
HOUSE CONCURRENT RESOLUTION

REQUESTING THE ESTABLISHMENT OF MEANINGFUL CAMPAIGN FINANCE
REFORM IN THE UNITED STATES AND THE STATE OF HAWAII.

1 WHEREAS, "campaign finance reform" means the political
2 effort to change the involvement of money in politics, primarily
3 in political campaigns; and
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5 WHEREAS, although attempts to regulate campaign finance by
6 legislation date back to 1867, the first successful attempts to
7 nationally regulate and enforce campaign finance originated in
8 the 1970s; and
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10 WHEREAS, the Federal Election Campaign Act (FECA) of 1972
11 required candidates to disclose sources of campaign
12 contributions and campaign expenditures; and
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14 WHEREAS, fueled by public relation to the Watergate
15 Scandal, the FECA was amended in 1974 with the introduction of
16 statutory limits on contributions, and a comprehensive system of
17 regulation and enforcement with the creation of the Federal
18 Election Commission (FEC); and
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20 WHEREAS, the 1974 amendment attempted to restrict the
21 influence of wealthy individuals by limiting individual
22 donations to \$1,000 and donations by political action committees
23 (PACs) to \$5,000; and
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25 WHEREAS, however, the 1976 decision of the United States
26 Supreme Court in *Buckley v. Valeo*, 424 U.S. 1, struck down
27 several provisions of the 1974 amendment that limited campaign
28 expenditures, independent expenditures by individuals and
29 groups, and expenditures by a candidate from personal funds; and
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31



1 WHEREAS, considered the foundation constitutional law
2 surrounding modern campaign finance, the Buckley decision
3 introduced the idea that money counts as speech, and that
4 restraints on unlimited spending in U.S. elections campaigns
5 were prohibited; and

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7 WHEREAS, nevertheless, the United States Congress continued
8 its efforts to reign in the influence of money in politics; and

9
10 WHEREAS, the Bipartisan Campaign Reform Act (BCRA) of 2002,
11 also known as "McCain-Feingold", after its sponsors, is the most
12 recent major federal law on campaign finance, which revised some
13 of the legal limits on expenditures set in 1924, and prohibited
14 unregulated contributions (commonly known as "soft money" to
15 national political parties; and

16
17 WHEREAS, "soft money" also refers to funds spent by
18 independent organizations that do not specifically advocate the
19 election or defeat of candidates, and funds that do not
20 specifically advocate the election or defeat of candidates, and
21 funds which are not contributed directly to candidate campaigns;
22 and

23
24 WHEREAS, but in early 2010, the United States Supreme Court
25 ruled in *Citizens United v. Federal Election Commission*, 558
26 U.S. 310, that corporate funding of independent political
27 broadcasts in candidate elections cannot be limited pursuant to
28 the right of these entities to free speech; and

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30 WHEREAS, the rulings of the United States Supreme Court in
31 *Buckley* and in *Citizens United* have significantly restricted the
32 ability of the federal government to regulate campaign finance;
33 and

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35 WHEREAS, in the words of Senator John McCain, one of the
36 two original sponsors of the BCRA of 2002, with the *Citizens*
37 *United* ruling, "campaign finance reform is dead"; and



1 WHEREAS, because the United States Supreme Court is the
2 highest tribunal in our judicial system, its decisions impact
3 all of the laws of the United States - not just federal law as
4 it is enforced on federal elections, but more relevant to the
5 Hawaii State Legislature, Hawaii state laws and the manner they
6 are applied to state and county elections; and
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8 WHEREAS, even if the Hawaii State Legislature were to
9 approve an amendment to the Constitution of the State of Hawaii,
10 and such amendment was ratified by the electorate, the State
11 would still be barred from restricting campaign finances beyond
12 the extend allowed under the *Buckley* and *Citizens United*
13 decisions; and
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15 WHEREAS, in testimony to the House Committee on Judiciary
16 on House Bill No. 1499, which was heard on January 28, 2014, the
17 Attorney General of the State of Hawaii wrote:
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19 ". . . Unfortunately, the proposed
20 constitutional amendment, if ratified,
21 cannot have any practical legal effect. The
22 State of Hawaii remains subject to the
23 Citizens United ruling construing the
24 federal Constitution, regardless of any
25 amendment made to the Hawaii Constitution. .
26 .

27
28 "Amending the text of the Hawaii
29 Constitution is within the State's power,
30 but doing so in this manner will have no
31 practical legal effect due to Citizens
32 United and earlier case law from the United
33 States Supreme Court, including Buckley v.
34 Valeo, 424 U.S. 1 (1976), interpreting the
35 federal Constitution. . .
36

37 ". . . Therefore, even if this proposed
38 amendment passed and was ratified, the State
39 of Hawaii would still be subject to this
40 ruling from *Buckley*, as well as the ruling
41 from *Citizen United* that corporations are
42 entitled to make unlimited independent
43 expenditures regarding elections. Even if



1 the State Constitution was amended, our laws
2 would still be subject to the Supreme
3 Court's federal constitutional rulings about
4 money used to influence elections. Only an
5 amendment to the federal constitution - or a
6 subsequent, overruling decision from the
7 United States Supreme Court - can undo the
8 Citizens United decision or the broader
9 proposition regarding First Amendment
10 protections for contributions and
11 expenditures from Buckley." [Emphasis in
12 original.]
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14 WHEREAS, accordingly, the only way that the legal effect of
15 the *Buckley* and *Citizens United* rulings can be changed to allow
16 for meaningful campaign finance reform applicable to both
17 federal and state law, either the Constitution of the United
18 States must be amended, or the United States Supreme Court must
19 overrule or revise their holdings in *Buckley* and *Citizens*
20 *United*; now, therefore;
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22 BE IT RESOLVED by the House of Representatives of the
23 Twenty-Seventh Legislature of the State of Hawaii, the Senate
24 concurring, that the Congressional Delegation of the State of
25 Hawaii is requested to introduce legislation before the United
26 States Congress to overrule the *Buckley* and *Citizens United*
27 decisions, allowing for meaningful campaign finance reform to be
28 established on both the federal and state levels; and
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30 BE IT FURTHER RESOLVED that the United States Supreme Court
31 is urged to overrule its previous decisions in *Buckley* and
32 *Citizens United* to allow for meaningful campaign finance reform
33 to be established on both the federal and state levels; and
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1 BE IT FURTHER RESOLVED that certified copies of this
2 Concurrent Resolution be transmitted to Hawaii's Congressional
3 Delegation, and the Chief Justice of the Supreme Court of the
4 United States.
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OFFERED BY:

<u>John H. ...</u>	<u>Mele Campbell</u>
<u>John ...</u>	<u>Dean ...</u>
<u>Richard ...</u>	<u>BT</u> <u>Mya ...</u>
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