

112TH CONGRESS
2D SESSION

H. R. 6310

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

AUGUST 2, 2012

Mr. DINGELL (for himself, Mr. CONYERS, Mr. ANDREWS, Mrs. MALONEY, Mr. MCGOVERN, Mr. BRADY of Pennsylvania, Ms. DEGETTE, Mr. VAN HOLLEN, Mr. ELLISON, Ms. EDWARDS, Mr. FRANK of Massachusetts, Mr. SARBANES, Mr. COURTNEY, Mr. PETERS, Ms. ESHOO, Mr. SHERMAN, and Mr. HOYER) 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) Congress has the inherent power to ensure
26 elections for the government are conducted in a fair,

1 honorable, and proper way to preserve our democ-
2 racy and ensure the people have confidence in our
3 elections and system of government.

4 (9) Congress has the authority to regulate cam-
5 paign expenditures to promote integrity, prevent cor-
6 ruption, and ensure the public has trust in our elec-
7 tion system, going back to the Tillman Act of 1907,
8 which prohibits corporations from making direct
9 contributions to political campaigns.

10 (10) In 1947, Congress passed the Taft-Hartley
11 Act, which first prohibited corporations and labor
12 unions from making independent expenditures in
13 support or opposition to candidates for Federal of-
14 fice.

15 (11) The Watergate scandal, and the out-
16 rageous expenditure of campaign funds in that scan-
17 dal, did great damage to public confidence in govern-
18 ment and demanded a legislative response to restore
19 this confidence.

20 (12) Congress enacted the Federal Elections
21 Campaign Act (FECA) in 1974 as a response to
22 Watergate and public calls for increased regulation
23 of our campaign system. This law established the
24 Federal Elections Commission and instituted limits

1 on campaign contributions which remain law to this
2 day.

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

8 (14) The Buckley decision also stated that
9 “The constitutional power of Congress to regulate
10 federal elections is well established and is not ques-
11 tioned by any of the parties in this case.”.

12 (15) Equating money with speech can result in
13 the wealthy having an undue influence on our elec-
14 tions at the expense of the great majority of the
15 American people.

16 (16) In 1990, the Supreme Court issued a deci-
17 sion in the case of Austin v. Michigan Chamber of
18 Commerce which upheld a Michigan law banning
19 corporations from making independent expenditures
20 in elections.

21 (17) In Austin, the Court found that “Cor-
22 porate wealth can unfairly influence elections when
23 it is deployed in the form of independent expendi-
24 tures.”.

1 (18) Austin also established that the govern-
2 ment has an antidistortion interest in regulating po-
3 litical speech. The Court held that there is a compel-
4 ling government interest in preventing “the corrosive
5 and distorting effects of immense aggregations of
6 wealth that are accumulated with the help of the
7 corporate form and that have little or no correlation
8 to the public’s support for the corporation’s political
9 ideas.”.

10 (19) In 2002, Congress enacted the Bipartisan
11 Campaign Reform Act of 2002, which banned polit-
12 ical parties from raising “soft money”, among other
13 things.

14 (20) Spending in presidential elections has risen
15 to excessive levels over the last decade, which threat-
16 ens not only our government, but the integrity of
17 our elections.

18 (21) In the 2000 presidential election, both can-
19 didates spent \$343.1 million combined. This number
20 climbed to \$717.9 million in the 2004 presidential
21 election.

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

1 (23) Following the Supreme Court’s decision in
2 the case of Citizens United v. FEC, there was a
3 massive increase in outside political spending, which
4 threatens to undermine the legitimacy of our polit-
5 ical system.

6 (24) In the 2010 elections, Super PACs spent
7 approximately \$90.4 million, of which \$60 million
8 was spent explicitly advocating for or against a can-
9 didate.

10 (25) Spending among Super PACs in 2010 was
11 concentrated at the top. Ten Super PACs accounted
12 for nearly 75 percent of all Super PAC spending in
13 2010. Additionally, American Crossroads spent
14 \$25.8 million in 2010 alone, accounting for 28.7
15 percent of Super PAC spending in 2010.

16 (26) According to the Wall Street Journal,
17 Super PACs have spent \$152,528,662 on the 2012
18 election to date.

19 (27) Super PACs spent \$8.93 million during
20 the week of June 18, 2012 alone.

21 (28) Super PACs are allowed to conceal the
22 source of their donations, thereby avoiding trans-
23 parency and greater public scrutiny of their actions
24 and motivations.

1 (29) Six and four-tenths percent of itemized
2 funds raised by Super PACs since 2010 were not
3 able to be traced to their original sources, which de-
4 creases accountability and transparency, threatens
5 public confidence in our elected officials and our
6 elections, and has a distorting effect on our elec-
7 tions.

8 (30) Corporations, now freed to spend as much
9 as they like to influence elections, contributed \$31
10 million to Super PACs from 2010–2011, thereby
11 helping give corporate interests a greater voice in
12 our political system than average Americans.

13 (31) A January 2012 poll by Rasmussen says
14 that 58 percent of Americans believe the United
15 States needs new campaign finance laws.

16 (32) A January 2012 poll by Democracy Corps
17 found that 55 percent of Americans oppose the Citi-
18 zens United decision. Eighty percent of voters also
19 believe there should be limits on the money spent in
20 campaigns.

21 (33) After considering these findings, Congress
22 is concerned by the unfairness of unlimited spending
23 in elections and is taking this action to protect our
24 democracy and our electoral system.

