

# Summary of Constitutional Amendment proposals in Congress related to overturning the Citizens United v. FEC decision by the U.S. Supreme Court

*As of Jan. 28, 2012*

## **In the U.S. House:**

### **H.J.Res.6** - By Rep. Marcy Kaptur (D-OH)

[http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+6:](http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+6)

This proposed amendment says that the Constitution's First Amendment does not apply to businesses when campaign expenditures are involved. It also allows Congress and the states to limit campaign donations and expenditures, as well as independent expenditures, for federal and state elections, respectively.

#### **Article--**

Section 1. The first article of amendment does not apply to the political speech of any corporation, partnership, business trust, association, or other business organization with respect to the making of contributions, expenditures, or other disbursements of funds in connection with public elections.

Section 2. Congress shall have power to set limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, Federal office.

Section 3. A State shall have power to set limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, State or local office.

Section 4. Congress shall have power to implement and enforce this article by appropriate legislation.

### **H.J.Res.7** - By Rep. Marcy Kaptur (D-OH)

[http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+7:](http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+7)

This proposed amendment is a stand-alone first part of H.J.Res.6, limiting First Amendment "rights" for businesses with regard to campaign expenditures.

### **H.J.Res.8** - By Rep. Marcy Kaptur (D-OH)

[http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+8:](http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+8)

This proposed amendment is a stand-alone second portion of H.J.Res.6. It would authorize Congress and the states to limit campaign donations and expenditures, as well as independent expenditures, for federal and state elections, respectively.

### **H.J.Res.65** - by Rep. Dan Boren (D-OK)

[http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+65:](http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+65)

This proposed amendment would prohibit candidates from accepting donations from anyone who doesn't live in the district or state the candidate wants to represent. It says nothing about limited contributions from businesses, however.

#### **Article--**

Section 1. A candidate for election for the office of Senator may not accept contributions, including funds and in-kind equivalents, from individuals who do not reside in the State the candidate seeks to represent.

Section 2. A candidate for election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not accept contributions, including funds and in-kind equivalents, from individuals who do not reside in the Congressional district the candidate seeks to represent.

Section 3. Congress shall have power to implement and enforce this article by appropriate legislation.

**H.J.Res.72** - by Kurt Schrader (D-OR)

[http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+72:](http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+72)

This proposed amendment would give Congress full power to regulate and limit donations, expenditures and independent expenditures for federal elections, and authorize states to do the same for state elections. The only limit to this power is that any action Congress takes must apply "equally and uniformly" to all individuals or "associations."

**Article--**

Section 1. The Congress shall have power to prohibit, limit, and otherwise regulate the contribution of funds or donation of in-kind equivalents to candidates standing for election to a Federal office in the United States and to prohibit, limit, and otherwise regulate the expenditure of funds or donation of in-kind equivalents used to support or purchase media advertisements intended to influence the outcome of an election for Federal office in the United States.

Whenever Congress should exercise such power, it must apply equally and uniformly to all individual persons recognized as citizens of the United States.

Whenever Congress should exercise such power on associations of citizens of the United States, it must apply equally and uniformly to all associations of citizens of the United States.

Section 2. Each of the several States shall have power to prohibit, limit, and otherwise regulate the contribution of funds or donation of in-kind equivalents to candidates standing for election to public office in the State and to prohibit, limit, and otherwise regulate expenditure of funds or donation of in-kind equivalents used to support or purchase media advertisements intended to influence the outcome of an election for public office or plebiscite in the State.

Whenever a State should exercise such power, it must apply equally and uniformly to all individual persons recognized as citizens of the State.

Whenever a State should exercise such power on associations of citizens of the State, it must apply equally and uniformly to all associations of citizens of the State.

Section 3. A person who is not a citizen of the United States, including an association of persons who are not citizens of the United States, a foreign government, or any person acting as an agent thereof, may not contribute funds or donate in-kind equivalents to candidates standing for election to public office in the United States or otherwise expend funds or donate in-kind equivalents in a manner intended to influence the outcome an election for public office or plebiscite in the United States.

Section 4. Congress shall have the power to enforce this article by appropriate legislation.

**H.J.Res.78** - by Rep. Donna Edwards (D-MD)

[http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+78:](http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+78)

24 cosponsors (as of 11-22-11), including Jim McDermott (D-WA 7th), who added his name Nov. 16th.

This proposed amendment would authorize Congress and the states to put "content-neutral" limits on political spending by corporations.

**Article--**

Section 1. Nothing in this Constitution shall prohibit Congress and the States from imposing content-neutral regulations and restrictions on the expenditure of funds for political activity by any corporation, limited liability company, or other corporate entity, including but not limited to contributions in support of, or in opposition to, a candidate for public office.

