



League of Women Voters Minnesota

The 2010 Citizen's United Decision and Minnesota Campaign Law Briefing Paper

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MARCH 2012

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I. Background

a. LWV Positions on Campaign Finance Reform

In January 2010, the United States Supreme Court decision in *Citizens United v. Federal Election Commission (FEC)* provided that corporations and other entities may make unlimited political expenditures, opening the door to a new flood of money in our elections. In the dissenting opinion, Justice John Paul Stevens said that "while American democracy is imperfect, few outside the majority of this court would have thought its flaws included a dearth of corporate money in politics."

The League of Women Voters agrees. In response, a bipartisan group of lawmakers and stakeholders, including League of Women Voters Minnesota (LWV Minnesota), began meeting to discuss legislation that would increase the level of transparency in Minnesota elections. The *Citizens United* decision specifically contemplated the kind of disclosure outlined in the proposed legislation.

The League of Women Voters of the United States (LWVUS) does not currently have an official position on the *Citizens United* decision; discussion of an official position and related actions is expected in 2012. However, LWVUS and LWV Minnesota do have positions on Campaign Finance Reform, and such positions are relevant to the outcomes of the *Citizens United* decision.

LWVUS believes methods of financing political campaigns should ensure the public's right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office, and allow maximum citizen participation in the political process.

LWV Minnesota supports improvements in election laws regulating campaign practices including judicious use of public resources to finance campaigns and reduction of the amount of money spent on campaigns.

b. Purpose Statement

This briefing paper highlights what existed prior to the *Citizens United* decision, what the decision was, and what this decision has so far meant to Minnesota's campaign finance law and laws in other states.

II. *Citizens United* Primer

a. Pre-*Citizens United*

i. Federal Law

Before *Citizens United* was decided by the U.S. Supreme Court, federal election law was generally governed by the 1976 Supreme Court decision in *Buckley v. Valeo* and by the Bipartisan Campaign Reform Act of 2002, commonly known as McCain-Feingold.

In *Buckley v. Valeo*, the Supreme Court upheld a federal law that set limits on contributions directly to individual campaigns, but ruled that spending money to indirectly influence

elections is a form of constitutionally protected free speech, thereby striking down other portions of the law. The Court also ruled that candidates may give unlimited amounts of their own money to their own campaigns.

McCain-Feingold's key provisions were:

- A ban on unrestricted or “soft money” donations made directly to political parties, regardless of the source of the money, and on the solicitation of such donations by elected officials;
- Limitations on advertising or “electioneering communications” that mention a candidate. Unions, corporations, and non-profit organizations are not allowed to do such communications within 30 days of a primary election or 60 days of a general election.
- Restrictions on political parties’ use of their funds for advertising on behalf of candidates in the form of “issue ads” or “coordinated expenditures”.

Two Supreme Court decisions supported McCain-Feingold regulations: *Austin v. Michigan Chamber of Commerce* (1990)¹ and *McConnell v. Federal Election Commission (FEC)* (2003).² Prior to *Citizens United*, the Supreme Court decision in *Federal Election Commission (FEC) v. Wisconsin Right to Life* (2007) weakened a key tenet of McCain-Feingold.³

ii. Minnesota Law

Minnesota Statutes Chapter 397, Corporate Political Contributions, governed expenditures in Minnesota prior to the *Citizens United* decision. Chapter 397, in effect since 1988, provided rules governing what a corporation could and could not do related to donating to candidates or campaigns, and what disclosures and reporting were required. Corporations were banned from making – or offering to make – *independent expenditures* to “promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office.”

