

113TH CONGRESS
1ST SESSION

H. R. 2670

To amend the Federal Election Campaign Act of 1971 to require corporations and labor organizations to disclose to their shareholders or members the amounts disbursed for certain political activity, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2013

Mr. CARTWRIGHT (for himself, Mr. GRAYSON, Mr. BRADY of Pennsylvania, Mr. FATTAH, Mr. SIRES, Mr. ENYART, Mr. YARMUTH, Mr. O'ROURKE, Ms. LORETTA SANCHEZ of California, Mr. ANDREWS, Mr. CLYBURN, Mr. VARGAS, Mr. ELLISON, Mr. DEFazio, Mr. COHEN, Mr. CICILLINE, Mr. ENGEL, Mr. GRIJALVA, Mr. TONKO, Mr. GENE GREEN of Texas, and Ms. LINDA T. SÁNCHEZ of California) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Federal Election Campaign Act of 1971 to require corporations and labor organizations to disclose to their shareholders or members the amounts disbursed for certain political activity, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Openness in Political
3 Expenditures Now Act” or the “OPEN Act”.

4 **SEC. 2. DISCLOSURE BY CORPORATIONS AND LABOR ORGA-**
5 **NIZATIONS TO SHAREHOLDERS AND MEM-**
6 **BERS OF DISBURSEMENTS FOR POLITICAL**
7 **ACTIVITY.**

8 (a) DISCLOSURE REQUIRED.—Title III of the Fed-
9 eral Election Campaign Act of 1971 (2 U.S.C. 431 et seq.)
10 is amended by adding at the end the following new section:

11 **“SEC. 325. DISCLOSURES BY CORPORATIONS AND LABOR**
12 **ORGANIZATIONS TO SHAREHOLDERS AND**
13 **MEMBERS OF INFORMATION ON DISBURSE-**
14 **MENTS FOR CERTAIN POLITICAL ACTIVITY.**

15 “(a) INCLUDING INFORMATION IN REGULAR PERI-
16 ODIC REPORTS.—

17 “(1) IN GENERAL.—A corporation which sub-
18 mits regular, periodic reports to its shareholders and
19 a labor organization which submits regular, periodic
20 reports to its members shall include in each such re-
21 port, in a clear and conspicuous manner, the infor-
22 mation described in paragraph (2) with respect to
23 the disbursements made by the corporation or labor
24 organization for covered political activity during the
25 period covered by the report, but only if the amount
26 of the disbursement made for such activity during

1 the period covered by the report equals or exceeds
2 the applicable threshold for the activity described in
3 paragraph (3).

4 “(2) INFORMATION DESCRIBED.—The informa-
5 tion described in this paragraph is, for each dis-
6 bursement for covered political activity—

7 “(A) the date of the disbursement;

8 “(B) the amount of the disbursement;

9 “(C) in the case of a disbursement con-
10 sisting of an independent expenditure or an
11 electioneering communication, or in the case of
12 a covered political activity described in sub-
13 section (c)(3), the name of the candidate identi-
14 fied in the independent expenditure or election-
15 eering communication involved, the Commission
16 ID assigned to the candidate, and the office
17 sought by the candidate; and

18 “(D) in the case of a covered political ac-
19 tivity described in subsection (c)(4), the identi-
20 fication of the association or organization to
21 whom the disbursement was made, and the
22 Commission ID (if any) assigned to the associa-
23 tion or organization.

24 “(3) APPLICABLE THRESHOLD FOR DISCLO-
25 SURE.—For purposes of paragraph (1), the ‘applica-

1 ble threshold' with respect to a disbursement for
2 covered political activity during a period covered by
3 a report is as follows:

4 “(A) In the case of covered political activ-
5 ity consisting of an independent expenditure,
6 \$250.

7 “(B) In the case of covered political activ-
8 ity consisting of an electioneering communica-
9 tion or a communication described in subsection
10 (c)(3), \$10,000.

11 “(C) In the case of covered political activ-
12 ity consisting of a payment described in sub-
13 section (c)(4), the amount of the limitation on
14 contributions which is in effect under section
15 315(a)(1)(C) as of the last day of the period.

16 “(b) SUBMISSION OF STATEMENT TO COMMISSION.—

17 “(1) SUBMISSION OF STATEMENT.—If a cor-
18 poration or labor organization includes information
19 in a report pursuant to this section, at the time the
20 corporation or labor organization submits the report
21 to its shareholders or members, the corporation or
22 labor organization shall file a statement with the
23 Commission consisting of the information included
24 in the report pursuant to this section.

