



A primer on Dark Money

Produced by Common Cause Ohio & League of Women Voters of Ohio

The Problem

Ohio law currently contains prohibitions against corporations and organizations making independent expenditures and funding electioneering communications in support of or opposition to a campaign (R.C. 3517.105, 3517.1011, and 3599.03). According to the US Supreme Court's *Citizens United* ruling, corporations generally cannot be prohibited from making campaign contributions, but Ohio never updated its campaign finance laws to reflect this new landscape. Ohio needs to hold all campaign contributors to the same standards. Ohioans should be able to "follow the money."

In 2010, an overwhelming majority (8-1) in *Citizens United v. FEC* emphasized the merits of transparency:

"... 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... This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

Why is Disclosure & Transparency Important?

1. Disclosure permits voters to consider the source of election information. Is BP speaking? The Farm Bureau? The Hospital Association? Big Pharma?
2. Disclosure can help to deter corruption and avoid the appearance of corruption by exposing large contributions and expenditures. Such exposure may discourage improper pressure on candidates and arms the public with information so that they can detect possible post-election special treatment.

3. Disclosure is essential in identifying any campaign finance violations.

A Good Start

Sponsored by former state Senator Jon Husted in the 128th General Assembly, Senate Bill 240 (SB 240) would have required corporations or labor organizations to file statements itemizing all independent expenditures and specifying who paid for that advertising. The bill also would have prohibited a foreign corporation from donating funds to election activities in Ohio and imposed fines on corporations that violated the ban.

A Bipartisan, Unanimous Senate Vote

In May 2010, SB 240 passed unanimously out of the Ohio Senate, but never moved in the Ohio House. Many legislators who sponsored SB 240 are still elected officials including Ohio Lieutenant Governor Jon Husted, Auditor Keith Faber, and Congressman Bob Gibbs. Several state legislators who voted for the bill still serve in the Ohio General Assembly including Representative Bill Seitz (R), Senator Kirk Schuring (R), Senator Tim Schaffer (R), Senator Teresa Fedor (D), and Representative Fred Strahorn (D).

Unfinished Business

Legislation to address “dark money” hasn’t been seriously considered since 2010, and secret money has influenced a number of important elections. The Ohio Election Commission has encouraged corporations that pay for independent expenditures to voluntarily disclose activities, but voluntary disclosure is clearly not adequate. Common Cause Ohio and League of Women Voters of Ohio call upon the Ohio General Assembly to finally bring Ohio’s campaign finance laws up to date, especially before the 2020 election. Voters deserve to know who is funding political advertisements. Without enhancing disclosure, deep-pocketed groups can and will distort the truth ruthlessly, leaving Ohio voters without recourse.



Ohio



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