

Money in Politics Study III

This is the third in a series of articles on money in politics.

In part I we discussed the motivations for the LWV to update its position on Money in Politics (MIP) and in part II we examined some of the options for reforming MIP. In this issue we present the current situation in campaign finance and reporting as we prepare for our Jan. 16th Consensus Meeting. The consensus questions can be found at <http://forum.lwv.org/member-resources/article/money-politics-consensus-questions> .

The Founders of the U.S. Constitution used the word “corruption” more than 300 times during their discourse. By corruption they meant “excessive private interests influencing the exercise of public power”. Today, corruption, or the appearance of corruption, remains a threat to democracy due to the enormous amounts of money involved in the election process. No one argues about the essential role of money in getting a candidate’s message to the voters. But massive sums of outside money can lead to undue influence, a drowning out of the candidate’s message, a loss of confidence by citizens in the election process, reduced engagement in elections, and ultimately to a less democratic system.

How did we arrive at this state of affairs? The passage of the Federal Election Campaign Act of 1971 and its revisions in 1974 following the Watergate scandal set limits on both campaign contributions and expenditures for campaigns, individuals, and political committees. Although the Supreme Court disallowed limits on campaign expenditures and independent expenditures as infringing on freedom of speech (1976, *Buckley v. Valeo*), disclosure rules and limits on direct contributions to campaigns survived.

The next milestone legislation was in 2002 when Congress passed the Bipartisan Campaign Reform Act (BCRA). BCRA closed the “soft money” loophole that allowed unlimited contributions to political parties and banned “electioneering communications” by corporations and labor unions within 60 days of a general election. While initially upheld by the Supreme Court, changes in the court’s composition in 2006 led to reversals based on the First Amendment’s freedom of speech provision. Most notable was the 2010 Supreme Court *Citizens United v. FEC* decision, which ruled that corporations have the First Amendment right to make unlimited expenditures in elections. This opened the floodgates for unlimited election contributions and expenditures for organizations that do not coordinate with a candidate’s campaign.

| Many key points [of campaign finance and reporting](#) can be summarized with the help of Table I.

Table I. Current disclosure and donation rules for Federal elections. Note that all entities can accept money from individuals.

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

Political parties: Must disclose contributor information and amounts. Contributions can be limited.

PACs: Political Action Committees must disclose contributions and expenditures. Corporations can form and contribute to PACs. Donation size is limited.

Coordination with candidates is not allowed but contributions within limits are.

Super PACs: Super PACs (independent expenditure only committees) must disclose contributions and expenditures. There is no limit on donation amount. Coordination with candidates is not allowed. While there are limits on donations to PACs, super PACs are allowed to raise and spend unlimited amounts of money from corporations, unions, individuals and associations.

Candidates: Candidate committees (referred to as 527s by the IRS) must disclose contributions and expenditures, and may not accept money from corporations. Contributions can be limited.

Charities: 501(c) charities can accept unlimited money from corporations and are not required to disclose contributors. Coordination with candidates is not allowed. Herein lies a major loophole to public disclosure; 501(c)4 organizations registered in the “general purpose” category can pass money on to super PACs, providing for donor anonymity. Such funds are referred to as “dark money” since their source cannot be traced.

Limits on donations and their timely disclosure help to maintain a transparent and democratic election process. Unfortunately, super PACs and 501(c)s can circumvent spending limits and large contributors are increasingly taking this route. For example, since the *Citizens United* decision \$1 billion has been spent through super PACs, and 60% of that amount was given by only 195 individuals and their spouses (<http://forum.lwv.org/member-resources/article/money-politics-independent-expenditures>). The FEC, IRS or SEC could address some aspects of big money through stricter reporting rules. However, more public pressure is needed to bring about these changes.

At the state and local level some progress is being made in addressing big money in elections. As one example, groundbreaking small donor public financing laws have been passed in Arizona, Connecticut, New York City, Los Angeles, and Maine. Under these laws, small donations are matched and multiplied to help re-direct candidates' attention from moneyed interests to ordinary citizens.

Candidate disclosure and expenditure laws for county and city elections in the southwest Santa Clara valley area are summarized in Table II. As a resource for our members, detailed information has been compiled by [member](#) Liz Gibbons on campaign financing, disclosure, and reporting for California State, Santa Clara County and local city elections and will be posted on the SWSCV League web site under National and State Studies (<http://www.lwv-sw-santaclara-valley.org/Studies.html>).

TABLE II Campaign Regulations in Santa Clara County and its Southwest County Cities

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 Mayor 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	

Source: <http://www.fppc.ca.gov/learn/campaign-rules/local-campaign-ordinances.html>

* Candidates adopting the Voluntary Campaign Expenditure limit can receive ballot recognition.

^ Follows state regulations regarding reporting requirements, which depend on donation size.

The SWSCV's Money in Politics Study Committee is composed of Eileen Barnes, Liz Gibbons, Meg Giberson, Dale Hill, Emily Lo, Cherri Nelson, Gail Pedersen, Marico Sayoc, Patty Weber, and co-chairs, Danice and Tom Picraux. We welcome LWV Los Altos/Mountain View who will be joining SWSCV in our Jan. 16th Consensus Meeting. To be included or learn more about the study please contact Danice and Tom Picraux at dpicraux@gmail.com or (408) 356-8129.

Excellent resources on money in politics can be found at the LWVUS web site: <http://forum.lwv.org/category/member-resources/our-work/money-politics-review>.

Danice and Tom Picraux

Cherri: Box like last month—do we need this or just incorporate it on front page?

Please mark you calendar and be part of this important
decision with the Southwest Santa Clara Valley League

Money in Politics Consensus Meeting

Saturday, January 16, 1:00 – 4:00 pm

West Valley College

Campus Center

14000 Fruitvale Ave. Saratoga

(Free parking in Lot #5)