

Initiative Measure No.

735

Initiative Measure No. 735 concerns a proposed amendment to the federal constitution.

This measure would urge the Washington state congressional delegation to propose a federal constitutional amendment that constitutional rights belong only to individuals, not corporations, and constitutionally-protected free speech excludes the spending of money.

Should this measure be enacted into law?

Yes

No

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The Secretary of State is not responsible for the content of statements or arguments (WAC 434-381-180).

Explanatory Statement

Written by the Office of the Attorney General

The Law as it Presently Exists

The United States Supreme Court has held that the First Amendment to the United States Constitution protects the right of individuals to contribute money to candidates running for office and to spend money independently to support or oppose candidates. In 2010, the Court held in a case called *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), that the First Amendment also gives corporations a right to independently spend money to support or oppose candidates.

An amendment changing the United States Constitution may be proposed either by the United States Congress or by a constitutional convention called for by two-thirds of the States' legislatures. A proposed amendment becomes a part of the Constitution if it is ratified by three-fourths of the States. The amendment process is described in Article V of the United States Constitution.

The Effect of the Proposed Measure if Approved

The measure would urge Washington's current and future members of Congress to propose a joint resolution to amend the United States Constitution. The proposed amendment would state that constitutional rights belong only to individual human beings; that spending money is not free speech under the First Amendment; that governments are fully empowered to regulate political contributions and expenditures to prevent undue influence on government; and that political contributions and expenditures must be promptly disclosed to the public.

The measure would urge Washington's members of Congress to choose an amendment ratification method that will best ensure that the people are heard and represented during the ratification process. It would also urge current and future Washington legislatures to ratify such an amendment when passed by the United States Congress and delivered to the States for ratification.

Finally, the measure would provide that immediately after the measure is enacted, the Washington Secretary of State is directed to deliver copies of the measure to the Washington State Governor, all current members of the Washington State Legislature, all current members of the United States Congress, and the President of the United States.

Fiscal Impact Statement

Written by the Office of Financial Management
For more information visit www.ofm.wa.gov/ballot

Initiative 735 would have no significant fiscal impact on state or local governments. The initiative requires the Secretary of State to immediately deliver copies of the initiative when enacted to listed elected officials, which would cost approximately \$325.

Assumptions for Analysis of Initiative 735

The initiative is a request to Washington's current and future congressional delegation to propose a joint resolution for an amendment to the U.S. Constitution clarifying five items:

1. Constitutional rights are rights only to human beings.
2. The judiciary may not equate spending money with freedom of speech.
3. All political contributions and expenditures must be disclosed prior to elections.
4. Governments may regulate political contributions and expenditures to prevent undue influence.
5. This act does not limit the people's rights under the First Amendment of the U.S. Constitution.

When enacted, the Secretary of State is directed to immediately deliver copies of the initiative to the governor, all current member of the state Legislature, all current members of the U.S. Congress and the president of the United States, which totals approximately 684 people. Assuming the initiative is delivered by first class postage at \$.47 per piece of mail, the cost to fulfill this provision is estimated at \$325.

Argument for

Big Money is Corrupting Our Political System

The 2010 Supreme Court decision in *Citizens United v. FEC* and other cases have unleashed unlimited, anonymous campaign dollars from mega-wealthy individuals, corporations, unions, and other special interests. SuperPACs and interest groups spent more than \$1 billion on campaigns in 2012 – almost 3 times more than 2008! This year will be even worse.

Instead of representing the people who elected them, many politicians spend their time courting big donors who expect favors in return. Where does that leave the voice and concerns of the average citizen?

Congress Will Only Act If We Demand It

Although 80% of Republicans and 83% of Democrats support overturning *Citizens United*, Congress will not act on its own -- politicians profit from business as usual. But when we voters put our voices on record, we hold Congress accountable for inaction. Sixteen states and over 650 municipalities have already passed measures like ours. By adding Washington to the list, we will tell our elected representatives that we want change now.

