

CAMPAIGN FINANCE REFORM IN OREGON

I. Why Study Campaign Finance in Oregon?

The cost of running for public office has escalated in the last 30 years to the point where many competent and willing citizens cannot participate as candidates. The problem extends from the presidential campaigns to those for Congress, statewide and legislative offices, to county and city races and even to those for some special districts and school boards. In Oregon the bottom line seems to be that something needs to be done. There are now legislative campaigns where the spending exceeds \$100,000 for a position that pays approximately \$1200 a month; campaigns for statewide offices cost in the millions. Where do we go from here?

After selecting campaign finance as a research program at the 1972 League of Women Voters of the United States Convention, members studied the issue. Based on that study, the LWVUS adopted its Position on Campaign Finance in 1974 and revised it in 1982. The Position states "The League believes that the methods of financing political campaigns should ensure the public's right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office and allow maximum citizen participation in the political process." Public financing of campaigns is the ultimate goal of the LWVUS.

This update responds to the Issue for Emphasis on Campaign Finance Reform adopted by the League of Women Voters of Oregon at the 2004 Council meeting. Members will review a "clean money" video developed by Public Campaign, a national group focused on public funding campaign finance reform. Members will also discuss the issues in the context of Oregon's campaign finance history and status, what other states are doing, the federal system, and what options are currently being circulated. An important question to keep in mind is whether or not to reform the campaign financing system all at once, or in stages over two legislative or election cycles.

II. A History of Campaign Finance Reform in Oregon

1908-1994: Expenditure and Contribution Limits

Almost 100 years ago, in 1908, Oregon voters estab-

lished campaign contribution and expenditure limits through an initiative. In the first few decades only the candidate and immediate family members could contribute and spend campaign funds, and the amounts were strictly limited based on a percentage of the annual salary for the elected office. The Legislature adjusted the dollar amounts in 1957 and made additional modifications in 1971.

By 1973, the Legislature was ready to enact a more detailed campaign finance reform package focused on expenditures. It placed limits on total expenditures by individual candidates based on the office being sought and the number of registered voters eligible to vote for that office in the previous general election. Believing that expenditures were the key to controlling campaign costs, the Legislature repealed previous contribution limits. Legislators also adopted a bill to restrict independent expenditures, which are campaign efforts produced and distributed independently of the candidate.

Warren Deras, a 1974 primary election candidate, sued the Secretary of State, Clay Myers, on the grounds that the new election reforms were unconstitutional (*Deras v. Myers*, 1975). A lower court found that the expenditure limits were constitutional but that the restrictions on independent expenditures were not. The expenditure limits remained in place during the 1974 general election after an appeal to the Supreme Court. In May 1975, the Oregon Supreme Court found both the spending limits bill and the independent expenditure restrictions unconstitutional. In 1976, an initiative proposal for partial public funding, during only the general election and only for expenditures related to campaign communications, was defeated with a 71% "no" vote. A U.S. Supreme Court case, *Buckley v. Valeo*, also was decided in 1976 with the ruling that contribution limits were constitutional, but that the spending limits in that case were unconstitutional, since restricting these expenditures did not serve a government interest great enough to warrant a curtailment on free speech and association. Spending limits require a higher level of constitutional scrutiny. Since that time, most spending limits have been considered unconstitutional.

In the 20 years between 1974 and 1994, the costs of

campaigning for Oregon legislative and statewide offices increased ten-fold. For example, the average cost to run for the Oregon House of Representatives in 1974 was \$3000. By 1994, it had increased to \$30,000, as documented by the Contribution and Expenditure Reports (C&E) filed with the Secretary of State for those election periods.

1994-1997: Ballot Measure 9 and Contribution Limits

Seeking to curb “runaway campaign expenses” that limited who could seek public office, the League of Women Voters of Oregon, Common Cause, Oregon State Public Interest Research Group (OSPIRG), and the American Party (Perot’s group which garnered 19% of the state’s vote for President in 1992) drafted a contribution limits measure which also included voluntary spending limits. It passed the 1993 Senate but was denied a hearing in the House. The group then proposed the statute initiative (Ballot Measure 9, 1994) that passed across the state by 71% in the 1994 general election. The 1995 legislative attempts to repeal or change the limits failed, and the limits remained in place during the 1996 election cycle. A legal challenge went to the Oregon Supreme Court, which overturned the contribution limits in February 1997 and ruled that the state Constitution would have to be amended to allow any contribution limits. The spending limits remained since they were voluntary. The court also threw out the ban on corporate and union donations and the ban on bundling of contributions by a candidate or political party.

