

# The next battle in campaign finance reform

Lawmakers in Congress have unveiled legislation to temper the Supreme Court ruling that allows unlimited spending by corporations and unions on political campaign ads. They could use help from Republicans who have supported campaign finance reform in the past.

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By the Monitor's Editorial View  
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Once a Supreme Court ruling has been issued, overturning it can be as hard as the white marble of the justices' stately building.

It can be done through constitutional amendment, which is slow and arduous. It can be done, perhaps, through another high court ruling, which depends on a new case and the mix of justices hearing it.

The best that can be hoped for is legislation that tries to mitigate the effect of a ruling. That's what some lawmakers in Congress are attempting with proposed legislation on campaign finance.

This week, members of the House and Senate – mostly Democrats – unveiled legislation dubbed the "Disclose Act." It attempts to blunt the court's regrettable decision in January to overturn a previous campaign finance law, thus opening the floodgates of corporate and union spending in elections.

The court did not shine in its 5-to-4 decision in the case of Citizens United v. The Federal Election Commission. It broke with precedent by allowing unlimited spending by corporations and unions on political campaign ads.

The majority found that corporations and labor unions have the same First Amendment right of free political speech that individuals have. With that, they opened up a broad river channel for deep-pocket special interests to drown out the voices (donations) of individual citizens.

The House and Senate bills, which were worked out with the White House, are strongest in their requirement of transparency – the core of the legislation.

These bills reasonably require corporations, unions, and advocacy groups to identify themselves on ads they pay for. A corporate chief executive officer or union or other leader would have to offer an "I approve this message" type of endorsement for an ad. Additionally, these groups would have to disclose their election spending to shareholders, members, and the public through their annual and periodic reports and, within 24 hours, on their websites.

The US Chamber of Commerce, which acts as an umbrella advocate for businesses, vigorously opposes the legislation. It argues that the bills stifle free speech. But it's hard to see how the chamber can launch a credible fight against the transparency aspects, since the Supreme Court has upheld disclosure.

More problematic might be the bills' outright bans on campaign spending by foreign-controlled domestic corporations as well as government contractors (although, interestingly, unions are not targeted). The legislation defines "foreign controlled" according to the standards of states such as Delaware – 20 percent owned by a foreign national. It also bars campaign spending by domestic corporations where foreign

nationals have influential leadership positions. Businesses that have government contracts worth more than \$50,000 would also be banned from campaign spending.

The bills' backers make a pretty good case for these provisions. Election law forbids foreign individuals, governments, and corporations from participating in US elections, so why not foreign-controlled US corporations? And, supporters argue, they are simply extending existing bans on government-contractor political contributions to include political spending – all in the name of avoiding “I grease your palm, you grease mine” favors.

And yet, the provisions establish fairly low thresholds that could sweep a lot of US companies into an outright ban on political ad spending. That would seem to defy the spirit of the Supreme Court decision, no matter how strenuously one might disagree with it.

What would help here is bipartisan cooperation to make this legislation as strong and impervious to a court battle as possible.

Two Republicans are cosponsoring the Disclose Act in the House: Mike Castle of Delaware and Walter Jones of North Carolina. Sadly, no Senate Republicans have come forward to join Democratic supporters Charles Schumer of New York and Wisconsin's Russ Feingold – a champion of campaign finance reform. He worked closely with Arizona's Republican Sen. John McCain on the 2002 overhaul of campaign finance.

Money can have a corrupting influence on elections and lawmaking. Controlling it is a never-ending battle. Twenty-one Republicans who voted for McCain-Feingold reform are still in Congress. How is it that only two are willing to take on this next fight?