An *independent expenditure* was defined as “an expenditure that is not made with the authorization or expressed or implied consent of, or in cooperation or concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate. An independent expenditure is not a contribution to that candidate.”⁴

The penalties for violation of Chapter 397 were steep: a corporation could lose its right to do business in the state and/or be dissolved, as well as be fined up to \$40,000. However, contribution revenue from member dues or fees were not regulated, leaving labor unions and other similar associations, free to contribute directly to candidates and make independent expenditures on their behalf.⁵

b. *Citizens United* Decision

The U.S. Supreme Court ruled in a 5-4 decision that, under the First Amendment, corporations and unions have the same political speech rights as individuals. (See Corporate Personhood below).⁶ This decision allows corporations and unions to use their

general treasury funds to make election-related independent expenditures. The *Citizens United* ruling is controversial because it struck down a federal law banning such general fund expenditures and also fully overturned *Austin* and *McConnell*, two of the Court's prior political speech decisions.

The *Citizens United* ruling called into question laws in 24 states, including Minnesota, where corporations were prohibited from making independent expenditures for political purposes from their general treasury funds, and corporate independent electioneering expenditures were strictly regulated.⁷

In the *Citizens United* opinion, written by Justice Anthony Kennedy, the court broadly held that:

- (1) no distinction can be drawn between the First Amendment rights of individuals and corporations in the electoral context, and that
- (2) "independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption."⁸

It is important to note that the Supreme Court **upheld** requirements for **disclaimer and disclosure** by sponsors of political advertisements purchased with independent expenditures (note side bar)⁹. This tenet of *Citizens United* provides opportunity for states to pass legislation to minimally protect the electorate through clear disclosure requirements.

The *Citizens United* decision did not involve the federal ban on direct contributions from corporations or unions directly to candidate campaigns or political parties, such contributions remain illegal in races for federal office.

"A Blockbuster Case Yields an Unexpected Result"

Adam Liptak, *New York Times*⁹

Liptak's article noted that the *Citizens United* decision actually upheld **disclosure requirements**, saying that "transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages." Although the decision was a 5-4 vote, split along the classic ideological fault line, we often forget the second aspect of the decision, this one favoring disclosure, with only Justice Clarence Thomas dissenting.

What is Corporate Personhood?

"**Corporate personhood**" is a legal measure allowing corporations to be treated as people. As a matter of interpretation of the word "person" in the Fourteenth Amendment, U.S. courts have extended certain constitutional protections to corporations. Treating corporations as "persons" is a convenience that allows corporations to sue and to be sued, provides a single entity for easier taxation and regulation, simplifies complex transactions which would otherwise involve thousands of people, and protects the rights of the shareholders as well as the right of association.⁶

After the Court's 2010 *Citizens United* ruling, a coalition group *Move to Amend*, and several other groups, formed to call for a U.S. Constitutional Amendment abolishing corporate personhood.⁶

III. Minnesota Disclosure Law¹⁰

The first impact of *Citizens United* in Minnesota was to nullify portions of state campaign finance law which prohibited independent expenditures by corporations.¹¹ In April 2010, the Minnesota Chamber of Commerce and others brought suit in the Federal District Court in Minnesota asking that a key section of campaign finance law, Minnesota Statute 211B.15 subdivision 2, be declared unconstitutional.¹² On May 7, 2010, Judge Paul Magnuson issued the opinion that this section was unconstitutional in light of *Citizens United* and ordered all county attorneys to cease enforcement.¹³

In response, LWV Minnesota and Common Cause Minnesota issued a statement in support of legislation introduced by Representative Ryan Winkler (D – 44B).¹⁴ Representative Winkler’s bill was an effort to create some disclosure of the newly constitutional “independent expenditures” allowed by *Citizens United*.¹⁵

Winkler’s legislation called for disclosure of all contributions over \$5,000 by independent expenditure groups (including corporations, both for profit and non-profit, and unions) within 48 hours of the donation. Additionally, the legislation required the use of a disclaimer on most campaign material used in Minnesota. Campaigns spending less than \$5,000 were exempted.

