H. R. 446

To amend the Securities Exchange Act of 1934 to require shareholder authorization before a public company may make certain political expenditures, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 2015

Mr. CAPUANO (for himself, Mr. LYNCH, Mr. DeFAZIO, Ms. NORTON, Mr. ELLISON, Mr. LARSON of Connecticut, Mr. GRIJALVA, Mr. CONNOLLY, Mr. CUMMINGS, Ms. TSONGAS, Mrs. DAVIS of California, Mr. CONYERS, Mr. COHEN, Mr. TAKANO, Ms. PINGREE, Mr. SARBAZES, Mr. WELCH, Ms. SLAUGHTER, Ms. MENG, and Mr. HASTINGS) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Securities Exchange Act of 1934 to require shareholder authorization before a public company may make certain political expenditures, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Shareholder Protection Act of 2015”.

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SEC. 2. FINDINGS.

Congress finds that—

(1) corporations make significant political contributions and expenditures that directly or indirectly influence the election of candidates and support or oppose political causes;

(2) decisions to use corporate funds for political contributions and expenditures are usually made by corporate boards and executives, rather than shareholders;

(3) corporations, acting through boards and executives, are obligated to conduct business for the best interests of their owners, the shareholders;

(4) historically, shareholders have not had a way to know, or to influence, the political activities of corporations they own;

(5) shareholders and the public have a right to know how corporate managers are spending company funds to make political contributions and expenditures benefitting candidates, political parties, and political causes;

(6) corporations should be accountable to shareholders in making political contributions or expenditures affecting Federal governance and public policy; and
(7) requiring a corporation to obtain the express approval of shareholders prior to making political contributions or expenditures will establish necessary accountability.

SEC. 3. SHAREHOLDER APPROVAL OF CORPORATE POLITICAL ACTIVITY.


“SEC. 14C. SHAREHOLDER APPROVAL OF CERTAIN POLITICAL EXPENDITURES AND DISCLOSURE OF VOTES OF INSTITUTIONAL INVESTORS.

“(a) DEFINITIONS.—In this section—

“(1) the term ‘expenditure for political activities’—

“(A) means—

“(i) an independent expenditure (as defined in section 301(17) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101(17)));

“(ii) an electioneering communication (as defined in section 304(f)(3) of that Act (52 U.S.C. 30104(f)(3))) and any other public communication (as defined in section 301(22) of that Act (52 U.S.C.
30101(22)) that would be an electioneering communication if it were a broadcast, cable, or satellite communication; or

“(iii) dues or other payments to trade associations or organizations described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of that Code that are, or could reasonably be anticipated to be, used or transferred to another association or organization for the purposes described in clauses (i) or (ii); and

“(B) does not include—

“(i) direct lobbying efforts through registered lobbyists employed or hired by the issuer;

“(ii) communications by an issuer to its shareholders and executive or administrative personnel and their families; or

“(iii) the establishment and administration of contributions to a separate segregated fund to be utilized for political purposes by a corporation; and

“(2) the term ‘issuer’ does not include an investment company registered under section 8 of the

“(b) Shareholder Authorization for Political Expenditures.—Each solicitation of proxy, consent, or authorization by an issuer with a class of equity securities registered under section 12 of this title shall—

“(1) contain—

“(A) a description of the specific nature of any expenditure for political activities proposed to be made by the issuer for the forthcoming fiscal year that has not been authorized by a vote of the shareholders of the issuer, to the extent the specific nature is known to the issuer; and

“(B) the total amount of expenditures for political activities proposed to be made by the issuer for the forthcoming fiscal year; and

“(2) provide for a separate vote of the shareholders of the issuer to authorize such expenditures for political activities in the total amount described in paragraph (1).

“(c) Vote Required To Make Expenditures.—

No issuer shall make an expenditure for political activities in any fiscal year unless such expenditure—
“(1) is of the nature of those proposed by the
issuer in subsection (b)(1); and

“(2) has been authorized by a vote of the ma-
majority of the outstanding shares of the issuer in ac-
cordance with subsection (b)(2).

“(d) FIDUCIARY DUTY; LIABILITY.—

“(1) FIDUCIARY DUTY.—A violation of sub-
section (c) shall be considered a breach of a fidu-
ciary duty of the officers and directors who author-
ized the expenditure for political activities.

“(2) LIABILITY.—An officer or director of an
issuer who authorizes an expenditure for political ac-
tivities in violation of subsection (c) shall be jointly
and severally liable in any action brought in a court
of competent jurisdiction to any person or class of
persons who held shares at the time the expenditure
for political activities was made for an amount equal
to 3 times the amount of the expenditure for polit-
ical activities.

“(e) DISCLOSURE OF VOTES.—

“(1) DISCLOSURE REQUIRED.—Each institu-
tional investment manager subject to section 13(f)
shall disclose not less frequently than annually how
the institutional investment manager voted on any
shareholder vote under subsection (a), unless the
vote is otherwise required by rule of the Commission to be reported publicly.

“(2) Rules.—Not later than 6 months after the date of enactment of this section, the Commission shall issue rules to carry out this subsection that require that a disclosure required under paragraph (1)—

“(A) be made not later than 30 days after a vote described in paragraph (1); and

“(B) be made available to the public through the EDGAR system as soon as practicable.

