

113TH CONGRESS
1ST SESSION

H. R. 1338

To amend the Federal Election Campaign Act of 1971 to reassert the authority of Congress to restrict spending by corporations and labor organizations on campaigns for elections for Federal office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 2013

Mr. DINGELL (for himself, Mr. CONYERS, Mrs. CAROLYN B. MALONEY of New York, Ms. DEGETTE, Ms. SLAUGHTER, Mr. ELLISON, Mr. HIMES, Ms. EDWARDS, Ms. DELAURO, Mr. POLIS, and Ms. NORTON) introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to reassert the authority of Congress to restrict spending by corporations and labor organizations on campaigns for elections for Federal office, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Restoring Confidence
5 in Our Democracy Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Free and open elections are a founding
4 principle of our republican form of government.

5 (2) It is incumbent upon Congress to ensure
6 that elections in the United States are free of cor-
7 ruption and the appearance of corruption.

8 (3) The free flow of money in politics, as exem-
9 plified by the current state of affairs, is corrupting
10 and will distort and disfigure our democracy.

11 (4) Excessively high levels of spending on elec-
12 tions is fundamentally damaging to the public per-
13 ception of our government, and threatens the fair-
14 ness and integrity of our democracy.

15 (5) Congress has a constitutional duty to guar-
16 antee a republican form of government for the
17 States.

18 (6) Spending record sums of money on our elec-
19 tions threatens the continued existence of our repub-
20 lican form of government.

21 (7) Allowing unlimited spending on elections
22 means the wealthy can crowd out other important
23 voices in our political debates, thereby giving Amer-
24 ican citizens fewer sources of information.

25 (8) Federalist 52 states that Congress “ought
26 to be dependent on the people alone”.

1 (9) Unlimited spending in our elections violates
2 this principle and corrupts our government by mak-
3 ing elected officials more dependent on donors than
4 the people.

5 (10) This “dependency corruption” gives the
6 wealthy a greater say in our democracy than the av-
7 erage citizen, which is contrary to the intent of the
8 Founding Fathers.

9 (11) Congress has the inherent power to ensure
10 that elections for the government are conducted in
11 a fair, honorable, and proper way to preserve our de-
12 mocracy and ensure the people have confidence in
13 our elections and system of government.

14 (12) Congress has the authority to regulate
15 campaign expenditures to promote integrity, prevent
16 corruption, and ensure the public has trust in our
17 election system, going back to the Tillman Act of
18 1907, which prohibits corporations from making di-
19 rect contributions to political campaigns.

20 (13) In 1947, Congress passed the Taft-Hartley
21 Act, which first prohibited corporations and labor
22 unions from making independent expenditures in
23 support or opposition to candidates for Federal of-
24 fice.

1 (14) The Watergate scandal, and the out-
2 rageous expenditure of campaign funds in that scan-
3 dal, did great damage to public confidence in govern-
4 ment and demanded a legislative response to restore
5 this confidence.

6 (15) Congress rewrote the Federal Elections
7 Campaign Act (FECA) in 1974 as a response to
8 Watergate and public calls for increased regulation
9 of our campaign system. This law established the
10 Federal Elections Commission (FEC) and instituted
11 limits on campaign contributions which remain law
12 to this day.

13 (16) In 1976, the Supreme Court issued a deci-
14 sion in the case of Buckley v. Valeo which first es-
15 tablished the principle that money equals speech, in
16 addition to overturning FECA limitations on inde-
17 pendent expenditures.

18 (17) The Buckley decision also stated that
19 “‘The constitutional power of Congress to regulate
20 Federal elections is well established and is not ques-
21 tioned by any of the parties in this case’”.

22 (18) Equating money with speech can result in
23 the wealthy having an undue influence on our elec-
24 tions at the expense of the great majority of the
25 American people.

1 (19) In 1990, the Supreme Court issued a deci-
2 sion in the case of *Austin v. Michigan Chamber of*
3 *Commerce* which upheld a Michigan law banning
4 corporations from making independent expenditures
5 in elections.

6 (20) In *Austin*, the Court found that “Cor-
7 porate wealth can unfairly influence elections when
8 it is deployed in the form of independent expendi-
9 tures”.

10 (21) *Austin* also established that the govern-
11 ment has an anti-distortion interest in regulating po-
12 litical speech. The Court held that there is a compel-
13 ling government interest in preventing “the corrosive
14 and distorting effects of immense aggregations of
15 wealth that are accumulated with the help of the
16 corporate form and that have little or no correlation
17 to the public’s support for the corporation’s political
18 ideas”.

19 (22) In 2002, Congress enacted the Bipartisan
20 Campaign Reform Act, which among other things
21 banned political parties from raising so-called “soft
22 money”.

23 (23) Spending in presidential elections has risen
24 to excessive levels over the last decade, which threat-

1 ens not only our government, but the integrity of
2 our elections.