The key elements of Ballot Measure 9:

- \$100 limits per primary and general election on legislative contributions
- \$500 limits per primary and general election on contributions to statewide candidates
- \$1000 limits on individual contributions to political party Political Action Committees (PACs)
- \$5000 limits on contributions from party PACs to legislative candidates
- Voluntary spending limits
- Barred contributions between candidate committees
- Banned corporate and union treasury contributions to candidates, but allowed for these entities to make contributions to PACs

- Exempted a candidate’s contribution limits when the candidate faced an opponent who raised \$10,000 or more from personal or family funds.

Effects of the 1994 campaign reform legislation on the 1996 election, analyzed by the Money in Western Politics Project (now the National Institute on Money in State Politics), revealed the following:

- (1) Two-thirds less money was contributed to candidates than in 1992, with funds coming from one-third more contributors.
- (2) The dollar reductions were not evenly felt across the array of contributors. For example, the two sectors most dramatically affected were labor contributions (declined 94%) and contributions from donors having a single-issue focus (declined by 90%). Independent expenditures and other techniques to avoid the limits rose tremendously, adding \$2.6 million to overall campaign spending.
- (3) PACs with many contributions from small donors were less affected by the limits on contributions than PACs that relied on a few big donor contributions. This fact was outweighed by the ability of big donors to shift their giving from PACs to direct contributions to candidates. Business contributions remained largely unchanged while labor and single-issue contributions, supported by small donors, declined the most as a percentage of total giving.
- (4) There were no fundamental changes in the nature of candidate races. Incumbents had the same advantages, and candidates with the most money usually won. While the number of independent and third-party candidates remained the same, their funding levels dropped.
- (5) About \$2.6 million was added to the 1996 total expenditures with the use of avoidance techniques. Independent expenditures accounted for \$1.85 million, setting an Oregon record. Ballot measure campaigns that used candidates as ad spokespersons added \$740,000 to advertising expenditures but did not have to be reported as campaign contributions. While amounts and sources of money for independent expenditures must be reported, no reporting was required for issue ads targeting certain candidates. In *States ex rel Crumpton v. Keis-*

ling, the Oregon court expanded the independent expenditure definition to cover issue ads.

1997-Present: Continued Efforts

Not only did the new limits fail to keep people from leveraging their dollars as an interest group might, but they made the work of researchers more difficult because the coordinated effort of individual contributors (for example, former industry PAC donors) to give candidates the money directly made disclosure of "group" contributions difficult to trace.

But Measure 9 did cut campaign costs for Oregon legislative races. The following table clearly shows the reductions in 1996 compared to 1992 and 1994, prior to the limits, and the increases that have occurred since the repeal of contribution limits.

tribution limits and public funding, then being considered and enacted in several states, were not mutually exclusive. The group felt that parallel campaigns - a constitutional amendment for contribution limits and a statute establishing public funding - could not be mounted. Also, the public-funding approach pushed the reform envelope farther than a contribution-limit-only approach. A limited duration PAC, The Oregon Political Accountability Campaign, ran the campaign for Measure 6 through the 2000 general election.

Measure 6 called for full public funding of state legislative and partisan statewide races. Funding for legislative campaigns would be provided for candidates who met strict qualifying requirements: gathering a large number of \$5 contributions and agreeing to accept no

Oregon General Elections				
Year	Senate: # of Candidates	\$ Spent	House: # of Candidates	\$ Spent
1992	33	\$1,632,637	120	\$4,555,998
1994	30	1,888,038	132	5,585,388
1996*	31	490,103	128	1,645,980
1998	32	2,464,161	129	5,615,167
2000	30	3,540,572	125	7,762,491
2002	33	4,864,055	128	7,478,210

Figures supplied by Money in Politics Research Action Project and Secretary of State C&E Reports

*Contribution limits in place; an additional \$2.6 million was spent on campaigns primarily as independent expenditures. It has not been possible to fully track independent expenditures since 1996 but not nearly this much money has been spent in this way since those elections.