The original bill required shareholder notification in addition to filing with the campaign finance disclosure board if a corporation contributed more than \$10,000. It also required that issue ad funding must be disclosed if costs amounted to more than \$25,000. However, these sections of the legislation were dropped from the original bill.¹⁶

Disclosure was intended to prevent corruption and undue influence in campaign ads. According to Common Cause Minnesota Executive Director Mike Dean, “without knowledge about who is funding these ads, the public cannot adequately evaluate the information and misinformation about the candidates.”¹⁷

On the final day of the 2010 Legislative session, a revised version of the bill, already passed by the Minnesota Senate, passed with unanimous consent (131-0). Governor Tim Pawlenty signed the bill into law (2010 c 397) on May 27, 2010.¹⁸

Minnesota’s law has since become a model for other states seeking to curb undisclosed contribution by corporations, and, presumably, unions.¹⁹ However, corporations opposed to the law believe that Minnesota’s requirements amount to an undue burden.²⁰ The following descriptions provide a map of their continuing attempts to have the Minnesota law ruled unconstitutional.

a. New Minnesota Disclosure Law Goes To Court

A challenge to the new Minnesota law (2010 c 397) was submitted on July 7, 2010 by Minnesota Citizens Concerned for Life, Inc., The Taxpayers League of Minnesota, and

Coastal Travel Enterprises, LLC in U.S. District Court, District of Minnesota, declaring that the law directly banned corporate contributions in violation of U.S. law, and asking for a temporary injunction against the law.²¹ The plaintiffs sought to allow direct contributions to candidates by corporations. However, Loyola Law School professor Richard Hassen said the Supreme Court has viewed direct campaign contributions to candidates as being more susceptible to corruption than independent contributions.²²

On September 20, 2010, District Court Judge Donovan Frank denied the injunction, declaring that “[s]uch transparency assures that the electorate will be able to make informed decisions and properly evaluate the speakers and their messages. Invalidating the law ... would likely result in corporations making independent expenditures without any reporting or disclosure on the eve of the upcoming election on November 2 [2010]. This result so close to the election would clearly harm the state, Minnesota voters, and the general public interest.”²³

The plaintiffs appealed the U.S. District court ruling to the U.S. Supreme Court, and on October 29, 2010, the Supreme Court refused to block the Minnesota law or to grant an injunction, saying only, “The application for an injunction...is denied.”²⁴

On January 11, 2011, the plaintiffs appealed the ruling to the U.S. Eighth Circuit Court of Appeals. On May 16, a three-judge panel filed a 2-1 decision affirming the Minnesota law, stating the plaintiffs failed to show likelihood of success in proving the law unconstitutional.²⁵

On July 13, the Eighth Circuit Court of Appeals vacated the three-judge panel ruling and put *Minnesota Citizens Concerned for Life, Inc. v. Lori Swanson* on the docket for hearing by the full court on Sept. 21, 2011.²⁶ As of this writing, there is no final ruling.²⁷

b. Minnesota Campaign Finance and Public Disclosure Board

The Minnesota Campaign Finance and Public Disclosure Board considered the question of whether amendment campaigns should be required to disclose contributions. The Brennan Center at the New York University School of Law lobbied the Board to include such disclosure under its guidelines for corporate disclosure.²⁸ On June 30, 2011, the Minnesota Campaign Finance Board ruled that amendment campaigns are required to disclose donations, and on October 4, 2011, it issued final guidelines.²⁹

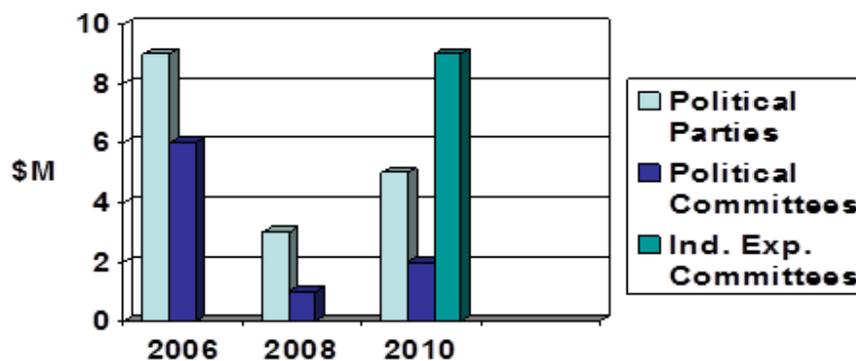
IV. Election 2010

Following the *Citizens United* decision, Minnesota experienced a significant shift in political expenditures in the 2010 campaigns. The Minnesota State Campaign Finance and Public Disclosure Board web site provides political contribution disclosure information for Minnesota election cycles.³⁰ Information on independent expenditures in Minnesota for 2006 through 2010 was provided directly by the Board for the purpose of this investigation, and is summarized below.³¹