3 (24) In the 2000 presidential election, both of
4 the major party candidates spent \$343.1 million
5 combined. This number climbed to \$717.9 million in
6 the 2004 presidential election.

7 (25) In the 2008 presidential election, Barack
8 Obama’s campaign spent \$740.6 million, more than
9 both major party candidates combined in the pre-
10 vious election.

11 (26) Following the Supreme Court’s decision in
12 the case of Citizens United v. FEC, there was a
13 massive increase in outside political spending, which
14 threatens to undermine the legitimacy of our polit-
15 ical system.

16 (27) The FEC estimates that \$7 billion was
17 spent on the 2012 elections.

18 (28) According to the Wall Street Journal, so-
19 called “Super PACs” spent \$567,498,628 on the
20 2012 elections.

21 (29) Super PACs spent \$98 million during the
22 week of October 29, 2012, alone.

23 (30) Donations to Super PACs are dominated
24 by the wealthy. In 2012, 58.9 percent of donations

1 to Super PACs were \$1 million or higher, and came
2 from only 159 donors.

3 (31) Super PACs often accept funds from non-
4 profits which are allowed to conceal the source of
5 their donations, thereby avoiding transparency and
6 greater public scrutiny of their actions and motiva-
7 tions.

8 (32) Thirty-one percent of outside spending in
9 the 2012 elections was not able to be traced to its
10 original sources, which decreases accountability and
11 transparency, threatens public confidence in our
12 elected officials and our elections, and has a dis-
13 torting effect on our elections.

14 (33) Corporations, now freed to spend as much
15 as they like to influence elections, accounted for 12
16 percent of contributions to Super PACS in 2012,
17 thereby helping to give corporate interests a greater
18 voice in our political system than the average Ameri-
19 cans.

20 (34) A January 2012 poll by Rasmussen says
21 that 58 percent of Americans believe the United
22 States needs new campaign finance laws.

23 (35) A January 2012 poll by Democracy Corps
24 found that 55 percent of Americans oppose the Citi-
25 zens United decision. Eighty percent of voters also

1 believe there should be limits on the money spent in
2 campaigns.

3 (36) An October 2012 poll by Bannon Commu-
4 nications Research found that 52 percent of Ameri-
5 cans are in favor of banning corporate political
6 spending, 89 percent of Americans believe there is
7 too much money in politics, and 66 percent believe
8 that money is the root of all evil in politics.

9 (37) After considering these findings, Congress
10 is concerned by the unfairness of unlimited spending
11 in elections and is taking this action to protect our
12 democracy and our electoral system.

13 (38) Reinstating the ban on corporate political
14 expenditures and placing a limit on the amount of
15 donations to Super PACs will help restore faith and
16 trust in our democracy and will respond to calls by
17 the American people for vigorous campaign finance
18 reform and effective laws to protect our free demo-
19 cratic system of elections.

20 **SEC. 3. PROHIBITION OF CORPORATE AND LABOR DIS-**
21 **BURSEMENTS FOR ELECTIONEERING COM-**
22 **MUNICATIONS.**

23 (a) PROHIBITION.—

24 (1) IN GENERAL.—Section 316(b)(2) of the
25 Federal Election Campaign Act of 1971 (2 U.S.C.

1 441b(b)(2)) is amended by inserting “or for any ap-
2 plicable electioneering communication” before “, but
3 shall not include”.

4 (2) APPLICABLE ELECTIONEERING COMMUNICA-
5 TION.—Section 316 of such Act (2 U.S.C. 441b) is
6 amended by adding at the end the following:

7 “(c) RULES RELATING TO ELECTIONEERING COM-
8 MUNICATIONS.—

9 “(1) APPLICABLE ELECTIONEERING COMMU-
10 NICATION.—For purposes of this section, the term
11 ‘applicable electioneering communication’ means an
12 electioneering communication (within the meaning of
13 section 304(f)(3)) which is made by any entity de-
14 scribed in subsection (a) of this section or by any
15 other person using funds donated by an entity de-
16 scribed in subsection (a) of this section.

17 “(2) EXCEPTION.—Notwithstanding paragraph
18 (1), the term ‘applicable electioneering communica-
19 tion’ does not include a communication by a section
20 501(c)(4) organization or a political organization (as
21 defined in section 527(e)(1) of the Internal Revenue
22 Code of 1986) made under section 304(f)(2)(E) or
23 (F) of this Act if the communication is paid for ex-
24 clusively by funds provided directly by individuals
25 who are United States citizens or nationals or law-

1 fully admitted for permanent residence (as defined
2 in section 101(a)(20) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1101(a)(20))). For purposes
4 of the preceding sentence, the term ‘provided di-
5 rectly by individuals’ does not include funds the
6 source of which is an entity described in subsection
7 (a) of this section.