Just prior to the February 1997 Oregon Supreme Court decision blocking contribution limits, corporate and union treasury contribution bans, and bundling of contributions, a small work group called together by State Senator Kate Brown began to discuss what form campaign finance reform could take in Oregon. The Working Group for Campaign Finance Reform, which met through 1997 and 1998 to discuss strategies, decided to focus on clean money/public funding reform. This led to the development of Ballot Measure 6, 2000, the Political Accountability Act. The League was a primary player in this effort.

The group wanted to avoid challenges to contribution limits as being too low (see *Nixon v. Shrink Missouri Gov't PAC* in Section III) and also realized that contri-

other private money contributions. Public funding reform implicitly imposes spending limits but is constitutional because it is voluntary. The Oregon tax credit for political campaigns would be repealed, and the approximately \$6 million "saved" by the state would go into the public funding account. Appropriations by each legislative session also would be added to the fund. Under Measure 6, if a public funded candidate faced a big spending private money candidate or was targeted by independent expenditures at levels exceeding the spending allowed, matching funds would be provided. In essence, it provided more money for more speech, rather than trying to limit independent expenditures.

The public funding measure lost by a 16 point margin, caused in part by a last two-week negative media effort

by opponents, the fact of 26 measures on the 2000 Oregon ballot (some very controversial), and a presidential election in which Oregon was a swing state.

Back to square one. Since 2000, the discussion continued with the filing of initiative proposals in both 2002 and 2004, neither of which qualified for the ballot. Each would have amended the Oregon Constitution to allow contribution limits and to place all of the various monetary and contributor limits into the Constitution, including bans on labor and corporate giving, and to allow only the public, through the initiative, to make changes. The League opposes putting such statutory material into the Constitution. Since mid-2003, members of a League-sponsored work group have been re-examining contribution limits and public funding.

A recent development may affect these campaign reform efforts. On August 18, 2004 the U.S. Court of Appeals for the Second Circuit, in a closely-watched case from Vermont, ruled that the state has established two compelling governmental interests to justify spending limits: preventing the reality and appearance of corruption and protecting the time of candidates and elected officials. This is a case that will likely go to the U.S. Supreme Court and could open the door to a change in the interpretation of the 1976 *Buckley v. Valeo* decision with regard to whether or not spending limits may be constitutional in some circumstances.

III. Campaign Finance Reform in Other States

Essentially all states require at least some campaign contribution and expenditure reporting, known as disclosure. Most states have some form of campaign contribution limits. Five states (Oregon, Illinois, Virginia, Utah, and New Mexico) have no limits on contributions from any individuals or entities. The small exception in New Mexico is a \$500 limit on contributions from regulated industries to candidates for their version of the Public Utility Commission. Fourteen other states have no limits on contributions from individuals. Contribution limits don't meet comprehensive reform goals such as who runs for office, how campaigns operate, and how policy decisions are made. They do lower the rate of increase in campaign spending.

Several states have adopted clean money campaign funding systems, especially since 1996. "Clean

money" is probably the most common name for this reform but other options are "voter owned elections" and "fair and clean elections." The first Clean Elections Act was passed in Maine in 1996. The strategy was developed during the 1990s by activists interested in an approach that met a broad range of reform goals and addressed the need for reform beyond the contribution limits already in place. Two successful clean money candidates from Maine and Arizona talked to groups in Portland and Salem about how differently campaigns can be conducted when the candidate can talk with voters about issues and ideas for improvement, without having to spend tremendous amounts of time raising money.

Clean money has been adopted in Maine, Arizona, Vermont, Massachusetts, and North Carolina. The Vermont program applies only to statewide races while North Carolina's new law applies to judicial races. Implementation of the Massachusetts program, which called for legislative appropriations, stalled due to bipartisan opposition. Elections in 2000 and 2002 operated under the new system in both Maine and Arizona, including the Arizona gubernatorial race, which was won by a clean money candidate. All legal challenges, including providing matching funds for independent expenditures, have been resolved in favor of public funding reform. Corporate interests have mounted an expensive campaign by initiative in Arizona to repeal the state's clean money act, prompted apparently by the fact that more than half of legislative and statewide candidates now run under the program. The plan there is funded through fees and penalties related to state corrections.