Section 2. Nothing contained in this Article shall be construed to abridge the freedom of the press.

**H.J.Res.82** - by Rep. Ted Deutch (D-FL)

[http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+82:](http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+82)

This proposed amendment would allow Congress and the states to regulate any corporate spending "in connection with" elections for federal and state offices, respectively.

It is similar to several other proposals, but with simpler language -- possibly oversimplified. H.J.Res.82 has something heretofore unseen -- a clause ensuring continued freedom of the press. That is important, so that news services would be allowed to spend money to cover campaigns and elections.

**Article--**

Section 1. Congress shall have the power to regulate any expenditure by a corporation in connection with an election for Federal office.

Section 2. Each of the several States shall have the power to regulate any expenditure by a corporation in connection with an election for State or local public office or a plebiscite in the State.

Section 3. Nothing contained in this Article shall be construed to abridge the freedom of the press.

**H.J.Res.86** - by Rep. Betty Sutton (D-OH).

[http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+86:](http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+86)

***Companion Senate bill -- S.J.Res.29***

Seven co-sponsors (as of 11-22-11), including Rep. Jim McDermott (D-WA 7th).

This proposed amendment would authorize Congress and state legislatures the right to limit campaign contributions and spending, including independent expenditures, for federal and state elections, respectively.

**Article--**

Section 1. Congress shall have power to regulate the raising and spending of money and in kind equivalents with respect to Federal elections, including through setting limits on--

- (1) the amount of contributions to candidates for nomination for election to, or for election to, Federal office; and
- (2) the amount of expenditures that may be made by, in support of, or in opposition to such candidates.

Section 2. A State shall have power to regulate the raising and spending of money and in kind equivalents with respect to State elections, including through setting limits on--

- (1) the amount of contributions to candidates for nomination for election to, or for election to, State office; and
- (2) the amount of expenditures that may be made by, in support of, or in opposition to such candidates.

Section 3. Congress shall have power to implement and enforce this article by appropriate legislation.

**H.J.Res.88** - by Rep. Jim McGovern (D-MA)

<http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+88>:

This proposed amendment would limit the rights enumerated in the Constitution to natural persons, and specifically not to corporations or other business entities.

**Article--**

Section 1. We the people who ordain and establish this Constitution intend the rights protected by this Constitution to be the rights of natural persons.

Section 2. The words people, person, or citizen as used in this Constitution do not include corporations, limited liability companies or other corporate entities established by the laws of any State, the United States, or any foreign state, and such corporate entities are subject to such regulation as the people, through their elected State and Federal representatives, deem reasonable and are otherwise consistent with the powers of Congress and the States under this Constitution.

Section 3. Nothing contained herein shall be construed to limit the people's rights of freedom of speech, freedom of the press, free exercise of religion, freedom of association and all such other rights of the people, which rights are inalienable.

**H.J.Res.90** - by Rep. Ted Deutch (D-FL)

<http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+RES.+90>:

37 co-sponsors (as of Jan. 28th) including Rick Larsen (D-WA2) and Jim McDermott (D-WA7)

This proposed amendment makes clear that corporations and other businesses are not protected by the rights enumerated in the Constitution, but may be regulated to the fullest extent allowed Congress and the states. It prohibits corporate expenditures for any election, whether for a candidate or a referendum. Finally, it allows Congress to limit campaign fund raising and spending, effectively overturning the Supreme Court decision in 1976, *Buckley v. Valeo*. Of all the proposals so far, it is perhaps the most sweeping.

Neither H.J.Res.82, nor H.J.Res.90 have any cosponsors as of 11-18-11.

**Article--**

Section 1. The rights protected by the Constitution of the United States are the rights of natural persons and do not extend to for-profit corporations, limited liability companies, or other private entities established for business purposes or to promote business interests under the laws of any state, the United States, or any foreign state.

Section 2. Such corporate and other private entities established under law are subject to regulation by the people through the legislative process so long as such regulations are consistent with the powers of

Congress and the States and do not limit the freedom of the press.

Section 3. Such corporate and other private entities shall be prohibited from making contributions or expenditures in any election of any candidate for public office or the vote upon any ballot measure submitted to the people.

Section 4. Congress and the States shall have the power to regulate and set limits on all election contributions and expenditures, including a candidate's own spending, and to authorize the establishment of political committees to receive, spend, and publicly disclose the sources of those contributions and expenditures.

**H.J.Res.100** - by Rep. Dennis Kucinich (D-OH)  
[http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+Res.+100:](http://thomas.loc.gov/cgi-bin/query/z?c112:H.J.+Res.+100)

**Article--**

Section 1. All campaigns for President and Members of the United States House of Representatives and the United States Senate shall be financed entirely with public funds. No contributions shall be permitted to any candidate for Federal office from any other source, including the candidate.