2006	2010
\$6 million to political committees	\$2 million to political committees
\$9 million to political parties	\$5 million to political parties
	\$9 million to independent expenditure committees (primarily gubernatorial)

This was the first time such large amounts had been spent in the state of Minnesota. Compare these numbers with figures recorded in the 1996 mid-term elections where party units spent only \$308 and political committees spent \$457,752.³¹

Independent Expenditures



(Minnesota Campaign Finance and Public Disclosure Board, 2011)³¹

a. 2010 Gubernatorial Campaign Sets Spending Records

The large “independent expenditure” contributions by allied interests in Minnesota set records for election time spending; totaling \$9,098,537.³¹ This amount was almost matched by the Minnesota governor candidates who spent nearly \$8 million on their campaigns in 2010. DFL gubernatorial candidate Mark Dayton spent \$4.2 million, nearly twice as much as GOP candidate Tom Emmer, and four times as much as Independence Party candidate Tom Horner. Dayton received monetary assistance from Alliance for a Better Minnesota, a union-backed interest group that has spent even more money than the DFL, using its millions to buy ads criticizing Emmer. [...] two major pro-business interest groups, MN Forward and Minnesota's Future, collected \$4.1 million, using much of the money to buy ads supporting [Tom] Emmer.³²

b. Post-Citizens United Decision - 2010 Corporate Campaign Contributions in Minnesota: Case Study of Target, Inc.³³

Citizens United allowed corporations to contribute directly to issue organizations for political advertising during the 2010 election campaign. The pro-business political action committee, Minnesota Forward, accepted more than \$100,000 from seven companies in Minnesota, including Target Corporation. The new Minnesota disclosure law required such donations to independent expenditure committees be made public.

Target helped to pay for a television advertisement endorsing GOP gubernatorial candidate Tom Emmer who opposed same-sex marriage. A company that has touted its community support, including contributions to the gay pride parade as well as donations to schools, Target felt a strong backlash from employees and customers who viewed a contribution to an anti-gay marriage candidate as an about face. Target voluntarily changed its political giving process after the Emmer episode led to boycotts, bad publicity and some slippage in the stock price. At the same time, other corporate donors went unremarked: both Regis Corporation and Best Buy Company made \$100,000 contributions to Emmer's campaign.³⁴

V. Just the Beginning

Several actions are or may be forthcoming, and other actions are occurring as this paper goes to print:

- Eighth Circuit Court of Appeals decision on Minnesota case *MCCL v. Lori Swanson*
- Minnesota legislators may ponder a bill concerning shareholders' right to know what corporations they "own" are doing with general fund dollars.
- Pertaining to disclosure, independent expenditures, and other potential *Citizens United* impacts, LWV Minnesota will need to determine what issues to "watchdog" during the 2012 election and beyond.
- In a 5-2 decision on December 30, 2011, the Montana State Supreme Court decided against *Citizens United* in favor of Montana's 1912 Corrupt Practices Act Law (*Western Tradition v. Attorney General of Montana*)³⁵
- New York, California, and several other states, along with individual cities have passed legislation to "ban" the allowance of corporate funds as independent expenditures in local, state, and federal elections taking place in their jurisdictions. Some are calling on federal lawmakers to pass legislation overruling the *Citizens United* decision and, in several cases, many are calling for a U.S. Constitutional Amendment to ensure only individual human beings are "people".
 - **Note:** The Constitutional Amendment approach can often have unintended consequences as they, like laws, are open to interpretation and are much harder to change if the interpretation goes against public opinion.
 - **Note:** A Constitutional Amendment would be required to pass both Houses of Congress and would require ratification by $\frac{3}{4}$ of all states. This would be a far longer approach than pushing for federal legislation or a Supreme Court over turn of its own ruling.
- In the days prior to the January 3, 2012 Iowa Caucuses, the first of the negative 2012 election cycle independent expenditure and "Super PAC" advertisements hit the airwaves, with an onslaught of ads against Republican presidential candidate and former U.S. House Speaker Newt Gingrich.³⁶ As of this publication, the flurry of fundraising and advertising continues on both sides of the political spectrum.

