



VOTER

League of Women Voters of Coos County
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MONEY IN POLITICS

Our first LWV general meeting of the new year will be on Money in Politics, a LWVUS study.

Alice Carlson and Carol Sanders will co-lead the discussion on Saturday, January 23, from 10:30 a.m. to 12 noon.

We will meet at the Education Service District (ESD) building at 1350 Teakwood in Coos Bay. Park in the back of building and enter through lower level.

Here's an excerpt from the attached document "Money in Politics: Introduction and Overview" to pique your interest:

"For almost 40 years, the Supreme Court's approach and the League's approach intersected in one important aspect. Over that time, the Court recognized the risk that campaign contributions are corrupting or appear corrupting, especially if those contributions are very large or come from the general funds of corporations or unions. Historically, the League has been able to argue successfully through litigation and through legislative action that contribution limits and the exclusion of corporations from participating directly in the political process should be upheld. The position has also allowed us to support enforcement mechanisms and other reforms.

That changed with the *Citizens United v. Federal Election Commission* decision. The Court drastically extended its views on free speech to allow unlimited independent spending in candidate elections by corporations and unions and entirely

discounted any danger from any undue influence other than *quid pro quo* ("something for something") corruption. That radically transformed the election landscape."

There are more than 2 dozen papers on the following LWVUS website.

<http://forum.lwv.org/category/member-resources/our-work/money-politics-review>

Also attached to this newsletter: "MIP Review and Update: Background" and "MIP Consensus Questions."

Please read the attachments and other papers on the LWVUS website before coming to the January 23 meeting. This will be a fascinating discussion. Hope to see you then.

Annual Holiday Potluck/Auction



League members and guests had a great time at Frances and Joe Smith's home on December 12. We enjoyed delicious food and interesting conversation while bidding on auction items. We raised \$483 for our voter service activities.

The League of Women Voters, a nonpartisan political organization, encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. Open to men and women of voting age, it neither supports nor opposes political parties or candidates.

MONEY IN POLITICS: INTRODUCTION AND OVERVIEW

LWV Update on Campaign Finance Position

For the 2014-2016 biennium, the LWVUS Board recommended and the June 2014 LWVUS Convention adopted a multi-part program including, “A review and update of the League position on campaign finance in light of forty years of changes since the Watergate reforms, in order to enhance member understanding of the new schemes and structures used to influence elections and erode protections against corruption in our political process, and to review possible responses to counter them in the current environment.”

After Convention 2014, we worked diligently to develop solid operational details for the committee. Our efforts led us to conclude that a gap exists in the LWV campaign finance position with regard to the First Amendment.

Adopted in 1974, the League’s campaign finance position focuses only on the financing of election campaigns as it relates to the democratic process, i.e., opportunities for undue influence, opportunities to ensure equity among candidates, protection of the public right to know and to fully participate. In 1976, the United States Supreme Court approached the question of financing of election campaigns from the point of view of what the money actually funds and the interests of donors, candidates and independent spenders in preserving their ability to express political views through the activities being financed.

The activities that the U.S. Supreme Court focused on largely involve free speech. Election campaigns develop messages for publication, from speeches and debates to paid advertising in various media. Money is required to coordinate the messaging and pay for the advertising. Under the Court’s approach, a system of campaign finance protects the rights of the individual candidate to disseminate her message as well as the rights of her donors to express their own views through her message -- and also protects the rights of other political actors who may wish to make election expenditures independent of the candidates or to advocate in support or opposition to particular public policy issues. To the Court, this campaign speech (as opposed to campaign finance) is central to American democracy and is what the First Amendment was designed to protect.

The League position, with its more collective approach, does not answer the question of whether all or some political activity constitutes free speech protected under the First Amendment. Because it does not address that question, the position does not balance the First Amendment interests of candidates, donors, independent spenders, and issue advocates against the interest in equitable competition among candidates for office, preventing undue influence, and enhancing voter participation.

For almost 40 years, the Supreme Court's approach and the League's approach intersected in one important aspect. Over that time, the Court recognized the risk that campaign contributions are corrupting or appear corrupting, especially if those contributions are very large or come from the general funds of corporations or unions. Historically, the League has been able to argue successfully through litigation and through legislative action that contribution limits and the exclusion of corporations from participating directly in the political process should be upheld. The position has also allowed us to support enforcement mechanisms and other reforms. That changed with the *Citizens United v. Federal Election Commission* decision. The Court drastically extended its views on free speech to allow unlimited independent spending in candidate elections by corporations and unions and entirely discounted any danger from any undue influence other than *quid pro quo* ("something for something") corruption. That radically transformed the election landscape.

