



Enabling Shareholders To Object To Corporate Campaign Contributions

As a result of the United States Supreme Court decision in *Citizens United*, business corporations, including publicly held corporations, have the right to spend unlimited amounts of money influencing elections.

When you purchase mutual funds or individual stocks, you become an owner (or shareholder) of the corporation. Yet that corporation is allowed to spend money on political campaigns and does not even have to tell you in advance what campaigns and issues they are going to finance, does not have to gain your permission via a vote and does not have to directly report to you any details of those expenditures in any quarterly or annual report.

What this means is that the business corporation you have invested in may be supporting political candidates or issues with which you disagree.

Furthermore, you may not want the corporate revenues to fund any political activity. Any money that is spent on political speech, whether for candidates or issues, reduces the amount you receive as dividends and will reduce the value of the stock.

Labor unions have to disclose political campaign expenditures.

Labor unions have stringent reporting requirements when they spend directly or indirectly on federal, state and local political campaigns, including filing form LM-2 with the Department of Labor. Similar reporting should be required of business corporations.



Photo by Neila Seaman

The solution

When Justice Anthony Kennedy wrote his opinion in the *Citizens United* decision, he took the position that corporations are just “associations of citizens.” Kennedy wrote that if shareholders object to political expenditures, they should be able to use “the procedures of corporate democracy” to correct the situation. Kennedy wrote, “With the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation’s political speech advances the corporation’s interest in making profits, and citizens can see whether elected officials are ‘in the pocket’ of so-called moneyed interests.”

Taking Justice Kennedy’s suggestion, states can require reporting for corporate political expenditures in their state. The solution is legislation that:

- Requires that shareholders approve of campaign expenditures before the money is spent
- Requires reporting of all political expenditures on-line within 48 hours of the expenditure
- Requires the corporation to notify shareholders via e-mail of the expenditure if the shareholder has requested notification
- Requires an annual report of political expenditures
- The reporting would include the amount, recipient, date and purpose of the expenditure

The following proposed legislation would implement the ideas Justice Kennedy predicted.¹

EXPLANATION

This bill protects the rights of corporate shareholders by requiring shareholder authorization of political expenditures by corporations. This bill requires corporations to provide to shareholders with statements and notices relating to political expenditures. It includes penalty provisions for non-compliant corporations. The bill prohibits a corporation from using any money or other property of the corporation in connection with a political expenditure, as defined in the bill, unless the stockholders have authorized in advance the amount of money or property to be used and have directed that the money or property be used for specified purposes. The bill also requires notices and reporting about corporate political expenditures and authorizes the attorney general to bring a civil action to obtain specified remedies for a violation of the law.

Proposed Legislation

An Act requiring shareholder authorization of political expenditures by corporations, requiring related shareholder statements and notices, and including penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. **490.1620A Political expenditure approval — statements for shareholders.**

1. As used in this section, “*political expenditure*” means a contribution, gift, transfer, disbursement, or promise of money or a thing of value to promote or assist in the promotion of the success or defeat of a candidate, political party, or ballot issue in any state or federal election.

2. A corporation shall not use any money or other property of the corporation in connection with a political expenditure unless the shareholders of the corporation, by the affirmative vote of a majority of all votes entitled to be cast, do all of the following:

a. Authorize in advance the total amount of money or property that may be used for all political expenditures during a specified fiscal year of the corporation.

b. Direct that the money or property be contributed to any of the following:

(1) A specified candidate or specified candidates.

(2) Candidates of a specified political party or parties.

(3) A specified political party or specified political parties.

(4) A specified committee or specified committees.

(5) A specified entity or specified entities exempt from taxation under section 501(c)(4) or (6) of the Internal Revenue Code.

(6) A specified ballot issue or specified ballot issues.

3. Shareholder consideration of political expenditures shall occur at an annual or special meeting of the shareholders.

4. a. Within forty-eight hours after making a political expenditure, the corporation shall:

(1) Give notice of the political expenditure by electronic transmission to each shareholder that has requested notice.

(2) If the corporation maintains an internet site, they shall post notice of the political expenditure.

b. A notice provided pursuant to this subsection shall state the amount, recipient, date, and purpose of the political expenditure.

5. The corporation shall prepare and make available to its shareholders an annual political expenditure statement. The annual political expenditure statement shall list all political expenditures made by the corporation during the prior year, including the amount, recipient, date, and purpose of each political expenditure.

6. Whenever it appears to the attorney general that any person has engaged in any act or practice constituting a violation of any provision of this section, the attorney general may bring an action to obtain any one or more of the following remedies:

a. A temporary restraining order.

b. A temporary or permanent injunction.

c. A civil penalty not exceeding either of the following:

(1) For a violation of subsection 2, three times the amount of the political expenditure made.

(2) Five thousand dollars for any other violation of this section.

d. A declaratory judgment.

e. Rescission.

f. Restitution.

g. Any other appropriate relief.

Sec. 2. EFFECTIVE DATE. This Act takes effect October 1, 20__.

¹ This was introduced as Senate Study Bill 1214 in the Iowa Senate in 2015.