

## **Corporate Accountability State Updates May 2011**

### **California**

Common Cause is working in coalition to support the “CA DISCLOSE” Act introduced by Assembly member Julie Brownley (D – Santa Monica). CA DISCLOSE will put in place new disclosure requirements on political expenditures (broadly defined as electioneering communications and independent expenditures within 45 days of the election and independent expenditures at all times of year). The bill has tough “stand by your ad” provisions requiring the top funder of TV, video and radio ads to appear and say they approve of the message. The top five funders for any candidate or proposition committee must be listed in the official Secretary of State voter guide. The top five funders of a committee(s) sponsoring an ad must be listed in writing in TV, video, and print ads (a similar rule requiring the top three donors must be read in radio ads).

Common Cause California is also working with CalPIRG to find a sponsor for a bill based upon AB919 of 2009. This bill would require any publicly held corporation with any shareholders who reside in California to notify those shareholders of all of the political expenditures from the corporations’ treasury. The corporation would also be required to post these reports on their website and include them in its annual report. Previous sections of the bill which provides California shareholders the rights to request a refund of their portion of treasury funds used for political activities they disagreed with will be removed, which should increase the political support for the bill. Because this bill would pertain to corporate shareholder law and not California’s Political Reform Act (which requires a 2/3<sup>rd</sup> vote of the legislature to amend or else a vote of the people) it could pass the legislature on a majority vote. While the bill filing deadline has passed, we have spoken with several offices that may be willing to introduce this as a substitute for an existing bill.

### **Maine**

Progressive States Network has been working with Rep. Jon Hinck, who is sponsoring a bill that would require shareholder approval of corporate or union contributions/expenditures over \$2,000 and reporting of contributions/expenditures within 60 days, as well as tighten disclosure requirements around television, radio, internet, and print communications. The bill will be heard on Monday, May 9 in front of the Joint Standing Committee on Veterans and Legal Affairs.

### **Maryland**

With continued pressure by Common Cause Maryland and state allies, on April 11, 2011 the Maryland State Legislature passed sweeping independent expenditure, electioneering communications and shareholder disclosure legislation.

Sponsored by Del. Cardin, HB.93 requires reporting of independent expenditures and electioneering communications when an aggregate of \$10,000 or more to influence Maryland elections. Maryland is one of only 6 states that currently do not require any reporting of independent expenditures. Moreover, the legislation requires that any corporation or entity that must file an independent expenditure shall include the following information in any periodic reports to its shareholders, members or donors in a clear and conspicuous manner:

- The identity of the entity making the expenditure
- The business address of the entity making the expenditure
- The amount and date of the expenditure
- The name of the candidate or ballot measure
- If they are supporting or opposing the candidate or ballot measure

Additionally, the entity must either post a hyperlink on its homepage to the Internet site where the entities independent expenditure report is available or place the information contained in the report in their annual report to members or stockholders. Link must appear with 24 hours of filing its report and must be maintained until the end of the election cycle. Maryland is the first state to require that corporation and unions directly notify shareholders/members about their independent expenditures.

Cardin authored the following op-ed, ghostwritten by Progressive States Network, which appeared in The Baltimore Sun and The Capital:

Force greater disclosure in Maryland  
General Assembly can fight back against Citizens United ruling  
December 24, 2010|By Jon S. Cardin

Back in January, the Supreme Court opened up the floodgates for corporate spending on elections in the landmark Citizens United decision, overturning a century's worth of federal and state laws designed to limit the power of corporations to use their influence to buy elections.

Then, on Election Day, Maryland voters got a sneak preview of how the new ruling will affect our elections in the coming years. In the highly contested 1st Congressional District race, outside groups, including some who accept unlimited money from individuals and corporations, flooded the mailboxes and airwaves. The unprecedented spending from outside groups totaled nearly \$4 million, the 10th-highest total of any House race in the nation – an unsurprising statistic to anyone who saw the ads on television this fall.

As new congressional leadership prepares to take power in January, the prospects for addressing the impact of Citizens United at the federal level are dim. But there are some legislative measures that state lawmakers of both parties can support that would mitigate the effect of the Supreme Court decision on both state and federal races and ensure that, in the coming years, Maryland's voters are not drowned out by corporate cash.

The first way we can do this is by improving corporate governance to ensure that

shareholders of corporations are aware of political expenditures. As it stands, corporations are not required to obtain shareholder approval or disclose detailed reporting of political activity before spending unlimited amounts on campaigns at the federal and state level. Requiring such approval, or at least disclosure, would raise the level of accountability of CEOs by placing power directly in the hands of their companies' shareholders.

