

Honolulu, Hawaii

FEB 09 2022

RE: S.B. No. 312  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 312 entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION REGARDING THE FREEDOM OF SPEECH,"

begs leave to report as follows:

The purpose and intent of this measure is to propose a constitutional amendment to provide that freedom of speech does not include the expenditure of money to influence elections.

Prior to decision making on this measure, your Committee made available for public review a proposed S.D. 1 of this measure. The proposed S.D. 1 retained portions of the contents of this measure and also inserted provisions that:

- (1) Amend section 1 to reflect its amended purpose;
- (2) Clarify that the purpose of the measure is to propose a symbolic amendment to article I, section 4, of the Hawaii State Constitution to provide that the expenditure of money to influence elections is not a form of speech protected under the Hawaii State Constitution; and
- (3) Specify that the question to be printed on the ballot be reflective of the purpose of the measure.



Your Committee received testimony in opposition to this measure from one individual. Your Committee received comments on this measure from Common Cause Hawaii.

Your Committee finds that the United States Supreme Court's decision in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), reversed long-standing campaign finance restrictions and designated corporate spending on elections as free speech protected under the First Amendment of the Constitution of the United States. The decision removed any limits on the amount of money that corporations, special interest groups, and political action committees could spend on an election. Your Committee further finds that the decision in *Citizens United* is a serious threat to our democracy. Corporations enjoy various advantages, including limited liability, perpetual life, and favorable treatment in the accumulation and distribution of assets, which allow them to amass and spend an extraordinary amount of money on political messages that often have far greater reach and influence than messages from individuals. During the twelve years since the *Citizens United* decision, there has been a massive increase in political spending by corporations, special interest groups, and political action committees, dramatically expanding their already outsized political influence on election outcomes and policy decisions. This measure will demonstrate to the United States Congress that the State disapproves of the *Citizens United* decision.

Your Committee has amended this measure by adopting the proposed S.D. 1.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 312, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 312, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,

*Karl Rhoads*

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KARL RHOADS, Chair



The Senate  
 Thirty-First Legislature  
 State of Hawai'i

**Record of Votes  
 Committee on Judiciary  
 JDC**

Bill / Resolution No.:*	Committee Referral:	Date:
<b>SB 312</b>	<b>JDC</b>	<b>02-01-22</b>

The Committee is reconsidering its previous decision on this measure.  
 If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312       Pass, with amendments 2311       Hold 2310       Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
KEOHOKALOLE, Jarrett (VC)	✓			
ACASIO, Laura	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado		✓		
LEE, Chris	✓			
FEVELLA, Kurt		✓		
<b>TOTAL</b>	<b>5</b>	<b>2</b>	<b>-</b>	<b>-</b>

Recommendation:  Adopted       Not Adopted

Chair's or Designee's Signature: *Karl Rhoads*

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\*Only one measure per Record of Votes