- In January 2012, LWVUS leaders requested, through listserv discussions, that the LWVUS Board of Directors determine a LWVUS position on *Citizens United* and a potential constitutional amendment, and also determine whether this issue is a priority for LWV lobbying. A partial list of LWV state, regional, and city chapters making this request is below:

LWV Arizona	LWV Santa Fe, NM
LWV Metropolitan Phoenix, AZ	LWV Southwest Nassau, NY
LWV Northwest Maricopa County, AZ	LWV Buffalo/Niagara, NY
LWV Los Angeles, CA	LWV of Stillwater, OK
LWV Mendocino County, CA	LWV Oregon
LWV Whittier, CA	LWV Greater Pittsburgh, PA
LWV La Plata County, CO	LWV Austin, TX
LWV Indiana	LWV Virginia
LWV of the Bozeman Area, MT	LWV San Juan, WA
LWV New Mexico	LWV Washington

VI. For Further Information

a. Select Court Decisions

Buckley v. Valeo, 424 U.S. 1 (1976), available through FindLaw at

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=424&invol=1>

Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990), available through FindLaw at

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=494&invol=652>

McConnell v. Federal Election Commission (FEC), 540 U.S. 93 (2003), available through FindLaw at

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=000&invol=02-1674>

Federal Election Commission (FEC) v. Wisconsin Right to Life, 551 U.S. 449 (2007), available through FindLaw at

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=06-969>

Citizens United v. Federal Election Commission (FEC), 558 U.S. 50 (2010), available on ScotusBlog at <http://www.scotusblog.com/case-files/cases/citizens-united-v-federal-election-commission/>

Minnesota Chamber of Commerce v. Gaertner (2010), Civ. No. 10-426, 2010 WL 1838362 (D. Minn. May 7, 2010), available on Justia at <http://dockets.justia.com/docket/minnesota/mndce/0:2010cv00426/111364/>

Minnesota Citizens Concerned for Life, Inc. (MCCL) v. Lori Swanson (2011), available through the Eighth District Court of Appeals at http://www.ca8.uscourts.gov/cgi-bin/new/getDocs.pl?case_num=10-3126&from=inter

b. Federal Law

Bipartisan Campaign Reform Act of 2002 (BCRA), 2 U.S.C. § 441b, commonly known as McCain-Feingold, available through the Federal Election Commission at http://www.fec.gov/pages/bcra/bcra_update.shtml

c. Minnesota Law

Minnesota Constitution, Article VII, “Elective Franchise”, available at https://www.revisor.mn.gov/constitution/#article_7

Minnesota Statutes §200-212, “Elections”, available at <https://www.revisor.mn.gov/statutes/?view=part&start=200&close=212>

Minnesota Statutes §211B.15, “Corporate Political Contributions”, available at <https://www.revisor.mn.gov/statutes/?id=211B.15&year=2011>

d. Key Definitions

Minnesota Statutes provide several definitions which are important to understand when discussing the *Citizens United* decision and its impact in Minnesota.

