

Money in Politics

An Introduction for the Consensus Meeting

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SWSCV Study Committee

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LEAGUE OF
WOMEN VOTERS®

Current LWV Position on Campaign Finance

(January 1974; revised 1982)

Methods of financing political campaigns should:

- Ensure the public's right to know
- Combat corruption and undue influence
- Enable candidates to compete more equitably
- Allow maximum citizen participation in the political process

LWV Work on Money in Politics

Using this position, the League has worked toward two main goals:

- **Transparency in financing political campaigns**
- **Fighting “big money” and its influence in elections and government**

Objectives of this LWV Update

- **Build member understanding and agreement on the extent to which political campaign donations and spending are protected speech under the First Amendment.**

Consider:

- What are the rights of individuals and organizations under the First Amendment to express their political views through:
 - independent expenditures and
 - financing election campaign activities.
- How should those rights be protected and reconciled with the interests set out in the current LWV position, including they may influence elections and erode protections against corruption.

The Consensus Questions fall into three categories:

1. Appropriate goals of campaign finance regulation.
2. How far our First Amendment protections should extend in that context.
3. Methods of regulating campaign money.

Major Legislation to Regulate Campaign Finance

Response to corruption in the Gilded Age

- Tillman Act (1907)
 - *Banned campaign contributions from banks and corporations*

Response to growing unionization after WWII

- Taft-Hartley Act (1947)
 - *Prohibited labor unions from making campaign contributions or expenditures*

Response to campaign finance abuses and Watergate

- Federal Election Campaign Act (1971) and Amendments (1974)
 - *Established FEC,*
 - *disclosure rules for transparency,*
 - *limits on campaign contributions and expenditures*

Response to fundraising and issue ad loopholes

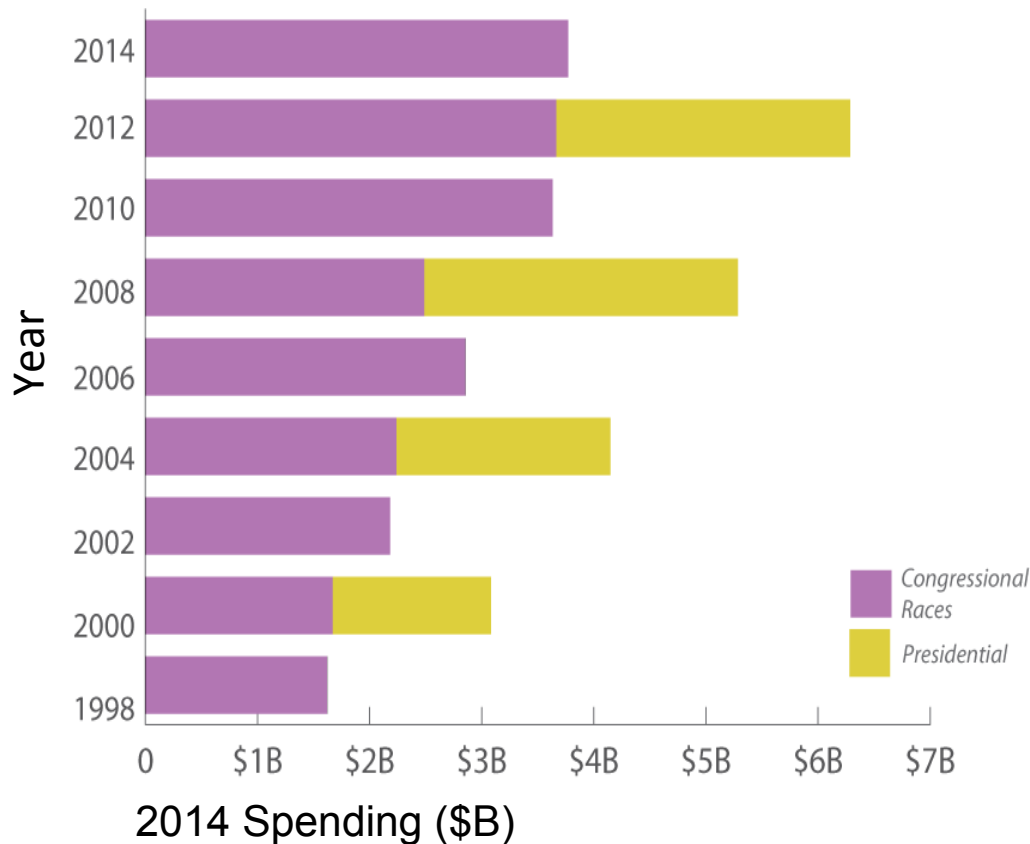
- Bipartisan Campaign Reform Act (McCain-Feingold, 2002)
 - *Closed “soft money” loophole which allowed unlimited contributions to political parties,*
 - *banned ads by corporations and unions within 60 days of a general election,*
 - *banned sham issue ads (ads discussing issue that actually advocate for a candidate)*

Major Supreme Court Rulings on Campaign Finance

- **1976 – *Buckley v. Valeo***
 - » Upheld public financing, disclosure laws and limitations on contributions
 - » Disallowed limits on expenditures.
- **1990 – *Austin v. Michigan Chamber of Commerce***
 - » Upheld ban on corporate campaign expenditures
- **2010 – *Citizens United v. FEC***
 - » Affirmed disclosure laws
 - » Allowed unlimited independent campaign spending by all, including corporations
- **2014 – *McCutcheon v. FEC***
 - » Struck down the aggregate contribution limitations

