

# Campaign Finance Law

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The American Campaign Finance system has been riddled with problems, allowing for irregularities and loopholes that would allow for abuses by various groups. The Campaign Finance Law removed soft money to national political parties; however, they weakened reform on other areas. The reform is broken into seven areas: soft money, Issues advertisements and Electioneering, Contribution limits, Coordination, Disclosure, Unions, Corporations and non-for-profits, and miscellaneous.

The bipartisan campaign reform sought to address the problem with soft money in National party committees. Prior to the reforms, soft money was rampant throughout the American

political system. Not since Nixon v. Shrink Missouri Government PAC in 1976 has campaign finance limitations been placed, especially on soft money contributions. In the Supreme Court case of Buckley v. Valeo the court put the issue of corruption at the center of campaign finance law. The Court was concerned with the "corruption and the appearance of corruption." Soft money is all political funding, which is not limited to the Federal Election Campaign Act [FECA]. The Federal Election Campaign Act [FECA], was adopted in 1971 and amended in 1974, it "seeks to quantify the cost of political speech, limit the amount of money collected and spent on campaign-related activities, and enable public scrutiny of the impact of money on campaigns and elected officials through disclosure of the identity of contributors." Soft money can be given without any limit or restriction by labor Unions, Corporations or Individuals. Court rulings and combined with tougher Federal Exchange Commission [FEC] regulations forced the use of soft and hard funding on certain events by parties. Parties must use funding for advertising their issues, voter registration, Get-Out-the-Vote, as well as administrative and other relevant party-building expenses. From 1990 to 2000 soft money growth grew

exponentially for national party committees. In 1992 soft money totaled \$86 million, 1996 it increased to \$262 million, and by the 2000 election it reached over \$495 million. These values are staggering, the trend would continue to enforce beliefs that the elections have become for the upper-most elitist class, who are severely affecting policy and are circumventing democratic processes. National Party committees are the Democratic National Committee [DNC], Republican National Committee [RNC], Democratic Senatorial Campaign Committee [DSCC], National Republican Senatorial Committee [NRSC], Democratic Congressional Campaign Committee [DCCC], and National Republican Congressional Committee [NRCC].

The Bipartisan Campaign Reform Act places a complete ban on all soft money to National Party Committees. "A national committee of a political party may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds". "The ban includes fundraising and spending of any soft money. National Parties and Congressional Committees may raise and spend only hard money for all expenditures.

Prior to the Bipartisan Campaign Reform Act there were no provisions for soft money use by members of Congress, Federal Officeholders or Federal Candidates.

However, the Bipartisan Campaign Reform Act changed that stance. A ban was placed on all soft money raised by Officials. Members of Congress, Federal Officials, and Candidates may not raise soft money in connection with a federal election. Fundraisings for State and Local Parties were also limited. Fundraising in connection with a state or local election must be limited to a maximum of one thousand per individual and five thousand for a Political Action Committee. Corporate or Union funding is not allowed. Officeholders and Candidates are not allowed to raise "Levin Amendment" money, however they are permitted to attend fundraising events where Levin Amendments funds are raised.

In terms of fundraising for Not-for-Profits and Get-Out-the-Vote [GOTV] organizations, Candidates fundraising only for voter registration or GOTV efforts by 501(c) or 527 organizations is limited to \$20,000 per source yearly. There are also previous limitations that include no corporate or union money. Candidates may still raise money from non-

profits as long as the funding is not utilized for a specific federal election activity.