1. **Campaign Expenditure / Expenditure.** “A purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question. An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (1), “expenditure” includes the dollar value of a donation in kind. Expenditure does **not** include:

- (1) Non-campaign disbursements as defined in subdivision 26;
- (2) services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit;

(3) the publishing or broadcasting of news items or editorial comments by the news media; or

(4) an individual's unreimbursed personal use of an automobile owned by the individual and used by the individual while volunteering personal time."³⁷

2. **Campaign Spending Limits.** "The amount that may be spent by candidates for constitutional and legislative offices to campaign for nomination or election shall be limited by law. The legislature shall provide by law for disclosure of contributions and expenditures made to support or oppose candidates for state elective offices."³⁸

3. **Contribution.** "(a) "Contribution" means money, a negotiable instrument, or a donation in kind that is given to a political committee, political fund, principal campaign committee, or party unit.

(b) "Contribution" includes a loan or advance of credit to a political committee, political fund, principal campaign committee, or party unit, if the loan or advance of credit is: (1) forgiven; or (2) repaid by an individual or an association other than the political committee, political fund, principal campaign committee, or party unit to which the loan or advance of credit was made. If an advance of credit or a loan is forgiven or repaid as provided in this paragraph, it is a contribution in the year in which the loan or advance of credit was made.

(c) "Contribution" does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; the publishing or broadcasting of news items or editorial comments by the news media; or an individual's unreimbursed personal use of an automobile owned by the individual while volunteering personal time."³⁹

4. **Contribution Limits.** "A candidate or a candidate's committee may not accept aggregate contributions made or delivered by an individual or committee in excess of \$300 in an election year for the office sought and \$100 in other years; except that a candidate or a candidate's committee for an office whose territory has a population over 100,000 may not accept aggregate contributions made or delivered by an individual or committee in excess of \$500 in an election year for the office sought and \$100 in other years. The following deliveries are not subject to the bundling limitation in this section:

(1) delivery of contributions collected by a member of the candidate's committee, such as a block worker or a volunteer who hosts a fund-raising event, to the committee's treasurer; and

(2) a delivery made by an individual on behalf of the individual's spouse."⁴⁰

5. **Disbursement.** "An act through which money, property, office, or position or other thing of value is directly or indirectly promised, paid, spent, contributed, or lent, and any money, property, office, or position or other thing of value so promised or transferred."⁴¹

6. **Independent Expenditure.** “An expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. An independent expenditure does not include the act of announcing a formal public endorsement of a candidate for public office, unless the act is simultaneously accompanied by an expenditure that would otherwise qualify as an independent expenditure under this subdivision.”⁴²
7. **Political Purposes.** “An act is done for "political purposes" when the act is intended or done to influence, directly or indirectly, voting at a primary or other election. This does not include news items or editorial comments published or broadcast by the news media.”⁴³
8. **Prohibited Contributions.** “A corporation may not make a contribution or offer or agree to make a contribution directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a major political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. For the purpose of this subdivision, "contribution" includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate but does not include an independent expenditure authorized by subdivision 3.”⁴⁴

¹ In *Austin v. Michigan Chamber of Commerce* (1990), the Supreme Court held that the Michigan Campaign Finance Act, which prohibited corporations from using treasury money to support or oppose candidates in elections, did not violate the First and Fourteenth Amendments. The Court upheld the restriction on corporate speech based on the notion that “[c]orporate wealth can unfairly influence elections,” and the Michigan law still allowed the corporation to make contributions from a segregated fund. The case recognized a state's compelling interest in combating a "different type of corruption in the political arena: the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas." Unknown (modified 2011 December 17). Retrieved February 29, 2012, from Wikipedia: http://en.wikipedia.org/wiki/Austin_v._Michigan_Chamber_of_Commerce

² The *McConnell v. Federal Election Commission (FEC)* (2003) case was brought by groups such as the California Democratic Party and the National Rifle Association, and individuals including U.S. Senator Mitch McConnell, then the Senate Majority Whip, who argued that the McCain-Feingold legislation was an unconstitutional infringement on their First Amendment rights. Unknown (modified 2012-01-10). Retrieved 02/29/12 from Wikipedia: http://en.wikipedia.org/wiki/McConnell_v._Federal_Election_Commission