25 “(2) HYPERLINK TO INFORMATION.—

1 “(A) REQUIRING POSTING OF
2 HYPERLINK.—If a corporation or labor organi-
3 zation maintains an Internet site, the corpora-
4 tion or labor organization shall post on such
5 Internet site a hyperlink from its homepage to
6 the location on the Internet site of the Commis-
7 sion which contains the statement filed by the
8 corporation or labor organization under para-
9 graph (1).

10 “(B) DEADLINE; DURATION OF POST-
11 ING.—The corporation or labor organization
12 shall post the hyperlink described in subpara-
13 graph (A) not later than 24 hours after the
14 Commission posts the statement filed by the
15 corporation or labor organization under para-
16 graph (1) on the Internet site of the Commis-
17 sion, and shall ensure that the hyperlink re-
18 mains on the Internet site of the corporation or
19 labor organization until the expiration of the 1-
20 year period which begins on the date of the
21 election with respect to which the disbursements
22 included in the statement are made.

23 “(c) COVERED POLITICAL ACTIVITY DEFINED.—In
24 this section, the term ‘covered political activity’ means
25 each of the following:

1 “(1) An independent expenditure (as defined in
2 section 301(17)).

3 “(2) An electioneering communication (as de-
4 fined in section 304(f)(3)).

5 “(3) A communication which would be treated
6 as an electioneering communication under section
7 304(f)(3) if the communication had been a broad-
8 cast, cable, or satellite communication.

9 “(4) The payment of dues or other amounts to
10 a trade association or to a section 501(c)(4) organi-
11 zation.

12 “(d) OTHER DEFINITIONS.—In this section, the fol-
13 lowing definitions apply:

14 “(1) The term ‘corporation’ means any corpora-
15 tion which is subject to section 316(a).

16 “(2) The term ‘labor organization’ has the
17 meaning given such term in section 316.

18 “(3) The term ‘section 501(c)(4) organization’
19 means any organization described in paragraph (4)
20 of section 501(c) of the Internal Revenue Code of
21 1986 and exempt from tax under section 501(a) of
22 such Code.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall apply with respect to reports described
25 in section 325(a)(1) of the Federal Election Campaign Act

1 of 1971 (as added by subsection (a)) which are filed after
2 the expiration of the 90-day period which begins on the
3 date of the enactment of this Act.

4 **SEC. 3. LIMITATION ON ENGAGING IN COVERED POLITICAL**
5 **ACTIVITIES BY SOCIAL WELFARE ORGANIZA-**
6 **TIONS.**

7 (a) IN GENERAL.—Section 501(c)(4) of the Internal
8 Revenue Code of 1986 is amended by adding at the end
9 the following:

10 “(C)(i) Subparagraph (A) shall not apply
11 to an entity for a taxable year if the total ex-
12 penditures of such entity for the taxable year
13 for covered political activity exceed the lesser
14 of—

15 “(I) 10 percent of the total expendi-
16 tures of such entity for the taxable year, or

17 “(II) \$10,000,000.

18 “(ii) Subparagraph (A) shall not apply to
19 an entity for a taxable year unless its governing
20 instrument includes provisions the effects of
21 which are to prohibit the expenditures of the
22 entity for a covered political activity from ex-
23 ceeding the threshold specified in clause (i).

24 “(iii) For purposes of this subparagraph,
25 the term ‘covered political activity’ means—

1 “(I) any activity described in para-
2 graphs (1) through (3) of section 325(c) of
3 the Federal Election Campaign Act of
4 1971; and

5 “(II) any payment by the entity to
6 any other entity described in this para-
7 graph or to an organization described in
8 paragraph (6) which the payor entity
9 knows, or has reason to know, will be used
10 directly or indirectly by the payee entity or
11 organization for any activity referred to in
12 subclause (I).

13 “(iv) Clause (i) shall not apply for a tax-
14 able year for which the 10 percent threshold
15 specified in clause (i)(I) is exceeded by not
16 more than a de minimis amount if the Sec-
17 retary determines that the reason for exceeding
18 the threshold was not willful and is due to rea-
19 sonable cause.

20 “(v) The Secretary shall prescribe such
21 regulations as may be necessary or appropriate
22 to prevent the avoidance of clause (i), including
23 regulations relating to a direct or indirect
24 transfer of all or part of the assets of an entity
25 to an entity controlled (directly or indirectly) by

1 the same person or persons who control the
2 transferor entity.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall apply to taxable years beginning after
5 the date of the enactment of this Act.

6 **SEC. 4. SEVERABILITY.**

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

○