The Bipartisan Campaign Reform Act defined Federal Election Activity. In the FECA, a contribution is defined "as anything of value given for the purpose of influencing a federal election." Bipartisan Campaign Reform Act defines the activity as "express advocacy" for which state parties must use hard money, or Levin Amendments soft money, where applicable. The definition goes on to include voter registration activity within 120 days of the election, Voter identification, Get-Out-the-Vote activity, or campaign activity in connection with a federal election. Any work conducted by state and local party employees who expend more than twenty-five percent of their time to a federal election. Finally, it seeks to respond to federal candidate specific advertisements that promote or attack a candidate. Surprisingly the Federal Election Activity definition excludes the definition of a "promote or attack" maneuver. Also state candidates are not under stringent protocols by the document. State candidate specific advertisements, contributions, grassroots materials, and administrative costs are excluded from the

definition. Thereby offering opportunities to state officials to find vessels to facilitate a federal campaign.

Under the Bipartisan Campaign Reform Act state, district and local party committees must fund Federal Election Activities with hard money. Previously there were no limits to soft money fundraising or transfers by National Party Committees to state and local parties. The Levin Amendment limited state and local party soft money exception for voter registration and Get-Out-the-Vote programs. The exception is for generic voter registration in an attempt to bring new voters into the American political process, but it is limited to ten thousand per source if State laws allow. Contributors can range from corporation to labor unions. However, money raised under this exception must meet conditions. Firstly, federal officeholders and National parties are prohibited from raising Levin Amendment funds. All finance records must be disclosed. Party committees that are more than one are prohibited from jointly raising Levin Amendment funds. State party committees cannot raise funding for other states. The Levin Amendment funds cannot be used for federal candidates. The Levin Amendment activities must be consistent with the Federal Exchange Commissions hard and soft money allocation

policy. State and local parties must raise its own matching hard money; state party cannot transfer hard money to local parties to meet matching requirements. The Levin Amendment funds cannot be transferred between party committees.

Before the Bipartisan Campaign Reform Act national and state parties had Voter Registration and Get-Out-The-Vote efforts utilized a mix of soft and hard money mandated by the Federal Exchange Commission regulations. Afterwards Voter Registration programs used by national parties must be funded with hard money. Voter registration by state parties orchestrated with a federal election within 120 days before a federal election must use hard money or a mix of hard money and Levin amendment money. In the Get-Out-the-Vote efforts national parties must use hard money only. State parties must be funded with hard money or a mix of hard money and Levin amendment money. Candidates fundraising specifically for voter registration or GOTV programs by not-for-profits are limited to \$20,000 per source.

In regards to Non-Profits the Bipartisan Campaign Reform Act changes from the past, which had no provision, by banning parties from contributing or soliciting funds from non-profits, which are connected to a federal

election. Candidates receive a partial ban; fundraising for voter registration or GOTV efforts by non-profit organizations is limited to \$20,000 per source from an individual. Candidates can raise funds for non-for-profits in non-political activity without any limit.

In regards to Issues Advertisements and Electioneering the Bipartisan Campaign Reform Act seeks to reform on variety of levels. The Act covers only broadcast advertisements only. It defines "electioneering communication" in broadcast, cable, or satellite advertisements that refer specifically to a candidate within 60 days of a general election or 30 days of a primary. It also defines targeting as a broadcast advertisement that can be received by more than 50,000 people in the district where the election is being held. In regards to Party issued advertisements the national committees may raise and spend only hard money for any person, including electioneering. For state and local parties must use hard money for any federal advertisement. Candidates can raise and spend only hard money for federal candidate specific advertising.

For Corporations and unions electioneering for issues advertisements were not limited under the previous statute,

however now corporations and unions are prohibited from making targeted electioneering advertisements. They can however give money to the political action committee to produce advertisements. An important aspect of the campaign reform is the disclosure of issue advertisements. For entities allowed to make electioneering communications, disclosure must be made within 24 hours of electioneering after spending \$10,000, and thereafter each time \$10,000 is spent. The disclosure provision includes the identity of the financier, all individuals that have control over the advertisement, and any donors that are facilitating the project. The disclosure provision is made evident by the information provided by the Federal Exchange commission. After analysis of the documents, we observe a myriad of Democratic Presidential candidates abiding the rule. For example, Wesley Clark collected \$475,750 from 1903 contributors this value is what is necessary for Clark to receive matching funds.

