness of government decisions and elections.

<http://www.commoncause.org> - Common Cause is a nonpartisan, nonprofit advocacy organization founded in 1970 as a vehicle for citizens to make their voices heard in the political process and to hold their elected leaders accountable to the public interest.

<http://www.pbs.org/moyers/journal/01292010/campaignfinance.html> - This website provides information on campaign finance and lobbying resources. Interviews conducted by Bill Moyers also can be found. "Follow the money and the influence with online campaign finance and lobbying tools."

<http://www.ncsl.org/legislatures-elections/elections/campaign-finance-reform-links.aspx> - The website for the National Conference of State Legislatures provides links on campaign finance reform.

Note: The references shown above are only a small number of the resources available on the topic of campaign finance reform. We encourage you to build on this list and share with your community and fellow League members other articles, state-level reports and books that you have found useful in understanding the complexity of this issue.