Some specific items to remember about public financing include:

- * Courts see public financing as increasing public debate and increasing speech rather than restraining speech.
- * Money or other assistance, such as grants, matching funds, free TV or cable time, tax credits, etc., goes to candidates to run their campaigns,
- * Conditions such as acceptance of spending limits, participating in public debates, not accepting private contributions can be written into the law.

The important issue of how low contribution limits can be set without being unconstitutional was argued in the

Nixon v. Shrink Gov't PAC (2000) and decided finally by the U.S. Supreme Court, after appeals from Missouri state courts. On January 24, 2000 the Court issued a ruling reaffirming the distinction set out in *Buckley v. Valeo* between expenditures and contributions, and upholding the constitutionality of contribution limits. The original suit alleged that the Missouri contributions limits (ranging from \$275 to \$1075 for state office candidates) violated their 1st and 14th Amendment rights. The Supreme Court ruled that the threat of corruption and public concern about large donations to campaigns and influence peddling could damage government's integrity. Again the Court determined that no limits could be set on independent expenditures because they restrained free speech.

IV. Federal Campaign Regulations

Without going into detail on federal campaign reform legislation, it should be noted that Congress passed the Bipartisan Campaign Reform Act (BCRA) also known as McCain-Feingold. The U.S. Supreme Court upheld essentially all of BCRA and in particular restrictions on soft money and issue advertising. There appear to be significant loopholes in the soft money area which have allowed the formation of "527" committees to raise funds at state and national levels, particularly for state-wide and presidential candidates, often for negative ads. The whole issue of independent expenditures, issue ads, and now the new "527" committees nationally, point up the need for increased disclosure and a mechanism to accomplish that.

In essence, when reformers look at campaign funding changes, they need to study closely what the Supreme Court does and does not allow under the U.S. Constitution. (Please see Appendix.) Contribution limits are allowed, but the court opinions have differed with regard to limiting individuals and corporations. The federal government and most states ban corporate contributions. Exceptions to the ban are for ideological, non-profit corporations with no business interest or purpose, no shareholders and not established by a corporation or union; they may make contributions unless they accept corporate donations. Spending limits, unless voluntary, require a high level of constitutional scrutiny and generally have been considered unconstitutional restrictions against freedom of speech. Independent expenditures may not be made by corporations and un-

ions, but individuals, groups, or parties cannot be prohibited from such activities.

V. Some Options for Oregon Campaign Finance Reform

Disclosure

Currently, the only restriction on funding political campaigns in Oregon is the requirement that candidates file their contribution and expenditure reports on a regularly scheduled basis, prior to and after the primary elections, at certain times in-between, and before and after the general elections. There are penalties for late filings, non-filings, and incorrect filings. The Elections Division prints several election campaign manuals for the use of candidates and their committees that detail the C & E reporting, general candidate information, election related dates and times, etc. During the last three legislative sessions, proposals have been presented to limit disclosure: removing the requirements to list an occupation or address for contributors, not requiring an accumulation figure for recurring contributors, changing the deadlines, etc. These measures have not been moved forward primarily because of objections from such groups as the League, Common Cause, Money in Politics Research Action Project (MiPRAP), OSPIRG, unions, and AAUW.

Citing the need for the public to be able to "follow the money" during election campaigns, the Secretary of State in December 2003 appointed a non-partisan committee to recommend legislative changes to close the loopholes and improve enforcement in the disclosure process. The committee presented 10 recommendations to the Secretary May 20, 2004. Of the 10, the following are considered major issues:

- (1) The Secretary should work to develop a system for continuous web-based electronic filing of campaign finance data and make the data available online.
- (2) The Secretary should introduce legislation to require detailed contribution and expenditure reports to be filed every calendar quarter.
- (3) The Secretary should introduce legislation to require committees active in a particular election to file a detailed report 30 days prior to Election Day and 15 days prior to Election Day, unless a quarterly report falls within the same timeframe. Contributions received after the 15-

day report and before Election Day that aggregate \$1000 or more from a single source should be reported electronically no later than the first business day following receipt of the contribution.

- (4) The Secretary should introduce legislation to require committees to obtain both the occupation of a contributor and the name and address of the contributor's employer.
- (5) The Secretary should introduce legislation to allow committees to not itemize expenditures of \$100 or less and maintain a Petty Cash Fund.