Section 2. No expenditures shall be permitted in support of any candidate for Federal office, or in opposition to any candidate for Federal office, from any other source, including the candidate. Nothing in this Section shall be construed to abridge the freedom of the press.

Section 3. The Congress shall, by statute, provide limitations on the amounts and timing of the expenditures of such public funds.

Section 4. The Congress shall, by statute, provide criminal penalties for any violation of this Article.

Section 5. The Congress shall have the power to implement and enforce this article by appropriate legislation.

**In the U.S. Senate:**

**S.J.Res. 29** - proposed by Sen. Tom Udall (D-NM).  
[http://thomas.loc.gov/cgi-bin/query/z?c112:S.J.+RES.+29:](http://thomas.loc.gov/cgi-bin/query/z?c112:S.J.+RES.+29)  
***Companion House bill -- H.J.Res.86***

S.J.Res.29 has 16 Senate cosponsors as of 11-23-11 - though not yet Sens. Cantwell or Murray.

This proposed amendment would authorize Congress and state legislatures the right to limit campaign contributions and spending, including independent expenditures, for federal and state elections, respectively.

Because it is modest in scope, it may be the bill most likely to move forward at all. It doesn't accomplish everything advocates might prefer, but it would authorize Congress to overturn the *Citizens United* ruling, and may achieve the most cosponsor support among the various proposals.

**Article--**

Section 1. Congress shall have power to regulate the raising and spending of money and in kind equivalents with respect to Federal elections, including through setting limits on--

- (1) the amount of contributions to candidates for nomination for election to, or for election to, Federal office; and
- (2) the amount of expenditures that may be made by, in support of, or in opposition to such candidates.

Section 2. A State shall have power to regulate the raising and spending of money and in kind equivalents with respect to State elections, including through setting limits on--

- (1) the amount of contributions to candidates for nomination for election to, or for election to, State office; and
- (2) the amount of expenditures that may be made by, in support of, or in opposition to such candidates.

Section 3. Congress shall have power to implement and enforce this article by appropriate legislation.

**S.J.Res.33** - proposed by Sen. Bernie Sanders (I-VT).  
<http://thomas.loc.gov/cgi-bin/query/z?c112:S.J.+RES.+33>:  
***Companion House bill -- H.J.Res.90***

Proposing an amendment to the Constitution of the United States to expressly exclude for-profit corporations from the rights given to natural persons by the Constitution of the United States, prohibit corporate spending in all elections, and affirm the authority of Congress and the States to regulate corporations and to regulate and set limits on all election contributions and expenditures.

#### **Article--**

Section 1. The rights protected by the Constitution of the United States are the rights of natural persons and do not extend to for-profit corporations, limited liability companies, or other private entities established for business purposes or to promote business interests under the laws of any state, the United States, or any foreign state.

Section 2. Such corporate and other private entities established under law are subject to regulation by the people through the legislative process so long as such regulations are consistent with the powers of Congress and the States and do not limit the freedom of the press.

Section 3. Such corporate and other private entities shall be prohibited from making contributions or expenditures in any election of any candidate for public office or the vote upon any ballot measure submitted to the people.

Section 4. Congress and the States shall have the power to regulate and set limits on all election contributions and expenditures, including a candidate's own spending, and to authorize the establishment of political committees to receive, spend, and publicly disclose the sources of those contributions and expenditures.

## **Proposed 28th Amendment by Organizations**

### **Move to Amend.org**

**Section 1** [*A corporation is not a person and can be regulated*]

The rights protected by the Constitution of the United States are the rights of natural persons only.

Artificial entities, such as corporations, limited liability companies, and other entities, established by the laws of any State, the United States, or any foreign state shall have no rights under this Constitution and are subject to regulation by the People, through Federal, State, or local law.

The privileges of artificial entities shall be determined by the People, through Federal, State, or local law, and shall not be construed to be inherent or inalienable.

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### **Free Speech For People.org**

#### **The People's Rights Amendment**

**Section 1.** We the people who ordain and establish this Constitution intend the rights protected by this Constitution to be the rights of natural persons.

**Section 2.** People, person, or persons as used in this Constitution does not include corporations, limited liability companies or other corporate entities established by the laws of any state, the United States, or any foreign state, and such corporate entities are subject to such regulation as the people, through their elected state and federal representatives, deem reasonable and are otherwise consistent with the powers of Congress and the States under this Constitution.

**Section 3.** Nothing contained herein shall be construed to limit the people's rights of freedom of speech, freedom of the press, free exercise of religion, and such other rights of the people, which rights are inalienable.