Bipartisan Campaign Reform Act propels to reform the contribution limits for soft and hard money. Generally, limitations were placed on contributions by individuals and groups in an attempt to ensure that interest groups do not dominate political campaigns. Before the act Individual

contributions limit were \$25,000 in hard money per year to candidates, parties or PACs. Individuals were allowed to give an unlimited amount of funding to national, state, local parties as well as non-profits for elections. Now individuals can give a total of \$95,000 to a campaign. They can give a total of \$57,500 to all party committees, and a maximum to \$37,500 to all other non-national committees. Individual contributions to candidates go from one thousand dollars per election to two thousand dollars per election from individuals to candidates in a federal election. Primaries, general, and runoff elections are all separate elections. Individual's contributions to parties go from \$5,000 to \$10,000 to each state district, and local party committee annually. The Act allows for \$25,000 annually to each national party committee. Political Action Committees go unchanged on how much they can give to a candidate. PACs can give a maximum of \$5,000 to candidates, PACs, or state parties and they can give \$15,000 to national parties.

	<b>To a candidate committee (per</b>	<b>To a national party committee (annually )</b>	<b>To any PAC, state or local party, or other political committee</b>	<b>Total</b>

	election)		e (annually)	
What an Individual can give under the old law:	\$1,000	\$20,000	\$5,000	\$25,000 annually
What an Individual can give under the new law: (Subject to aggregate limit)	\$2,000	\$25,000	\$10,000 to each state or local party committee  \$5,000 to each Political Action Committee [PAC]	\$95,000 per two-year cycle

The Millionaire Opponent Provision allows senate candidates to compete against individuals that are capable of funding their election with personal funds. Once a wealthy opponent uses at least \$350,000 the opposing candidate's contribution limits triple to \$3,000 and allows other financial assistance from parties.

Parties to organize strategies in effectively deploying campaigns have used coordinated efforts. Coordination

efforts are defined as: a payment made in cooperation with, at the suggestion of, or per an understanding with a candidate, candidates agent or campaign or party." The definition facilitates a move to try and identify vessels used by campaigns to circumvent previous reform legislation. The coordination rules brought about by the FEC apply to only coordinate communications by Political Action Committees only. This allows venue for the other agencies to come in and abuse the coordinated communications.

Various organizations tried to influence federal campaigns, corporations unions, and non-profits all seek to have their interests promoted. Prior to the bipartisan campaign finance reform act there were stiff policies against involvement with federal election by these groups. Currently unions and corporations are prohibited from giving soft money to political parties. They can give hard money that can be used for electioneering. The Beck provision, both Republican and Democratic Senators ruled out a Supreme Court ruling that stated that non-union members that pay fees to unions are entitled to refunds if they are spent on political activities. Non-profits have a more freedoms than the other organizations.

Enforcement can be very difficult and entangled with huge influxes of money flowing in a short amount of time. The United States Sentencing Commission has set a new criterion for campaign finance violations by increasing penalties for contribution, and extending statute of limitation to 5 years. Enforcement regulations have become stricter; however, these measures do not seriously address abuses that occur.

Legal issues do exist within the reform. Constitutional consistency has arisen in regards to the first amendment rights to speech. It can be argued that the ban on soft money and the sections that involve issue advertisements, and electioneering protocols may be violating free speech rights.

Issues that exist with the Bipartisan Campaign Reform Act include that it predominantly addresses federal candidates. It does not try to set any substantial reform on the other local elected officials. The reform seems superficial in its way to be perceived as a momentous change; at best it receives Luke warm reception. Also, party abuses can still run rampant, the system allows for usage of Levin Amendment which means well but offers candidates to

manipulate the system by acquiring funds. The reform also continues to enforce a bipartisan approach to elections. Independents are unable to compete against the political machines. Wealthy independent candidates under the new law, have to compete with their opponents who are party affiliates can have campaign finance reform policies loosened to competitively compete in the election.