Contribution Limits

While the experience of other states, and to some extent the experience of Oregon before 1973 and during the 1996 election cycle, indicates that limits on contributions help keep campaign costs down, they are not necessarily a panacea for solving the problem. The Oregon Constitution must be amended to allow for contribution limits; the dilemma then becomes whether to put the limit amounts into that document or have a separate measure. Other issues include corporate and union contributions, PACs, the limits themselves, and independent expenditures. Since the Oregon Supreme Court did not discuss the limits provided in Measure 9 (1994), the only guidelines available are the limits in other states and the Missouri law, which allows fairly low ones. The usual procedure is to determine the average cost of legislative and statewide campaigns, set amounts that could reasonably allow the collection of sufficient funds, and provide for legal and constitutional safeguards. Federal case law must be carefully reviewed to ensure that any proposal meets the constitutional standards.

The League has helped to organize a working group known as Build Better Campaigns (BBC), which is now expanding its membership and planning to file a constitutional amendment initiative this fall to allow contribution limits. In filing the amendment early, the group hopes to have a ballot title and the legal challenges out of the way prior to the 2005 legislative session. At that time, legislation would be proposed on the basis of the initiative, hearings would be held for public discourse, and with positive action by the Legislature, the amendment could be referred to citizens for a 2006 vote, either in May or November. At the same time, the details

of a statute measure providing the specifics of the contribution limits for individuals, political parties, PACs, and other entities would be prepared and discussed in Salem. The groundwork for these measures was established during the 2003 session when several legislators proposed amendments and statutes dealing with limitations; they were only discussed informally and none of them passed. The biggest question will be whether or not members of the Legislature will hold comprehensive hearings on the issue and provide the opportunity for citizens to vote on contribution limits or, if not, whether the issue will need to be brought to voters via initiatives.

Public Funding/Clean Elections

Measure 6 introduced the idea of public funding for candidate campaigns in Oregon. The BBC is beginning to explore looking at clean money elections along with contribution limits. The states that have enacted public funding already had some form of contribution limits. The question is whether such limits are necessary for a successful public funding system. There is no definitive answer at the moment. The 2000 measure limited the amounts that could be given to candidates before they started their qualifying round of a specific number of \$5 donations. The idea was to give them some up-front resources to start their campaigns. After agreeing to the system and its regulations, candidates could no longer receive any private money, regardless of the source. Goals for public funding include reducing the influence of special interests, leveling the playing field to attract more candidates and more diverse candidates, providing better opportunities for voter-candidate interactions without the need to raise funds, and lowering campaign costs.

Highlights from Maine and Arizona indicate key reform goals (2003 data):

Maine Clean Election System

- 61 percent increase in contested primaries
- 62 percent of general election candidates ran using clean money system
- 98 percent of candidates said they were either very or reasonably satisfied with new law
- 77 percent of state senators and 55 percent of house members elected under new system

Arizona Clean Election System

- More people-of-color candidates
- 30 percent increase in primary candidates
- 52 percent increase in clean election candidates in general elections
- 9 out of 10 statewide offices now held by clean elections candidates including the first governor elected under such a system
- 36 percent of legislature elected using clean elections

In Oregon, the Portland City Council is considering placing a public funding proposal for city offices on the ballot. In 2000 Voters in Portland passed Measure 6 with a 58% "yes" vote. A victory for clean money in Portland would increase the possibility of action by the Legislature to adopt this type of campaign finance reform.

There is a nation-wide effort to obtain free airtime for candidates. The League has been involved with this state's activities, primarily in educating the public at this point. Since the airwaves presumably are free, there is justification for using them to allow candidates to present their viewpoints and reduce the costs of media campaigns. In Oregon, community TV stations give both the candidates and the public access to information about current issues and political campaigns.

VI. Campaign Finance Reform Discussion Questions

1. Why is the funding of political campaigns important?
2. What should be the goals of campaign finance reform?
3. Should there be limits on campaign contributions in Oregon? This will require an amendment to the state Constitution and the question then becomes: should all of the details be put into the Oregon Constitution or should the details be in statute accompanied by a brief constitutional amendment enabling contribution limits?
4. Should Oregon have voluntary spending limits to lower campaign costs?