1 (34) Reinstating the ban on corporate political
2 expenditures and placing a limit on the amount of
3 donations to Super PACs will help restore faith and
4 trust in our democracy and will respond to calls by
5 the American people for vigorous campaign finance
6 reform and effective laws to protect our free demo-
7 cratic system of elections.

8 **SEC. 3. PROHIBITION OF CORPORATE AND LABOR DIS-**
9 **BURSEMENTS FOR ELECTIONEERING COM-**
10 **MUNICATIONS.**

11 (a) PROHIBITION.—

12 (1) IN GENERAL.—Section 316(b)(2) of the
13 Federal Election Campaign Act of 1971 (2 U.S.C.
14 441b(b)(2)) is amended by inserting “or for any ap-
15 plicable electioneering communication” before “, but
16 shall not include”.

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

20 “(c) RULES RELATING TO ELECTIONEERING COM-
21 MUNICATIONS.—

22 “(1) APPLICABLE ELECTIONEERING COMMUN-
23 ICATION.—For purposes of this section, the term
24 ‘applicable electioneering communication’ means an
25 electioneering communication (within the meaning of

1 section 304(f)(3)) which is made by any entity de-
2 scribed in subsection (a) of this section or by any
3 other person using funds donated by an entity de-
4 scribed in subsection (a) of this section.

5 “(2) EXCEPTION.—Notwithstanding paragraph
6 (1), the term ‘applicable electioneering communica-
7 tion’ does not include a communication by a section
8 501(c)(4) organization or a political organization (as
9 defined in section 527(e)(1) of the Internal Revenue
10 Code of 1986) made under section 304(f)(2)(E) or
11 (F) of this Act if the communication is paid for ex-
12 clusively by funds provided directly by individuals
13 who are United States citizens or nationals or law-
14 fully admitted for permanent residence (as defined
15 in section 101(a)(20) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1101(a)(20))). For purposes
17 of the preceding sentence, the term ‘provided di-
18 rectly by individuals’ does not include funds the
19 source of which is an entity described in subsection
20 (a) of this section.

21 “(3) SPECIAL OPERATING RULES.—

22 “(A) DEFINITION UNDER PARAGRAPH
23 (1).—An electioneering communication shall be
24 treated as made by an entity described in sub-
25 section (a) if an entity described in subsection

1 (a) directly or indirectly disburses any amount
2 for any of the costs of the communication.

3 “(B) EXCEPTION UNDER PARAGRAPH
4 (2).—A section 501(c)(4) organization that de-
5 rives amounts from business activities or re-
6 ceives funds from any entity described in sub-
7 section (a) shall be considered to have paid for
8 any communication out of such amounts unless
9 such organization paid for the communication
10 out of a segregated account to which only indi-
11 viduals can contribute, as described in section
12 304(f)(2)(E).

13 “(4) DEFINITIONS AND RULES.—For purposes
14 of this subsection—

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

17 “(i) an organization described in sec-
18 tion 501(c)(4) of the Internal Revenue
19 Code of 1986 and exempt from taxation
20 under section 501(a) of such Code; or

21 “(ii) an organization which has sub-
22 mitted an application to the Internal Rev-
23 enue Service for determination of its status
24 as an organization described in clause (i);
25 and

1 “(B) a person shall be treated as having
2 made a disbursement if the person has executed
3 a contract to make the disbursement.

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

10 “(6) SPECIAL RULES FOR TARGETED COMMU-
11 NICATIONS.—

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

16 “(B) TARGETED COMMUNICATION.—For
17 purposes of subparagraph (A), the term ‘tar-
18 geted communication’ means an electioneering
19 communication (as defined in section 304(f)(3))
20 that is distributed from a television or radio
21 broadcast station or provider of cable or sat-
22 ellite television service and, in the case of a
23 communication which refers to a candidate for
24 an office other than President or Vice Presi-
25 dent, is targeted to the relevant electorate.

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

5 (3) EFFECTIVE DATE.—The amendments made
6 by this subsection shall take effect immediately after
7 the enactment of subsection (b).

8 (b) CONFORMING AMENDMENT.—Sections 203 and
9 204 of the Bipartisan Campaign Reform Act of 2002
10 (Public Law 107–155) are repealed, and each provision
11 of law amended by such sections is restored as if such
12 sections had not been enacted into law.

13 **SEC. 4. PROHIBITION OF INDEPENDENT EXPENDITURES BY**
14 **CORPORATIONS AND LABOR ORGANIZA-**
15 **TIONS.**

16 Section 316(b)(2) of the Federal Election Campaign
17 Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking
18 “includes a contribution or expenditure,” and inserting
19 “includes a contribution or expenditure (including an inde-
20 pendent expenditure),”.

21 **SEC. 5. APPLICATION OF CONTRIBUTION LIMITS AND**
22 **SOURCE PROHIBITIONS TO CONTRIBUTIONS**
23 **MADE TO SUPER PACS.**

24 (a) APPLICATION OF LIMITS.—Section 315(a) of the
25 Federal Election Campaign Act of 1971 (2 U.S.C.

1 441a(a)) is amended by adding at the end the following
2 new paragraph:

3 “(9) For purposes of the limitations imposed by para-
4 graphs (1)(C), (2)(C), and (3)(B) on the amount of con-
5 tributions which may be made by any person to a political
6 committee, a contribution made to a political committee
7 which accepts donations or contributions that do not com-
8 ply with the contribution or source prohibitions under this
9 Act (or made to any account of a political committee which
10 is established for the purpose of accepting such donations
11 or contributions) shall be treated in the same manner as
12 a contribution made to any other political committee to
13 which such paragraphs apply.”.

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

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