“(f) Safe Harbor for Certain Divestment Decisions.—Notwithstanding any other provision of Federal or State law, if an institutional investment manager makes the disclosures required under subsection (e), no person may bring any civil, criminal, or administrative action against the institutional investment manager, or any employee, officer, or director thereof, based solely upon a decision of the investment manager to divest from, or not to invest in, securities of an issuer due to an expenditure for political activities made by the issuer.”.
SEC. 4. REQUIRED BOARD VOTE ON CORPORATE EXPENDITURES FOR POLITICAL ACTIVITIES.


“SEC. 16A. REQUIRED BOARD VOTE ON CORPORATE EXPENDITURES FOR POLITICAL ACTIVITIES.

“(a) DEFINITIONS.—In this section, the terms ‘expenditure for political activities’ and ‘issuer’ have the meaning given the terms in section 14C.

“(b) LISTING ON EXCHANGES.—Not later than 180 days after the date of enactment of this section, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any class of equity security of an issuer that is not in compliance with the requirements of any portion of subsection (c).

“(c) REQUIREMENT FOR VOTE IN CORPORATE BYLAWS.—

“(1) VOTE REQUIRED.—The bylaws of an issuer shall expressly provide for a vote of the board of directors of the issuer on—

“(A) any expenditure for political activities in excess of $50,000; and

“(B) any expenditure for political activities that would result in the total amount spent by
the issuer for a particular election (as defined in section 301(1) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101(1))) in excess of $50,000.

“(2) Public availability.—An issuer shall make the votes of each member of the board of directors for a vote required under paragraph (1) publicly available not later than 48 hours after the vote, including in a clear and conspicuous location on the Internet website of the issuer.

“(d) No effect on determination of coordination with candidates or campaigns.—For purposes of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.), an expenditure for political activities by an issuer shall not be treated as made in concert or cooperation with, or at the request or suggestion of, any candidate or committee solely because a member of the board of directors of the issuer voted on the expenditure as required under this section.”.

SEC. 5. REPORTING REQUIREMENTS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

“(s) Reporting Requirements Relating to Certain Political Expenditures.—
“(1) DEFINITIONS.—In this subsection, the terms ‘expenditure for political activities’ and ‘issuer’ have the same meaning as in section 14C.

“(2) QUARTERLY REPORTS.—

“(A) REPORTS REQUIRED.—Not later than 180 days after the date of enactment of this subsection, the Commission shall amend the reporting rules under this section to require each issuer with a class of equity securities registered under section 12 of this title to submit to the Commission and the shareholders of the issuer a quarterly report containing—

“(i) a description of any expenditure for political activities made during the preceding quarter;

“(ii) the date of each expenditure for political activities;

“(iii) the amount of each expenditure for political activities;

“(iv) the votes of each member of the board of directors authorizing the expenditure for political activity, as required under section 16A(c);

“(v) if the expenditure for political activities was made in support of or opposed
to a candidate, the name of the candidate
and the office sought by, and the political
party affiliation of, the candidate; and

“(vi) the name or identity of trade as-
associations or organizations described in
section 501(c) of the Internal Revenue
Code of 1986 and exempt from tax under
section 501(a) of such Code which receive
dues or other payments as described in
section 14C(a)(1)(A)(iii).

“(B) Public availability.—The Com-
mission shall ensure that, to the greatest extent
practicable, the quarterly reports required
under this paragraph are publicly available
through the Internet website of the Commission
and through the EDGAR system in a manner
that is searchable, sortable, and downloadable,
consistent with the requirements under section
24.

“(3) Annual reports.—Not later than 180
days after the date of enactment of this subsection,
the Commission shall, by rule, require each issuer to
include in the annual report of the issuer to share-
holders a summary of each expenditure for political
activities made during the preceding year in excess
of $10,000, and each expenditure for political activi-

ties for a particular election if the total amount of

such expenditures for that election is in excess of

$10,000.”.

SEC. 6. REPORTS.

(a) SECURITIES AND EXCHANGE COMMISSION.—The

Securities and Exchange Commission shall—

(1) conduct an annual assessment of the com-

pliance of issuers and officers and members of the

boards of directors of issuers with sections 13(s),

14C, and 16A of the Securities Exchange Act, as

added by this Act; and

(2) submit to Congress an annual report con-

taining the results of the assessment under para-

graph (1).

(b) GOVERNMENT ACCOUNTABILITY OFFICE.—The

Comptroller General of the United States shall periodically

evaluate and report to Congress on the effectiveness of the

oversight by the Securities and Exchange Commission of

the reporting and disclosure requirements under sections

13(s), 14C, and 16A of the Securities Exchange Act, as

added by this Act.

SEC. 7. SEVERABILITY.

If any provision of this Act, an amendment made by

this Act, or the application of such provision or amend-
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1. If a provision or amendment to any person or circumstance is held to be unconsti-
2. tutional, the remainder of this Act, the amendments made
3. by this Act, and the application of such provision or
4. amendment to any person or circumstance shall not be af-
5. fected thereby.