The campaign finance law tries to address the problems that are plaguing the United States national political system in an attempt to bring a more democratic perspective to the election process. However, with invisible primaries and other party barriers ingrained into the governmental operations systems, we see that reform is entrapped in a bipartisan elitist class. Envisioning reform in the campaign financing system, we must promote changes that would ensure groups such as Enron and other deviant organizations do not influence the policy-making and campaigns.

These reforms are moderate alterations in a much larger systemic issue in the American political system. Campaigns bloated expenses, predominately utilized with the advertisement segment forces candidates out of races that are unable to fund the campaign from their war chests. The

reforms reinforce party identification and activity; independent candidates will not be able to compete against parties that are able to combine resources that will enable them to afford running multimillion dollar campaigns.

Another issue with the reforms is that it's inability to address state parties attack or promotion of candidates raised by soft money for campaign advertisements. The law should have barrier against these abuses.

Reform will have to come from the overhaul of the campaign commission it has been deeply entrenched party history and is incapable of developing novel reform through legislation due to its heritage. The commission has been split along party lines for a long time, ensuring that parties will have their own members defending them in light of potential egregious financial actions. The two main political entities each have 3 commissioners on the board, to ensure party survival and longevity.

A major effect of the Bipartisan Campaign Reform Act of 2002 is that it forces parties to go out and start grassroots campaigns to compensate the funds lost by the stricter rules. It will force parties to bring in new voters and push political parties to ask for funding from more

individuals. This is significant, it is a real change to bring more people into the democratic process. The governmental system has historically been perceived as elitist group that has disenfranchised the general electorate from the elections. This is the first step towards reducing that barrier between represented and minority groups.

The real target of the Bipartisan Campaign Reform Act is addressing soft money federal campaigns. In that sense it seems to be promising, however the issue that remains is in enforcement. The ability for the federal exchange commission's ability to enforce the measures will be looked at.

We need to establish a general election trust fund, similar to the state on Minnesota, for each political party to account for all districts. This will begin to consolidate and facilitate accounting measures that would enable candidate's campaign finance records to be observed closely. For candidates to receive funding they must raise a certain amount of threshold money. Caps will be placed on total campaign spending, in an attempt to promote a fair election. The candidate will be limited in spending personal

funds, to ensure that voters are involved in the political process. These measures cannot be enforced due to constitutional rights that protect individuals through freedom of speech. However, if the candidates maintain an honor system, it can be successful. If candidates do not wish to take part in the program, then all limitations will be waived. However, with the growing concerns from the electorate regarding big party bully tactics and distancing of voters for the political sphere, candidates might be pressured by public opinion to willingly take on the initiatives. In an attempt to mobilize the electorate into a voting body we must create a simple, low-cost measure to involve voters. To this step we need to institute an optional tax for campaigns. Individuals can send a part of their taxes to a particular party. This will increase party identification, and ensure that the budget is fair. It creates greater opportunity for American citizens to get involved in politics. The grassroots initiatives will bring the American political process into the homes of the American people.

Our greatest untapped resource for political campaigns is the Internet. The Internet can provide the latest information at a blistering pace. It will also facilitate

a more educated electorate. Under the protection of the first amendment with the freedom to associate and speak we should move to a more inclusion over the World Wide Web. Opening a political discussion seems to be the Internet's democratic potential. It will facilitate complete representation on variety of views that will enable minority voices to be heard. Fundamentally campaign finance wants to ensure that the American people are justly recognized and represented. The Internet also has the ability to offset the high costs of campaign advertisements over television, radio, and mail. It will also reach a larger audience than what is currently available. This will offer a platform for candidates that would otherwise be unable to run for office an opportunity. These candidates will offer variety into the political sphere and being to alter a bipartisan approach to policy. With a larger candidate pool, we will see an improvement in the quality of debates.

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