The Maryland legislature has the power to regulate all publicly traded and privately held corporations that are incorporated in our state. While we do not want to put our Maryland-based companies at a competitive disadvantage, we need to prevent state-based corporate special interests from funneling unlimited and anonymous amounts through shadowy national groups without transparency for their shareholders. To that end, this popular idea of disclosing information is one that shareholders themselves support. The Committee for Economic Development, a nonpartisan Washington think tank, reports that disclosure of political expenditures has become the second most popular shareholder resolution. Furthermore, corporations themselves have been receptive to the idea – more than 70 of the country's biggest corporations, including Coca-Cola, DuPont, Hewlett-Packard, and UnitedHealth Group, have agreed to voluntary disclosure and board oversight of corporate political spending.

Second, state lawmakers have the power to expand the disclosure requirements for all groups based in Maryland involved in outside spending. Groups funded by special interests routinely take advantage of loopholes in current state election law relating to a narrow definition of what constitutes "independent expenditures" in races. This has allowed these groups – some of whom are not required to disclose any of their contributors – to run "issue ads" targeting candidates during the heat of competitive campaigns, as long as they avoid explicitly mentioning a candidate by name. To address this, we should broaden our definition of "independent expenditures" to include all electioneering communications that can be reasonably interpreted to support or oppose a candidate, and we should require that the identities of donors who fund such expenditures be disclosed.

Finally, it is time to pass voluntary public campaign finance reform, like the systems now in place in Arizona and Maine. In those states, candidates who choose to take public money agree not to solicit or use private contributions. By definition, this program results in elected officials who are indebted to the citizens of their state, not special interests. By empowering shareholders, establishing public campaign finance, and closing loopholes in existing issue ad laws, Maryland can go a long way toward limiting the damage of the recent Supreme Court decision.

Lawmakers of both parties should come together to work in good faith to address these issues in the coming legislative session. The health of our electoral process – and the vibrancy of our democracy – depend on it.

Del. Jon S. Cardin represents the 11th District in Baltimore County and is the chairman of the election law subcommittee. His e-mail is [jon.cardin@house.state.md.us](mailto:jon.cardin@house.state.md.us).

Next steps: Common Cause Maryland will work with the State Board of Elections on regulations and implementation of the independent expenditure, electioneering communications and shareholder disclosure bill.

[http://www.brennancenter.org/blog/archives/maryland\\_jumps\\_to\\_the\\_head\\_of\\_the\\_class/](http://www.brennancenter.org/blog/archives/maryland_jumps_to_the_head_of_the_class/)

## **Maryland Jumps to the Head of the Class**

By Ciara Torres-Spelliscy – 04/12/11

Late last night, two hours to midnight, the Maryland legislature did something historic. They passed a groundbreaking campaign finance disclosure bill. [Maryland](#) had been one of a handful of states that lacked any disclosure requirements for independent spenders in elections. This left Maryland voters completely in the dark about the source of ads that praised or attacked candidates. The bill tracks [policy suggestions urged by Maryland's Attorney General](#) and those outlined in the Brennan Center's report "[Transparent Elections after Citizens United](#)", as well as [testimony](#) given by Brennan Center Counsel Mimi Marziani.

The bill requires disclosure for both independent expenditures (ads which explicitly say vote for a candidate) and electioneering communications (ads that feature candidate in their districts on election eve). And Maryland adapted one innovation that puts it at the vanguard, namely it requires companies that spend in Maryland elections to report that spending directly to their shareholders. This innovation recognizes the new normal created by *Citizens United* – the 2010 Supreme Court decision that allows unlimited corporate political spending. Maryland already allowed corporations to spend, but nationwide, *Citizens United* makes such spending more efficient because corporations can engage in multi-state campaigns without the old state-by-state analysis to see whether the spending was allowed.

With this bill, Maryland has declared, "No more dark elections in our state." The next step is the governor's desk.

## **Massachusetts**

Common Cause Massachusetts helped draft and Senator James Eldridge introduced S. 304, which would require greater disclosure of corporate political spending. This bill would make clear that corporations must disclose their independent expenditures and electioneering communications. Furthermore, it would require corporations to disclose any transfer made for the purpose of funding an electioneering communication. Common Cause Massachusetts is also supporting S. 305, which would require

corporations to file reports with their shareholders detailing all political spending and require board authorization prior to any substantial political contribution or expenditure. In addition we are supporting legislation to establish new rules about corporate transparency for entities that receive tax breaks or targeted credits.

## **Michigan**

Common Cause Michigan is working with Senator Steve Bieda (D) and Representative Jim Townsend (D) on introducing corporate accountability and campaign finance reform legislation.

The Michigan Corporate Political Accountability Act of 2011 would require that any corporation incorporated in Michigan that spends in the aggregate \$5,000 or more of corporate treasury funds on all political activities must obtain shareholder approval for any political expenditure. The corporation must disclose to its shareholders whether the funds are intended to benefit or defeat specific candidates, ballot measures or issue advocacy campaigns, or whether it will be paid to specific nonprofits or trade associations for political activities.

Common Cause MI continues to try to secure Republican sponsors, but so far has not received any commitments.