Proposed constitutional amendments in response to *Citizens United* and subsequent cases have focused on reversing the Court's rulings that corporations have full political speech rights and that funding a political campaign is protected speech, and give Congress and the states the authority to regulate "the raising and spending of money by candidates and others to influence elections," which the Court has deemed protected speech.

The League is pursuing a strategic, multi-dimensional approach at the federal and state levels to overcome or limit the Court's decision in *Citizens United*. To date, the League has not supported or opposed particular legislation to amend the Constitution. Even putting aside the considerable practical barriers to ratifying an amendment as well as unintended consequences of the various proposed amendments, we believe that our current campaign finance position does not address First Amendment considerations.

To update the League position on campaign finance to include the First Amendment requires member understanding and agreement on these issues. The Money in Politics Committee has thus been tasked with undertaking member study and consensus, in addition to educating members and the public broadly about money in politics issues.

The League's Position

Statement of Position on Campaign Finance, as Announced by National Board, January 1974 and Revised March 1982:

The League of Women Voters of the United States believes that the methods of financing political campaigns should ensure the public's right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office and allow maximum citizen participation in the political process. *This position is applicable to all federal campaigns for public office — presidential and congressional, primaries as well as general elections. It also may be applied to state and local campaigns.*

The League's position on Campaign Finance reflects continuing concern for open and honest elections and for maximum citizen participation in the political process. The League's campaign finance reform strategy has two tracks: 1) achieve incremental reforms where possible in the

short term, and 2) build support for public financing as the best long-term solution.

To varying degrees, current law reflects some League goals: full and timely disclosure of campaign contributions and expenditures; one central committee to coordinate, control and report financial transactions for each candidate, party or other committee; an independent body to monitor and enforce the law; and the encouragement of broad-based contributions from citizens.

LWV Action on Money in Politics

Year in and year out since 1974, the League has fought for comprehensive campaign finance reform to address the abuses in the existing system, supporting bills that curbed special-interest contributions and provided public financing for candidates who accepted voluntary spending limits. The League has called for limits to PAC and large contributor donations, for closing the soft-money loophole. It also strongly supports a strong and effective Federal Election Commission.

The League continues to look for ways to limit the size and type of contributions from all sources as a means of combating undue influence in the election process. League action on this issue is built on a careful assessment of all proposed changes in campaign finance law. The League continues to assess proposals that allow challenger and incumbent candidates to compete more equitably. The League favors shortening the time period between primaries and general elections.

The League continues its support for comprehensive reform through multiple channels: lobbying, testimony, grassroots action, and work with the media. Members push for voluntary spending limits; public benefits, such as reduced-cost broadcasting and postal services, for participating candidates; aggregate limits on the total amounts candidates could receive in PAC and large individual contributions; and closing the loopholes that allow huge amounts of special-interest money to influence the system.

The League has also worked at the state level, which has contributed to real progress. Public financing, the "Clean Money Option," has been adopted in several states, including Connecticut, Arizona, and Maine; other state reform efforts have made progress in Massachusetts and Vermont. Reform measures were on the 2000 ballot in Missouri and Oregon but fell short.

The League expended incredible effort in the five-year campaign for the McCain-Feingold-Shays-Meehan bill, which reached fruition when President Bush signed the legislation into law. The bill, known as the *Bipartisan Campaign Reform Act (BCRA)*, closed the most significant loopholes in campaign finance regulation – the "soft money" loophole that allowed unlimited corporate, union, and individual contributions, and the "sham" issue ad loophole that allowed undisclosed contributions to campaign advertising advocating particular candidates. The League was instrumental in developing this approach and pushing it – at the grassroots and in Congress – to final enactment.

In more recent Congresses, the League has lobbied actively for the passage of the “Disclose Act” which would close the disclosure loopholes that are allowing outside groups to make secret contributions in federal elections

The League has also used litigation strategies to advance and protect campaign finance reform by filing *amicus curiae* briefs, which are documents supporting one side or another in a court case without actually being party to the case, or joining in those of others. The League filed *amicus* briefs in both the *Citizens United v. FEC* and *McCutcheon v. FEC* cases in support of minority views on the Court.