5. Are there legal and constitutional ways to regulate independent expenditures made on behalf of candidates? Should they be controlled in some way?
6. Should public funding of campaigns be advocated in Oregon?
7. Are contribution limits necessary for a successful public funding system?
8. What role does disclosure of campaign contributions and expenditures play in campaign finance reform?

Sources:

David Buchanan, Common Cause Board Chair. *Early Limitations* (1908-1974 history) and legislative testimony.
Janice Thompson, Director, Money in Politics Research Action Project. *Oregon Campaign Finance Reform* (a November 2003 presentation).
Secretary of State. *Disclosure Recommendations for Secretary of State, 2004.*
Clean Money in Action - Fact Sheets on Maine's and Arizona's Clean Elections System.
Secretary of State. *The Effect of 1994 Ballot Measure 9 On Legislative Elections in Oregon.*
State ex rel Crumpton v. Keisling. 160 OR App 406, 982 P2d 3 (1999).
Money in Western Politics Project, 1997. *Campaign Finance in Oregon: The Impact of Campaign Finance Reform on the 1996 Oregon Elections*

Selected Court Case Abstracts:

FEC Record, May 1990. *Austin v. Michigan State Chamber of Commerce.* *Selected Court Cases Abstracts*
FEC Record, August 1984, October 1985, February 1987.
FEC v. Massachusetts Citizens For Life, Inc.
First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978)
FEC Record, December 2000, February 2001, March 2001, May 2001, March 2002, July 2003. *Beaumont v. FEC.*
FEC Record, March 2000. *Nixon v. Shrink Missouri Government PAC*
Buckley v. Valeo, 387 F. Supp. 135 (D.D.C.1975)
FEC Record, November 1993, August 1995, August 1996, April 1999, July 2000, August 2000, October 2000
FEC v. Colorado Republican Federal Campaign Committee

Notes from Campaign Finance Reform hearings, testimony, measure campaigns, working groups, informal meetings with legislators (Kappy Eaton)

APPENDIX A:
**FEDERAL COURT DECISIONS ON CAMPAIGN
REGULATIONS**

At the heart of several important U.S. Supreme Court decisions on campaign financing is the *Buckley v. Valeo* opinion issued on January 10, 1976. The case involved the constitutionality of the Federal Election Campaign Act (FECA 1971), as amended in 1974 and the Presidential Election Campaign Fund Act. The Court upheld the constitutionality of certain provisions of the election law including:

1. the limitations on contributions to candidates for federal office
2. the disclosure and record-keeping provisions of the FECA
3. the public financing of presidential elections (subtitle H of Internal Revenue Code, 1954 -the income tax check-off)

Other provisions were declared unconstitutional, including:

1. the limitations of expenditures by candidates and their committees, except for presidential candidates who accept public funding
2. the \$1000 limitation on independent expenditures
3. the limitations on expenditures by candidates from their personal funds
4. the method of appointing members of the Federal Election Commission (FEC)

This case establishes that under the U.S. Constitution (1) there can be contribution limits and they can be low; (2) most expenditure limitations, unless they are voluntary, are not justified; (3) candidates can spend their own funds without limit; (4) limits on presidential candidates' spending are allowed under the public financing provisions; and, (5) disclosure of contributions and expenditures are justified because they help voters evaluate candidates, deter corruption through naming major contributions, and provide information to detect violations of election laws.

Beaumont v. FEC, decided by the U.S. Supreme Court on June 16, 2003, held that the prohibition on contributions by corporations is constitutional as applied to nonprofit advocacy corporations. The case arose when the North Carolina Right to Life, Inc. sued the FEC because

it was not allowed to contribute to a federal election. The legal issue was appealed to the Supreme Court by the FEC after several lower courts enjoined the FEC from enforcing the statutory and regulatory provisions regarding corporate donations. The Court noted that federal law has banned corporations from contributing directly to federal candidates for almost 100 years. Such a ban is intended to prevent corruption by ensuring that corporate earnings are not turned into political war chests, to protect individuals who have paid money into a corporation from having their funds used to support candidates they oppose, and to hedge against the use of corporations as illegal conduits for circumventing contribution limits.

