
A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO THE HAWAII STATE CONSTITUTION
REGARDING THE FREEDOM OF SPEECH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the United States
2 Supreme Court's decision in *Citizens United v. Federal Election*
3 *Commission*, 558 U.S. 310 (2010), reversed long-standing campaign
4 finance restrictions and designated corporate spending on
5 elections as free speech protected under the First Amendment of
6 the Constitution of the United States. The legislature also
7 finds that the United States Supreme Court's decision in *Buckley*
8 *v. Valeo*, 424 U.S. 659 (1976), provided protection under the
9 United States Constitution to the expenditure of money to
10 influence policy. The *Citizens United* decision removed any
11 limits on the amount of money that corporations, special
12 interest groups, and political action committees (PACs) could
13 spend on an election. The legislature further finds that the
14 decisions in *Citizens United* and *Buckley* are a serious threat to
15 our democracy. Corporations enjoy various advantages, including
16 limited liability, perpetual life, and favorable treatment in



1 the accumulation and distribution of assets, which allow them to
2 amass and spend an extraordinary amount of money on political
3 messages that often have far greater reach and influence than
4 messages from individuals. During the thirteen years since the
5 *Citizens United* decision, there has been a massive increase in
6 political spending by corporations, special interest groups, and
7 PACs, dramatically expanding their already outsized political
8 influence on election outcomes and policy decisions.

9 The legislature also finds that the power to amend state
10 constitutions rests with the people of each state, and the
11 legislature believes it is critical that the State express its
12 disapproval of the *Citizens United* and *Buckley* decisions. At
13 least twenty states, including Hawaii in 2016, have taken
14 legislative action urging Congress to pass a proposed
15 constitutional amendment that overturns the decision in *Citizens*
16 *United*; however, Congress has failed to take any action and
17 appears unlikely to do so.

18 The legislature acknowledges that as long as *Citizens*
19 *United* and *Buckley* are binding law, this Act will have no effect
20 on the Constitution of the United States. United States Supreme
21 Court decisions can be overturned, as demonstrated by the



1 Court's decision to override the fifty-year-old *Roe v. Wade*
2 decision. Therefore, a state constitutional provision, while
3 not binding today, may nonetheless be valuable in the future.

4 Accordingly, the purpose of this Act is to propose an
5 amendment to article I, section 4, of the Hawaii State
6 Constitution to provide that the expenditure of money to
7 influence elections is not a form of speech protected under the
8 Hawaii State Constitution.

9 SECTION 2. Article 1, section 4, of the Constitution of
10 the State of Hawaii is amended to read as follows:

11 "FREEDOM OF RELIGION, SPEECH, PRESS,

12 ASSEMBLY AND PETITION

13 Section 4. No law shall be enacted respecting an
14 establishment of religion, or prohibiting the free exercise
15 thereof, or abridging the freedom of speech or of the press or
16 the right of the people peaceably to assemble and to petition
17 the government for a redress of grievances.

18 The freedom of speech shall not include the expenditure of
19 money to influence elections."

20 SECTION 3. The question to be printed on the ballot shall
21 be as follows:



1 "Shall the Hawaii State Constitution be amended to
2 state that freedom of speech protections under the Hawaii
3 State Constitution do not include the expenditure of money
4 to influence elections, which would take effect if the
5 United States Supreme Court overturns, Congress overrides,
6 or an amendment to the United States Constitution
7 invalidates the United States Supreme Court's decisions in
8 *Citizens United v. Federal Election Commission* and *Buckley*
9 *v. Valeo*, which provide protection under the United States
10 Constitution to the expenditure of money to influence
11 policy?"

12 SECTION 4. New constitutional material is underscored.

13 SECTION 5. This amendment shall take effect upon
14 compliance with article XVII, section 3, of the Constitution of
15 the State of Hawaii.



Report Title:

Constitutional Amendment; Freedom of Speech; Monetary Expenditures to Influence Elections

Description:

Proposes an amendment to the Hawaii State Constitution to provide that freedom of speech protected under the Hawaii State Constitution does not include the expenditure of money to influence elections. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