Of course, litigation has recently overturned significant aspects of what has been achieved over the years with the *Citizens United v. FEC* case. The impact of *Citizens United* has dramatically changed the political landscape, and the League’s current work is directed towards finding feasible ways to correct the massive problems created by the decision. Further inroads were made by the *McCutcheon v. FEC* decision.¹

Why Money in Politics Matters to the League of Women Voters

Money in politics matters because the goal of campaigning is to convince voters, either for or against a candidate or issue. Thus, campaigning is ultimately about communication. In our modern age, this includes speech and money. It is very important that one continually keeps combining campaign, communication, free speech, and money in their thinking.

Purpose of a Campaign Finance System

A campaign finance system is intended to control and limit the money spent on election campaigns. Why do that? The first reason is to protect the right of voters to know who is spending money to influence their vote. The second reason is to prevent corruption. The only corruption that the current U.S. Supreme Court acknowledges is *quid pro quo* which, in the context of political campaign finance, refers to an explicit agreement by a candidate or elected official to perform a specific act in exchange for something of value. But reformers believe that money in politics should be controlled because it may allow undue access or influence. Third, reformers want to control money out of a belief that unlimited spending gives an unfair advantage to candidates and spenders. Finally, there is a concern that the rise in spending corrupts representative government by downplaying the role of the voters and allowing for unfair competition, possibly leading to lower voter turnout

Conclusion

Whatever else it may or may not have done, the United States Supreme Court’s decisions in the 2010 *Citizens United v. Federal Election Commission* and 2014 *McCutcheon, et al. v. FEC* cases

galvanized the campaign finance reform movement. Any education and discussion of these issues must attempt to be comprehensive, which means complex. The task of the Money in Politics Committee is to make the issues understandable to the members of LWV and all citizens. Work done by the 2012-2014 LWVUS Campaign Finance Task Force and LWV of Massachusetts Campaign Finance Study Committee (presented at the LWVUS Convention in June 2014) contributed immensely to this project.

¹ For a more complete and detailed history of the League's activities in the area of campaign finance reform, consult "Representative Government" in *Impact on Issues*. Access at <http://lww.org/content/impact-issues>.

LWVUS MONEY IN POLITICS (MIP) REVIEW AND UPDATE: BACKGROUND

As adopted by delegates to the 2014 LWVUS Convention, Leagues from across the nation are engaging in a review and update of the national LWV position on campaign finance to consider First Amendment-political speech issues. The LWVEF Board tasked the Money In Politics Review and Update Committee to:

- Conduct an update of the League's position on campaign finance.
- Evaluate the extent to which political campaigns are protected speech under the First Amendment.

This scope of work requires member understanding and agreement about these issues. The Money in Politics Committee is providing members and the public with information and facilitating member study and consensus.

In Fall 2014, LWVUS set this timetable for the MIP Review and Update:

- Spring to Summer 2015: Education materials are posted periodically on the League Management website. Leagues can use these materials for member and community meetings;
- Fall 2015: A study guide and consensus questions will be posted for the Money in Politics Review and Update. Leagues will hold consensus meetings to obtain member agreement on the consensus questions;
- February 1, 2016: Consensus reports (electronic) from Leagues due to LWVUS; and
- April 2016 national LWV Board meeting: Consensus reports and resulting position(s), if any, will be approved.

The LWVUS MIP Committee formed in Fall 2014. Our all-volunteer Committee includes eight League leaders from across the U.S. and national board members, with support from national staff. The Committee is providing ready-to-use resources and strategies to help understand the campaign finance system. These materials, which we call "Meetings-in-a-Box," are available on our webpage (<http://forum.lwv.org/category/member-resources/our-work/money-politics-review>) for Leagues to use for member and community events. They are intended to engage members and the general citizenry on MIP issues as they are evidenced nationally and in states and communities. In addition, they will help prepare members for the LWVUS update of its campaign finance position. Resources include a PowerPoint presentation with script, outside readings and issue papers prepared by the MIP Committee.

So, why is the League updating the position on campaign finance? Our current position dates back to the 1970s and predates Supreme Court decisions that changed campaign finance law significantly. The MIP Review and Update will address a gap in our current position. It aims to get League member understanding and agreement as to the extent to which our organization believes that financing a political campaign is speech protected by the First Amendment. Leagues are being asked to consider through the consensus process: the rights of individuals and organizations to express their political views through the financing of political campaign activities; and how those rights, if any, should be protected and reconciled with the interests set out in the current LWV position.

The current League position takes a collective approach to financing political campaigns. It focuses on achieving political equality in areas of combating corruption and undue influence, ensuring equitable competition, and protecting the rights of citizens to know and to fully participate. This position has enabled the League to advocate strongly for transparency in campaign finance and against big money and its influence on elections and government.