## **Minnesota**

Common Cause Minnesota passed a landmark disclosure bill for corporate political contributions to independent expenditure groups in 2010. This legislation created a public backlash against Target Corporation for its political donation to an extreme political candidate.

This session, Common Cause has secured legislative authors to reintroduce legislation that would require shareholder approval of any political contributions to independent groups and trade associations. Common Cause MN will work with sponsors and allies to advance the legislation.

## **New Mexico**

Common Cause New Mexico worked with Senator Peter Wirth to introduced Senate Bill 547, which defines independent expenditures broadly to include electioneering communications, requires individuals and groups that engage in these political expenditures to report them within 3 days, as well as disclose if they make any expenditure that is earmarked for an independent expenditure. The bill also has a disclaimer requirement to list on the ad who is paying for the expenditure.

The bill received a great deal of press on this issue, including excellent coverage in the three biggest papers in the state, especially a glowing editorial and reporting in the *Santa Fe New Mexican*. CC/NM's Executive director also did a segment on "Eye on New Mexico," a current events program on KNME-TV Channel 5, explaining why the bill is so important to get passed in preparation for the 2012 election cycle. (See attached article)

The bill CCNM drafted and that's referred to in the article didn't pass this last legislative session but it came very close. It passed the Senate, which is traditionally the hardest NM chamber for this kind of bill, during the last week of the session. It was then assigned to one House committee and passed out of committee the night before the end of the session. It was on the House floor calendar when the clock ran out. There were several other weaker bills in the same vein that got stalled out in the process early on. Common Cause New Mexico will be trying to push the legislation during the special session later in the year, or, if that's not successful, during the regular session in 2012.

### **North Carolina**

Common Cause North Carolina, North Carolina Center for Voter Education, and Progressive States Network are working with Reps. Pricey Harrison and Grier Martin on a shareholder disclosure bill.

### **Ohio**

Progressive States Network is working with Reps. Murray and Goyal on a bill that improves disclosure of independent expenditures by corporations and labor unions.

### **Pennsylvania**

Senate and House members in the Pennsylvania State Legislature have proposed legislation imposing contribution limits and disclosure of independents corporate expenditures. Common Cause Pennsylvania has reviewed proposed legislation and made recommendations for improvements. Prime sponsor Sen. Costa is now redrafting the bill based on those recommendations, and Rep. Briggs has introduced a bill in the House. Also on the House side, Rep. DePasquale has introduced HB.1002, which requires corporations to disclose to its shareholders and receive approval for all political expenditures and is based on Brennan Center's model language. Common Cause PA has also made recommendations to Rep. DePasquale's bill to include disclosure of independent expenditures to the legislation. Common Cause PA is working with the Progressive States Network to secure those changes and advance the legislation.

### **New York**

Common Cause/New York worked with the sponsor of S101, the Corporate Political Activity Accountability To Shareholders Act, that was introduced last legislative session and has been re-introduced, to develop language, lobbied and testified in support of the

bill in the last legislative session and is working with the bill's sponsors to strengthen the language and build support for the bill this legislative session.

Common Cause/New York will shortly release a study in which we examine the dramatic rise in corporate expenditures to support political-style issue advertising and grassroots and direct lobbying. In that report, we will urge the passage of disclosure requirements and increased reporting to shareholders of lobbying and issue advertising expenditures.

Common Cause is also working closely with New York City's Public Advocate, who has been a strong voice urging corporations to voluntarily refrain from political spending, and advocating for New York's massive public pension funds at both the City and State level to demand that the corporations in which they invest disclose and are accountable for the use of corporate treasury money for political purposes.

### **Vermont**

Vermont PIRG has been working with the sponsor of a shareholder disclosure bill. It is a modest proposal but an important step in the right direction especially given the weakness of Vermont's campaign finance disclosure laws. (do we want to talk about how the bill is probably not going to go anywhere due to the possible amendment banning corporate contributions?)

### **Washington**

WashPIRG and WashClean and other groups co-hosted a forum regarding responses to Citizens United. 200+ people attended including the sponsor of a shareholder disclosure bill. They got good press coverage and an op ed in the Seattle paper.

### **Wisconsin**

WisPIRG met with the sponsor of a shareholder approval bill. Senator Robert Wirch (D-Pleasant Prairie) reintroduced a bill on April 11 that would require a majority of a corporation's shareholders to approve of independent expenditures before they are made. Common Cause/WI also supports this bill and will work on getting support for it in the legislature.

This legislation would require a corporation to file proof with its registration to the Government Accountability Board that demonstrates a majority of voting shares approved of the political disbursement. In the case of private corporations that do not have shareholders, a statement must be submitted with their registration indicating they have no shareholders. In addition, the bill would impose registration and reporting requirements on any individual or organization that makes a communication with reference to a political party, candidate, or office to be filled within 60 days of an election.