MIP – 2014 Federal Campaign Expenditures

From Open Secrets.org



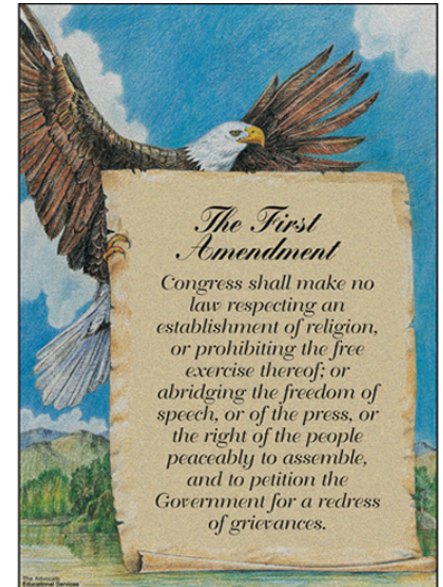
- House – 1442 candidates
 - \$1,032,840,762 raised
 - Average amount raised about \$716,256
- Senate – 229 Candidates
 - \$658,358,749 raised
 - Average amount raised about \$2,656,600

Based on data released by the FEC on 19 February 2015. <http://www.opensecrets.org/overview/>

The First Amendment

First Amendment:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”



Taken together this is an affirmation of an integrated system of democracy.

Taken in isolation, each statement can be viewed as an individual's right to "anything goes".

Our view – D. & T. Picraux

Current disclosure and donation rules (for Federal elections)

Funding Source	Disclosure required	Donations to limited	May coordinate with candidate	Corporations can donate
Political parties	✓	✓	✓	
PAC's	✓	✓	✓	
Super PAC's	✓			✓
Candidates[527s]	✓	✓	✓	✓
Charities[501(c)s]				✓

501(c)4's registered in the general interest category can pass money on to Super PACs with no disclosure of who has contributed those funds.

(Called dark money — political spending where the source is undisclosed).

The two aspects of Campaign Finance in Elections

- **How money is raised**
 - strive for disclosure of source, amount, date
- **How money is spent**
 - can be for or against a candidate
and can be by or independent of the candidate

Some Reasons To Regulate Campaign Financing

- **Combat corruption and undue influence in government through special access and favoritism.**
- **Prevent distortion of the election process by big spending.**
- **Enhance political equality.**
- **Enable candidates to “compete equitably” for public office.**
- **Reduce the time and effort that elected officials and candidates for public office expend on campaign fundraising.**

Arguments in Favor of Unlimited Campaign Spending

- Money allows the funding of modern communications, which is essential to reach voters.
- Political communication informs the voters.
- Government should not regulate political speech, which is basic in a democracy.
- Just because a candidate takes contributions does not mean that as an elected official s/he will do favors for the contributor—particularly if the spending is “independent.”

Either way, timely disclosure and transparency in campaign funding and spending is essential for our democracy.

Elected officials on MIP Study Committee provide summary of State & Local rules

Contribution Limits to State Candidates Per Election

Candidate or Officeholder	Contributor Sources		
	Person (individual, business entity, committee/PAC)	Small Contributor Committee (see definition on page 2)	Political Party
Senate and Assembly	\$4,200	\$8,500	No Limit
CalPERS/CalSTRS	\$4,200	\$8,500	No Limit
Lt. Governor, Secretary of State, Attorney General, Treasurer, Controller, Supt. of Public Instruction, Insurance Commissioner, and Board of Equalization	\$7,000	\$14,100	No Limit
Governor	\$28,200	\$28,200	No Limit

See summary at SWSCV League's web site:
<http://www.lwv-sw-santaclara-valley.org/index.html>

Campaign Regulations for:	Campaign finance regulations beyond state reporting rules	Min. \$\$ reporting with name & company	Voluntary Campaign Expenditure limits*	Maximum donation	Notes
County of Santa Clara	YES	YES	\$250K BoS \$500K others	\$1000 w/ limit \$500 w/o limit	Finance rules apply to all candidates including incumbent elected officials. Donation limits per calendar year
Campbell	No	Per state^	No	No	Discussed in 2015, 3-2 vote to not proceed with reforms
Cupertino	YES	Per state	\$28,000	\$150	2011 \$\$; No escalation factor
Los Gatos	No	Per state	No	No	
Monte Sereno	No	Per state	No	No	
San Jose	YES	Per state	YES	\$1,000 to all committees	Ceiling is \$.75/resident for Mayo and \$1.25/resident for council per election Aggregate amount List of prohibited donors Retire debt in 6 months 2010 \$\$, CPI in 2013
Saratoga	No	Per state	No	No	

Seeking Consensus on the Questions

★ Process

- Study members present questions
- Each League decides & records its position for that question
- To cover the 31 sub-questions in the next 2 hours we have ~ 4 min./question (many are closely related)

★ Consensus

- Consensus is a “sense of the members”
A mutual agreement among members arrived at through discussion and understanding
- It is not a vote.
- If a position can be accepted (even if not the most favored by everyone), it is the consensus. If not, then “no consensus.”

★ Ground rules

- Discuss until decision emerges
- All League members contribute/participate
- No side conversations-- cell phones on vibrate