The *Beaumont* decision overruled, in part, the Court's decision in *FEC v. Massachusetts Citizens for Life*, made December 15, 1986 after several lower court rulings were appealed. In this case, the nonprofit advocacy corporation Massachusetts Citizens for Life (MCFL) had printed and distributed 100,000 copies of a special flyer urging citizens to "vote pro-life" and picturing the candidates who supported their position. The FEC responded to a complaint and sued MCFL for violation of the Federal Election Campaign Act's ban on corporate spending in connection with federal elections. The Supreme Court decided, 5-4, that the FECA restriction of independent spending was unconstitutional, infringing on MCFL's freedom of speech rights without compelling justification.

In an earlier case involving corporate donations to an advertising campaign against a local referendum, *First National Bank of Boston v. Bellotti*, the U.S. Supreme Court ruled that the risk of corruption perceived in cases involving candidate elections was not present in a popular vote on a public issue. The decision was made April 28, 1978, about a year and a half after the referendum vote in November 1976. This ruling shows the Court's careful drawing of lines with regard to corporation contribution limits and limits applicable to candidates but not ballot measures.

It took 15 years for a final decision regarding the constitutionality of coordinated political party independent expenditures in a federal election. The original suit, *FEC v. Colorado Republican Federal Campaign Committee*, was brought in 1986, with the first U.S. District Court for the District of Colorado ruling on August 31,

1993, that the limit on coordinated party expenditures did not apply to the \$15,000 radio ad run by the Committee against the voting record of then Sen. Tim Wirth, in contrast to Wirth's TV ads on his record. The Committee characterized the ad as a generic voter education expense, not subject to limits.

On its first trip to the U.S. Supreme Court, the Court decided, on June 26, 1996, that the coordinated party expenditure limits could not constitutionally apply to the radio ad. But there were dissenting votes and opinions on separate issues. As a result, the case was remanded to the District Court, which rendered a decision February 23, 1999, reiterating the unconstitutionality of the expenditure limits and the lack of compelling government interest. This decision was upheld by the Appeals court; then it moved up to the U.S. Court once again. The final decision, June 25, 2001, held that the coordinated party expenditures limits were constitutional, commenting that a party committee is not in a unique position vis-à-vis other political spenders.

One final case, *Austin v. Michigan State Chamber of Commerce*, illustrates another application of the corporate limits and independent expenditures campaign law. Michigan has a state law prohibiting corporations from using their treasury funds for campaign expenditures. The Chamber made an independent expenditure for a newspaper ad supporting a candidate for the state legislature, and in 1985 brought suit against the Michigan Secretary of State for prohibiting the expenditure. The District court, in 1985, upheld the law, but the Appeals Court declared the prohibition unconstitutional. On review in 1990 by the U.S. Supreme Court, the Court ruled that the state law banning independent expenditures by corporations was constitutional. It found that the Michigan law was narrowly tailored to serve the compelling state interest of preventing distortions in the political process that might result from allowing corporations to spend general treasury money to express political views.

APPENDIX B:

SUMMARY OF OREGON CAMPAIGN FINANCE REFORM EFFORTS

1908: Oregon voters established campaign contribution and expenditure limits through an initiative.

1957: The Legislature adjusted the dollar amounts.

1971: Additional legislative modifications.

1973: Legislature enacted a more detailed campaign finance reform package focused on expenditures and repealed previous contribution limits. A bill to restrict independent expenditures also was adopted.

1975: The Oregon Supreme Court found both the spending limits bill and the independent expenditure restrictions unconstitutional.

1976: An initiative proposal for partial public funding during only the General election and only for expenditures related to campaign communications was defeated with a 71% "no" vote.

1976: The U.S. Supreme Court ruled that contribution limits were constitutional, but most spending limits were not.

1993: A coalition that included LWVOR drafted a contribution limits measure, which also included voluntary spending limits. It passed the 1993 Senate, but was denied a hearing in the House.

1994: Ballot Measure #9, which limited contributions to statewide candidates and PACs(,) and also authorized voluntary spending limits, passed by 71% in the general election. It also banned corporate and union donations and the bundling of contributions by a candidate or political party.

1997: The Oregon Supreme Court overturned the contribution limits in February and ruled that the state constitution would have to be amended to allow any contribution limits, but the spending limits remained since they were voluntary. The court also threw out the ban on corporate and union donations and the ban on bundling of contributions by a candidate or political party.

2000: Ballot Measure #6, 2000, the Political Accountability Act, was defeated by a 16-point margin. It called for full public funding of state legislative and partisan statewide races. The League was a primary player in this effort.



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