

Written
3/25/13

GAE Committee
Hearing on SB 5
An Act Concerning Campaign Finance Reform
Monday, March 25th, 2013

Testimony by Doug Sutherland

Chairman Musto and Chairman Jutila, and distinguished members of the Government Administration and Elections Committee, I want to thank you for holding this hearing on this very important issue of transparency in our elections. In 2010, when the Supreme Court handed down its decision in *Citizens United v. FEC*, the court swept away 100 years of legal precedent that had previously barred corporate spending in our elections. It ignored – and even denied – the corrupting influence that such money can have on our democratic process and it lent support to the outrageous notion that corporations are people – possessing the same rights as natural, human persons. This decision was a sad and stunning moment in the history of our great democracy and it threatens the very core of what makes us a great and enduring nation.

Many people across this nation are working tirelessly on petitions, resolutions and legislation to bring about a constitutional amendment that would correct the gross error the United States Supreme Court made when it handed down the *Citizens United* ruling. A constitutional amendment is the correct and most effect remedy to this fundamental issue, but as we all know, amending the Constitution of the United States is no small task and it will take time. In the meantime, elections are taking place, corporate spending on elections is on the rise (over half a million dollars of independent expenditures were made on the 2012 Connecticut General Assembly races) and the potential for the corruption of our democratic process is everywhere. As we wait for an amendment to the constitution, we cannot wait to take actions at the state level that will mitigate the situation the Supreme Court has created.

Until a federal remedy can be found, we cannot ban corporate spending on elections or stop the unlimited spending by wealthy individuals and special interests via so-called “independent” Super PACs. What we can do is bring greater transparency to our elections so that We the People can know who is trying to influence our election process and our elected officials.

We must start by requiring the prompt public disclosure of all big donors to organizations making campaign-related political expenditures. We should allow an organization to establish a separate, segregated fund to accept donations for non-campaign-related expenditures if they wish, but all donations exceeding \$1000 in aggregate that is to be used for campaign-related expenditures must be promptly disclosed. We must include stronger rules that will ensure that independent expenditures remain truly independent by clarifying what exactly constitutes coordination with a political campaign. We should also foster good corporate governance by requiring corporate managers to disclose political spending directly to their shareholders in a timely manner.

We need to require the disclosure of fund transfers in order to ensure that individuals and corporate donors cannot hide the true source of money used for independent expenditures by transferring funds through conduits, intermediaries or other front groups. Transparency is the key. We the People need to know who is funding independent expenditures.

We should clarify reporting requirements so that each entity that makes outside campaign-related expenditures must report how much was spent on each candidate and what those expenditures were. We must also create strong incentives to abide by these new disclosure rules. Fines for knowingly and willfully failing to disclose required information or violating any section of this new law should be at least 200% of the amount of the expenditure. We should also strengthen disclaimer provisions by requiring all registered lobbyists, including communicator and client lobbyists to report electronically to the State Elections Enforcement Commission the amount of any independent expenditure or electioneering communications made by the registered lobbyist.

Finally, I would recommend that SB 5 be a clean bill dealing only with campaign finance disclosure rules. Issues related to the funding and operational rules for the Citizens Election Program should be placed into a separate piece of legislation so that the political calculations that derailed attempts at disclosure reform last session will not enter in during the 2013 session.

Our Founding Fathers must certainly be spinning in their graves. They created a republican democracy that, from the start, was intended to be a government of, for and by We the People. The Citizens United decision endorsed the crazy notion that corporations have the same constitutional rights as living, breathing people. By lending support to the notion that a corporation has the same constitutional rights as natural people, we make regulating corporations almost impossible since

constitutional rights trump regular laws. This puts we the actual people at risk, barring us from passing laws to protect the safety of the food we eat, the air we breath, and the water we drink. It makes it more difficult to enact laws to provide health care for our citizens or to protect their civil rights. In essence, giving corporations the same constitutional rights as people puts corporate profits ahead of the welfare of the people.

There is more money sloshing around the system today than ever before and yet we know less and less about who is donating this money. One thing that does seem clear, more and more of the money being spent to influence our elections is coming from a small group of very wealthy and powerful special interests. This is clearly not healthy for our democracy and it is clearly not what our Founding Fathers intended.

In order to return our elections and thereby our democracy back to We the People, we must overturn this terribly wrongheaded Supreme Court decision, but until that day comes, Connecticut must pass tough, meaningful legislation that will improve disclosure of campaign donations. I call on the members of the GAE Committee to put forth a strong bi-partisan package of disclosure rules in SB 5 and pass these out of committee with a strong recommendation for passage in the full House and Senate. Our citizens deserve clean elections and these proposed provisions will help move us in that direction.

Thank you.

Doug Sutherland
Trumbull