8 “(3) SPECIAL OPERATING RULES.—

9 “(A) DEFINITION UNDER PARAGRAPH
10 (1).—An electioneering communication shall be
11 treated as made by an entity described in sub-
12 section (a) if an entity described in subsection
13 (a) directly or indirectly disburses any amount
14 for any of the costs of the communication.

15 “(B) EXCEPTION UNDER PARAGRAPH
16 (2).—A section 501(c)(4) organization that de-
17 rives amounts from business activities or re-
18 ceives funds from any entity described in sub-
19 section (a) shall be considered to have paid for
20 any communication out of such amounts unless
21 such organization paid for the communication
22 out of a segregated account to which only indi-
23 viduals can contribute, as described in section
24 304(f)(2)(E).

1 “(4) DEFINITIONS AND RULES.—For purposes
2 of this subsection—

3 “(A) the term ‘section 501(c)(4) organiza-
4 tion’ means—

5 “(i) an organization described in sec-
6 tion 501(c)(4) of the Internal Revenue
7 Code of 1986 and exempt from taxation
8 under section 501(a) of such Code; or

9 “(ii) an organization which has sub-
10 mitted an application to the Internal Rev-
11 enue Service for determination of its status
12 as an organization described in clause (i);
13 and

14 “(B) a person shall be treated as having
15 made a disbursement if the person has executed
16 a contract to make the disbursement.

17 “(5) COORDINATION WITH INTERNAL REVENUE
18 CODE.—Nothing in this subsection shall be con-
19 strued to authorize an organization exempt from
20 taxation under section 501(a) of the Internal Rev-
21 enue Code of 1986 to carry out any activity which
22 is prohibited under such Code.

23 “(6) SPECIAL RULES FOR TARGETED COMMU-
24 NICATIONS.—

1 “(A) EXCEPTION DOES NOT APPLY.—
2 Paragraph (2) shall not apply in the case of a
3 targeted communication that is made by an or-
4 ganization described in such paragraph.

5 “(B) TARGETED COMMUNICATION.—For
6 purposes of subparagraph (A), the term ‘tar-
7 geted communication’ means an electioneering
8 communication (as defined in section 304(f)(3))
9 that is distributed from a television or radio
10 broadcast station or provider of cable or sat-
11 ellite television service and, in the case of a
12 communication which refers to a candidate for
13 an office other than President or Vice Presi-
14 dent, is targeted to the relevant electorate.

15 “(C) DEFINITION.—For purposes of this
16 paragraph, a communication is ‘targeted to the
17 relevant electorate’ if it meets the requirements
18 described in section 304(f)(C).”.

19 (3) EFFECTIVE DATE.—The amendments made
20 by this subsection shall take effect immediately after
21 the enactment of subsection (b).

22 (b) CONFORMING AMENDMENT.—Sections 203 and
23 204 of the Bipartisan Campaign Reform Act of 2002
24 (Public Law 107–155) are repealed, and each provision

1 of law amended by such sections is restored as if such
2 sections had not been enacted into law.

3 **SEC. 4. PROHIBITION OF INDEPENDENT EXPENDITURES BY**
4 **CORPORATIONS AND LABOR ORGANIZA-**
5 **TIONS.**

6 Section 316(b)(2) of the Federal Election Campaign
7 Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking
8 “includes a contribution or expenditure,” and inserting
9 “includes a contribution or expenditure (including an inde-
10 pendent expenditure),”.

11 **SEC. 5. APPLICATION OF CONTRIBUTION LIMITS AND**
12 **SOURCE PROHIBITIONS TO CONTRIBUTIONS**
13 **MADE TO SUPER PACS.**

14 (a) APPLICATION OF LIMITS.—Section 315(a) of the
15 Federal Election Campaign Act of 1971 (2 U.S.C.
16 441a(a)) is amended by adding at the end the following
17 new paragraph:

18 “(9) For purposes of the limitations imposed by para-
19 graphs (1)(C), (2)(C), and (3)(B) on the amount of con-
20 tributions which may be made by any person to a political
21 committee, a contribution made to a political committee
22 which accepts donations or contributions that do not com-
23 ply with the contribution or source prohibitions under this
24 Act (or made to any account of a political committee which
25 is established for the purpose of accepting such donations

1 or contributions) shall be treated in the same manner as
2 a contribution made to any other political committee to
3 which such paragraphs apply.”.

4 (b) **EFFECTIVE DATE.**—The amendment made by
5 subsection (a) shall apply with respect to contributions
6 made on or after the date of the enactment of this Act.

7 **SEC. 6. SEVERABILITY.**

8 If any provision of this Act or amendment made by
9 this Act, or the application of a provision or amendment
10 to any person or circumstance, is held to be unconstitu-
11 tional, the remainder of this Act and amendments made
12 by this Act, and the application of the provisions and
13 amendment to any person or circumstance, shall not be
14 affected by the holding.

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