



Legislation Text

File #: Res 0691-2015, **Version:** *

Res. No. 691

Resolution calling upon Congress to pass and the states to ratify S.J. Res. 5/H.J. Res. 22 to amend the Constitution of the United States to give Congress and the states authority to regulate the raising and spending of money by candidates and others to influence elections.

By Council Members Kallos, Chin, Johnson, Lander, Mendez, Menchaca, Rosenthal and Constantinides

Whereas, Recent Supreme Court rulings have affirmed that the spending of money on politics is a form of free speech that is protected by the First Amendment to the United States Constitution; and

Whereas, These court rulings have allowed a rapid increase in the amount of spending on political races, with estimates putting the increase at more than 300% since the 2010 landmark ruling captioned *Citizens United v. Federal Election Commission* (“*Citizens United*”); and

Whereas, The *Citizens United* decision resulted in a rapid increase in so-called “dark money” in state and federal elections, with “dark money” being defined as money used to fund election-related spending that was donated by individuals and entities that are undisclosed to voters; and

Whereas, This “dark money” has entered politics in the form of organizations registered under section 501(c)(4) of the Internal Revenue Code (“501(c)(4) organizations”), which can accept contributions without being required to disclose their source; and

Whereas, 501(c)(4) organizations are required by law to be dedicated to furthering causes related to “social welfare,” but may pursue that goal through political activity if such activity is not the organization’s primary purpose; and

Whereas, 501(c)(4) organizations may disseminate advertisements, often called issue ads, which, in theory, are created for the purpose of public education rather than directly calling for the election or defeat of a

candidate in an election, but which, in practice, are often thinly veiled campaign activity; and

Whereas, Donations to 501(c)(4) organizations that are spent on these so-called issue ads are not required to be reported to the Internal Revenue Service (“IRS”) because they are deemed to be used for public education; and

Whereas, The 15 highest spending 501(c)(4) organizations self-reported spending a total of \$173,081,458 on political campaigns during the 2012 federal election cycle; and

Whereas, Along with “dark money,” political action committees permitted to raise unlimited amounts of money from corporations, unions, and individuals, often called super PACs, have played a significant role in elections in recent years, although super PACs must report the identity of their donors; and

Whereas, Since the 2010 *Citizens United* decision, super PACs have spent over \$1 billion on political causes; and

Whereas, Even New York City, which has one of the strongest campaign finance regulatory regimes in the country for local elections, has seen increased involvement in the electoral process by outside groups, with approximately \$8 million spent on the mayoral race and approximately \$6.3 million spent on City Council races in the 2013 election; and

Whereas, Recent proposals in the United States Senate and House of Representatives would amend the United States Constitution to limit the amount of spending permitted in political elections; and

Whereas, S.J. Res. 5 and the identical H.J. Res 22 would authorize Congress and the states to regulate the raising and spending of money with respect to federal and state elections, respectively; and

Whereas, In so doing, S.J. Res. 5 and H.J. Res 22 would authorize Congress and the states to distinguish between natural persons and corporations or other artificial entities created by law; and

Whereas, The passage of these amendments, along with subsequent regulation of political fundraising and spending, would provide incentives for federal and state lawmakers to support and promote ideas coming from the general public, rather than only those who are likely to donate money to their campaigns, lobbyists,

and special interest groups; and

Whereas, It is important to promote the equal treatment and involvement of all entities and individuals within the United States, not just those that have the financial resources to donate to campaigns or engage in other political spending; now, therefore, be it

Resolved, That the Council of the City of New York calls upon Congress to pass and the states to ratify S.J. Res. 5/H.J. Res. 22 to amend the Constitution of the United States to give Congress and the states authority to regulate the raising and spending of money by candidates and others to influence elections.

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LS #2835
5/7/15