A New Constitutional Amendment

Initiative 735 calls on Congress to initiate a Constitutional amendment overturning *Citizens United* and stipulating that spending money is not protected political speech. The amendment would ensure that contributions are regulated and publicly disclosed. It would also clarify that only people have Constitutional rights -- not corporations or special interest groups.

This is about restoring the power of “We the People.” Let’s send a clear message to the other Washington. Vote “yes” on Initiative 735!

Rebuttal of argument against

Initiative 735 will not limit freedom of speech or freedom of the press. It will keep moneyed special interests from having a louder voice than “*We the People*.” We support Initiative 735 because we believe in freedom of speech for everyone, not just Super PACs, corporations, and wealthy individuals who monopolize the media with attack ads and misinformation. Spending unlimited, secret campaign money is legalized bribery. If you cherish free speech, vote “Yes” on 735!

Written by

Cindy Black, Coordinator, Washington Coalition to Amend the Constitution (WAmend); **Alice Woldt**, Executive Director, Fix Democracy First; **Ben Stuckart**, President, Spokane City Council; **Jim Street**, Former Superior Court Judge; **Lyda Pierce**, Rev. Dr. Latino/Hispanic Ministries United Methodist Church; **Pramila Jayapal**, State Senator 37th District, founder One America

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Argument against

Initiative 735 is a dangerous proposal to allow government censorship. This would be the first Constitutional amendment since prohibition to take rights away.

Silencing speech is undemocratic

Citizens should have as much opportunity to share and receive information as possible. Silencing certain speakers is counterproductive. Forbidding citizens from spending their money spreading their beliefs is totalitarian, not democratic. We can, we must, find solutions that expand, instead of taking away, our rights. Vote no I-735.

Initiative 735 opens Pandora’s Box

Initiative 735 allows censorship of both profit and nonprofit corporations. Government would be free to censor news, books, movies, music, and your favorite charity. If a corporation made it, government could censor it. Should we empower congressional Republicans to censor corporations including Planned Parenthood, Playboy, PETA and WashPIRG? Absolutely not. Should we empower congressional Democrats to censor CareNet, Fox News, National Organization for Marriage and the NRA? Absolutely not. Vote no I-735.

We need more speech, not less

To prohibit spending money on speech would severely hamper public discourse. The Founders wisely protected freedom of speech and press, even though the historic printing press cost money. The best protection for diverse speech is keeping centralized regulators like Congress from controlling the marketplace of ideas. Vote no I-735.

We can require disclosures

The Citizens United ruling allows government to require disclosure of political contributions. We can bolster disclosure requirements without amending the Constitution. Vote no I-735.

Rebuttal of argument for

“Amendment I. Congress shall make no law abridging the freedom of speech, or of the press.....” I-735 seeks to destroy freedom of speech by amending the Constitution. I-735 seeks to censor corporations such as the Seattle Times, the Tacoma News Tribune, the Spokane Spokesman-Review, Disney/ABC, Comcast/NBC, Time Warner/CNN, CBS, the New York Times, Planned Parenthood, the Sierra Club, Facebook, Twitter, Google and the Corporation for Public Broadcasting. Vote No on I-735.

Written by

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adopt such rules and regulations as necessary for the implementation and proper administration of this chapter and may coordinate concerning the process, timelines, and documentation related to such rule making, as necessary.

(2) The department and the department of licensing may commence administrative work, including rule making, necessary to implement this act beginning July 1, 2016, as deemed necessary.

NEW SECTION. Sec. 17. This chapter may be known and cited as the carbon pollution tax act.

NEW SECTION. Sec. 18. Sections 1 through 8, 16, and 17 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 19. This act takes effect July 1, 2017.

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Complete Text

Initiative Measure No. 735

An Act Relating to the influence of corporations and money in our political system; and creating new section.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

New Section. Sec. 1. INTENT

This act declares that the people of Washington State support amending The Constitution of the United States to eliminate the undue influence of concentrated money and political power on elections and governmental policy. The amendment would overturn decisions by the Supreme Court of the United States extending constitutional rights to corporations and other artificial legal entities as well as those decisions equating the spending of money with free speech. It also provides for the regulation and disclosure of political contributions and spending.