But there are still questions to consider and this is why we are studying the issue: What about the First Amendment interests of candidates and donors particularly as compared with equitable competition; preventing corruption and undue influence; enhancing voter participation? These are questions that the position update is considering.

The First Amendment has been at the center of the campaign finance debate since the 1970s. A key provision says, "Congress shall make no law...abridging the freedom of speech, or of the press..."

Before the 1970s, the Supreme Court rarely heard cases on campaign finance regulation. But the issue of money in politics has a long history in the U.S. The 1907 Tillman Act banned contributions from national banks and corporations, in response to corruption in the Gilded Age. The 1947 Taft Hartley Act extended the ban to labor unions. The 1971 Federal Election Campaign Act and its 1974 amendments put further restrictions on campaign contributions and spending, expanded disclosure, and created the Federal Election Commission to oversee compliance. The 2002 Bipartisan Campaign Reform Act (McCain-Feingold) tried to remedy the explosion of soft money we saw in the 1980s and 1990s.

The activities that the Court focused on largely involve free speech. Election campaigns develop messages for publication, from speeches and debates to paid advertising in various media. Money is required to coordinate the messaging and pay for the advertising. Under the Court's approach, a system of campaign finance protects the rights of a candidate to disseminate her message as well as the rights of her donors to express their own views through her message -- It also protects the rights of other political actors who may wish to make election expenditures independent of the candidates or to advocate in support or opposition to particular public policy issues. To the Court, this campaign speech (as opposed to campaign finance) is central to American democracy and is what the First Amendment was designed to protect.

Whatever else it may or may not have done, the Supreme Court's decisions in the 2010 *Citizens United v. Federal Election Commission* and 2014 *McCutcheon, et al. v. FEC* cases galvanized the campaign finance reform movement. Any education and discussion of these issues must attempt to be comprehensive, which means complex. The task of the Money in Politics Committee is to make the issues understandable to the members of LWV and all citizens.

MONEY IN POLITICS CONSENSUS QUESTIONS

This update on Money In Politics builds on the League's current position on campaign finance. The consensus questions in Part I address the goals of campaign finance regulation in terms of democratic values. The questions in Part II relate to the extent to which First Amendment protections like free speech and freedom of the press should apply to various speakers and activities in the campaign finance context. Part III asks about methods of campaign finance regulation. **You are asked to respond to the questions without regard for the Supreme Court's current views on the First Amendment.** In responding to each question, please interpret the words in their most general sense. Keep in mind that the LWV intentionally words positions that are derived from member study in the broadest possible way so that our positions have relevance for many years. Future national Boards will determine when and how to apply our positions.

An optional comment section is included at the end of each of the three parts. Please note that while comments will be read and considered, only responses to questions can be tabulated.

PART I QUESTIONS: Democratic Values and Interests with Respect to Financing Political Campaigns

1. What should be the goals and purposes of campaign finance regulation? *(Please respond to each item in Question 1.)*

a. Seek political equality for all citizens.

Agree Disagree No consensus

b. Protect representative democracy from being distorted by big spending in election campaigns.

Agree Disagree No consensus

c. Enable candidates to compete equitably for public office.

Agree Disagree No consensus

d. Ensure that candidates have sufficient funds to communicate their messages to the public.

Agree Disagree No consensus

e. Ensure that economic and corporate interests are part of election dialogue.

Agree Disagree No consensus

f. Provide voters sufficient information about candidates and campaign issues to make informed choices.

Agree Disagree No consensus

g. Ensure the public's right to know who is using money to influence elections.

Agree Disagree No consensus

h. Combat corruption and undue influence in government.

Agree Disagree No consensus

2. Evaluate whether the following activities are types of political corruption: *(Please respond to each item in Question 2.)*

a. A candidate or officeholder agrees to vote or work in favor of a donor's interests in exchange for a campaign contribution.

Agree Disagree No consensus

b. An officeholder or her/his staff gives greater access to donors.

Agree Disagree No consensus

c. An officeholder votes or works to support policies that reflect the preferences of individuals or organizations in order to attract contributions from them.

Agree Disagree No consensus

d. An office holder seeks political contributions implying that there will be retribution unless a donation is given.

Agree Disagree No consensus

e. The results of the political process consistently favor the interests of significant campaign contributors.

