Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Government Operations & Elections Committee

HJM 4001

Brief Description: Requesting an amendment to the United States Constitution to return the authority to regulate election campaign contributions to congress and state legislatures.

Sponsors: Representatives Pedersen, Hope, Carlyle, Goodman, Kagi, Sells, Van De Wege, Haigh, Springer, Lytton, Tharinger, Jinkins, Hunt, Cody, Morrell, Ormsby, Hudgins, Pettigrew, Moeller, Upthegrove, Reykdal, Fitzgibbon, Ryu, Liias, Roberts, Maxwell, Sawyer, Riccelli, Farrell, Pollet, Moscoso, Santos and Hansen.

Brief Summary of Bill

- Requests that Congress pass and send to the states for ratification a constitutional amendment returning the authority to regulate campaign financing to Congress and state legislatures.

Hearing Date: 2/13/13

Staff: Jasmine Vasavada (786-7301).

Background:

Over the past three decades, the Supreme Court of the United State (Supreme Court) has struck down several congressional campaign finance reform efforts on First Amendment grounds.

In 1974, Congress amended the Federal Election Campaign Act of 1971 to limit the amount of money any individual could contribute to a political campaign, and to require public disclosure of all contributions over a certain amount. In the case of *Buckley v. Valeo*, the Supreme Court upheld disclosure requirements and restrictions on individual contributions, but ruled that the government cannot cap the amount of personal money that an individual can spend on his or her own campaign.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In the following decades, donations of "soft money" were increasingly used to circumvent campaign finance regulations—donations made not to a clearly identified candidate but instead to political parties for party building activities or issue advertisements. Congress ultimately passed a bipartisan Campaign Reform Act of 2002, often referred to as "McCain-Feingold" after its prime sponsors, which prohibited national political parties from spending soft money, prohibited groups associated with corporations and unions from spending money to advocate for or against candidates just before elections, and required candidates to appear in their advertisements and directly take credit for them.

In 2010, in *Citizens United v. the FEC*, the Supreme Court struck down large portions of this law. As a result, corporations and labor organizations are no longer subject to bans on independent spending and the use of general treasury funds for federal campaign advertising. Ultimately, court decisions leading up to and in the wake of Citizens United have led to the practice in which groups can contribute an unlimited amount of money to an outside group, a "super PAC" (super Political Action Committee) to run ads on their behalf. These groups are still restricted from coordinating with campaigns, and are still limited in their ability to donate to campaigns directly, but they may otherwise spend unlimited funds to advocate their agendas.

While the *Citizens United* ruling did not directly affect existing state laws, the National Conference of State Legislatures reports that many states with laws limiting corporate and union spending in statewide campaigns responded to the ruling by repealing independent expenditure bans, either through legislative action or through a ruling by the Attorney General, Secretary of State, Elections Board, or Ethics Commission.

Summary of Bill:

The Legislature requests that Congress pass and send to the states for ratification a constitutional amendment returning the authority to regulate campaign financing to Congress and state legislatures.

Appropriation: None.

Fiscal Note: Not requested.