New Section. Sec. 2. FINDINGS

1. Free and fair elections, as well as honest representation, are essential to self-determination and self-governance as described in The Declaration of Independence and established in The Constitution of the United States.
2. The American people have lost faith in the political process because their voices are not heard and their interests are not represented. Thus, an ever smaller percentage of Americans is motivated to vote.
3. The U.S. Constitution makes no mention of corporations or other artificial entities; there are no provisions extending rights to such entities. However, through a series of decisions equating a "corporation" with a "person," the U.S. Supreme Court extended to corporations the constitutional rights and protections intended for people only.
4. Unlike human beings, corporations can exist in perpetuity and in many countries at the same time. As a result many large corporations, both foreign and domestic, invest in campaigns to invalidate or bypass regulatory law intended to protect the public. Thus, corporate participation in the political process often conflicts with the public interest.
5. Money is property; it is not speech. Nowhere in the U.S. Constitution is money equated with speech. Because advertising is limited and costly, equating the spending of money with free speech gives those with the most money the most speech.
6. Whenever special interests, including very wealthy individuals, are able to spend unlimited amounts of money on political speech, candidates and officeholders can be corrupted and intimidated, and the free speech of most citizens is drowned out and denied. Monopolizing public speech neither promotes nor protects free speech.

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7. Anonymous contributions and spending for political gain promote dishonesty and corruption, preventing voters from assessing the motives of the speaker. The public must be able to hold funders of political speech accountable when their messages prove false or misleading. Full and prompt disclosure of funding sources is essential to an informed electorate, fair elections, and effective governance.
8. Article V of the U.S. Constitution empowers the people and the states to use the amendment process to correct egregious decisions by the U.S. Supreme Court that subvert our representative government.

New Section. **Sec. 3. POLICY & PROMOTION**

The voters of the State of Washington urge immediate action by the current and future Washington State congressional delegations to propose a joint resolution for an amendment to The Constitution of the United States clarifying that:

1. The rights listed and acknowledged in The Constitution of the United States are the rights of individual human beings only.
2. The judiciary shall not construe the spending of money to be free speech under the First Amendment of The Constitution of the United States. Federal, state, and local governments shall be fully empowered to regulate political contributions and expenditures to ensure that no person or artificial legal entity gains undue influence over government and the political process.
3. All political contributions and expenditures shall be disclosed promptly and in a manner accessible to voters prior to elections.
4. This act does not limit the people's rights to freedom of speech, freedom of the press, free exercise of religion, or freedom of association.

New Section. **Sec. 4. RECOMMENDATION TO CONGRESS**

In accordance with the U.S. Constitution, the voters of the State of Washington urge the Washington state congressional delegation, and the U.S. Congress generally, to include an amendment ratification method which will best ensure that the people are heard and represented during the ratification process.

New Section. **Sec. 5. RECOMMENDATION TO STATE LEGISLATURE**

The voters of the State of Washington urge our current and future Washington state legislatures to ratify such an amendment when passed by Congress and delivered to the states for ratification.

New Section. **Sec. 6. DIRECTION TO SECRETARY OF STATE**

The Washington Secretary of State is authorized and directed to immediately deliver copies of this initiative, when enacted, to the following persons: the governor of the State of Washington, all current members of the Washington

State legislature, all current members of the United States Congress, and the president of the United States.

New Section. **Sec. 7. CONSTRUCTION.**

The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

New Section. **Sec. 8. SEVERABILITY.**

If any provision of this act or its application to any person, entity, or circumstance is held invalid, the remainder of the act or the application of the provision to other persons, artificial legal entities, or circumstances is not affected.

New Section. **Sec. 9. MISCELLANEOUS.**

This act is known and may be cited as the "Government of, by, and for the People Act."

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