Agree Disagree No consensus

OPTIONAL COMMENTS (250 word limit):

PART II QUESTIONS: First Amendment Protections for Speakers and Activities in Political Campaigns

This set of questions is designed to determine the extent to which the First Amendment protections of free speech and freedom of the press should apply to different speakers or activities in the regulation of campaign finance. Free speech and free press provide

essentially the same protections to speakers, writers, publishers and advertising, whether or not they are part of the institutional press, and largely regardless of the medium. Essentially, these protections extend to any conduct that is expressive. Many of the options below would be found unconstitutional by the current Supreme Court, but we are seeking your League's views, not those of the Court. These are broad, overarching questions about spending to influence an election, including independent spending, contributions to candidates, broadcast news and other communication expenditures.

1. Many different individuals and organizations use a variety of methods to communicate their views to voters in candidate elections. Should spending to influence an election by any of the following be limited? (Please respond to each item in Question 1.)

a. Individual citizens, including wealthy individuals like George Soros and the Koch Brothers.

Spending banned Some spending limits Unlimited spending No consensus

b. Political Action Committees, sponsored by an organization, such as the League of Conservation Voters, Chevron, the American Bankers Association, and the International Brotherhood of Electrical Workers (IBEW), whose campaign spending comes from contributions by individuals associated with the sponsoring organization, such as employees, stockholders, members and volunteers.

Spending banned Some spending limits Unlimited spending No consensus

c. For-profit organizations, like Exxon, Ben and Jerry's, General Motors, and Starbucks, from their corporate treasury funds.

Spending banned Some spending limits Unlimited spending No consensus

d. Trade associations, like the U.S. Chamber of Commerce, the American Wind Energy Association, and the American Petroleum Institute, from the association's general treasury funds.

Spending banned Some spending limits Unlimited spending No consensus

e. Labor unions, like the United Autoworkers and Service Employees International, from the union's general treasury funds.

Spending banned Some spending limits Unlimited spending No consensus

f. Non-profit organizations, like the Sierra Club, Wisconsin Right to Life, Coalition to Stop Gun Violence, American Crossroads, and Priorities USA, from the organization's general treasury funds.

Spending banned Some spending limits Unlimited spending No consensus

g. Non-partisan voter registration and GOTV (get out the vote) organizations and activities, like the LWV and Nonprofit Vote.

Spending banned Some spending limits Unlimited spending No consensus

h. Political parties, like the Republicans, Libertarians, and Democrats.

Spending banned Some spending limits Unlimited spending No consensus

i. Candidates for public office spending money the candidate has raised from contributors.

Spending banned Some spending limits Unlimited spending No consensus

j. Candidates for public office spending their own money.

Spending banned Some spending limits Unlimited spending No consensus

2. The press plays a major role in candidate elections through editorial endorsements, news coverage, and other communications directly to the public that are often important to the outcome. Should such spending to influence an election by any of the following be limited? (Please respond to each item in Question 2.)

a. Newspapers, like the New York Times and the Wall Street Journal.

Spending banned Some spending limits Unlimited spending No consensus

b. Television and other electronic media, like Fox News, CNN, MSNBC and CBS.

Spending banned Some spending limits Unlimited spending No consensus

c. Internet communications, like Huffington Post, Breitbart, Daily Kos, and individual bloggers.

Spending banned Some spending limits Unlimited spending No consensus

OPTIONAL COMMENTS (250 word limit):

PART III QUESTIONS: Methods for Regulating Campaign Finance to Protect the Democratic Process

1. In order to achieve the goals for campaign finance regulation, should the League support? *(Please respond to each item in Question 1 a and b.)*

a. Abolishing SuperPACs and spending coordinated or directed by candidates, other than a candidate's own single campaign committee.

Agree Disagree No consensus

b. Restrictions on direct donations and bundling by lobbyists? (Restrictions may include monetary limits as well as other regulations.)

Agree Disagree No consensus

c. Public funding for candidates? Should the League support: *(You may respond to more than one item in Question c.)*

i. Voluntary public financing of elections where candidates who choose to participate must also abide by reasonable spending limits?

Agree Disagree No consensus

ii. Mandatory public financing of elections where candidates must participate and abide by reasonable spending limits?

Agree Disagree No consensus

iii. Public financing without spending limits on candidates?

Agree Disagree No consensus

2. How should campaign finance regulations be administered and enforced? *(You may choose more than one response for Question 2.)*

a. By an even-numbered commission with equal representation by the two major political parties to ensure partisan fairness (current Federal Election Commission [FEC] structure)?

b. By an odd-numbered commission with at least one independent or nonpartisan commissioner to ensure decisions can be made in case of partisan deadlock?

c. By structural and budget changes to the FEC (e.g., commission appointments, staffing, security, budget, decision making process) that would allow the agency to function effectively and meet its legislative and regulatory mandates.

d. No consensus.