³ In *Federal Election Commission (FEC) v. Wisconsin Right to Life* (2007), the question before the court was whether McCain-Feingold's ban on the use of corporate treasury funds for political advertisements in the 60 days before a general election was unconstitutional as applied to advertisements that do not explicitly endorse or oppose a candidate. The Supreme Court, in a 5-4 decision, set forth a major exception to the McCain-Feingold limitations on broadcast ads within 30 days of a primary or 60 days of a general election by ruling that unless an ad could not reasonably be interpreted as anything other than an ad urging the support or defeat of a candidate, it was eligible for an "as applied" exception to the McCain-Feingold limits on issue ads close to an election. Unknown (modified 2012-02-27). Retrieved 02/29/12 from Wikipedia: http://en.wikipedia.org/wiki/Citizens_United_v._Federal_Election_Commission

⁴ As noted in chart "State Laws Affected by *Citizens United*" (2012) National Conference of State Legislators website at: <http://www.ncsl.org/default.aspx?tabid=19607#states%E2%80%9494respond>

⁵ Review the full mark-up of Minnesota Statute Chapter 397 at the Minnesota Office of the Revisor of Statutes, 2010 Regular Session, Chapter 397--S.F.No. 2471. Available at <https://www.revisor.mn.gov/laws/?id=397&doctype=Chapter&year=2010&type=0#laws.0.16.0>

⁶ American Bankruptcy ©,(n.d.). Corporate Personhood Debate. Retrieved on 2/29/12 from http://american-bankruptcy.us/?a=Corporate_personhood_debate

⁷ 08-205 *Citizens United v. Federal Election Commission* - Supreme Court of the United States (2010 January 21). Available at: <http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>

⁸ The Brennan Center for Justice(2010 January 21). *Citizens United v. FEC (amicus brief)*. Available at http://www.brennancenter.org/content/resource/citizens_united_v_fec/

⁹ Liptak, Adam (2011, September 19). A Blockbuster Case Yields an Unexpected Result. *New York Times*. Retrieved from <http://www.nytimes.com/2011/09/20/us/disclosure-may-be-real-legacy-of-citizens-united-case.html>

¹⁰ The below summarizes Minnesota legislation and the one bill that finally passed in in the wake of the *Citizens United* decision. 2010 National Conference of State Legislators, 2010 Legislation Related to *Citizens United*. Available at <http://www.ncsl.org/default.aspx?tabid=19607#states%E2%80%9494respond>

State	Repeal Unconstitutional Provision	Disclosure & Attribution Requirements	Shareholder/BOD Approval or Notification
Minnesota	HF 913 (failed to pass)		HF 3821 (failed to pass)
	HF 3454 (failed to pass)	HF 3368 (failed to pass)	
	HF 3559 (failed to pass)	SF 3293 (failed to pass)	
	SF 425 (failed to pass)	SF 3398 (failed to pass)	
	SF 2353 (failed to pass)	SF 2471 (<i>Enacted</i>)	
	SF 3157 (failed to pass)		

¹¹ Minnesota Statute 211B.15

¹² *Minnesota Chamber of Commerce v. Gaertner* (2010)

¹³ Court decision in *Minnesota Chamber of Commerce v. Gaertner* (2010). Available at <http://apps.americanbar.org/buslaw/blt/content/2010/10/0004f.pdf>

¹⁴ Issue 8, June 1 2010 of LWV Minnesota Capital Letter. Available at: http://www.inet7.lwvmn.org/CapitolLetter2010_08.pdf. And Common Cause blog entry available at <http://www.commonblog.com/2010/04/28/common-cause-and-league-of-women-voters-call-on-leadership-address-campaign-finance-reform/>

¹⁵ Minnesota House File 3821. Available at <http://wdoc.house.leg.state.mn.us/leg/LS86/HF3821.0.pdf>
Companion bill Minnesota Senate File 3398. Available at <https://www.revisor.mn.gov/bin/showPDF.php>

Author Commentary: With 18 days left in the legislative session, there was a need to act quickly to adapt Minnesota law to the decision of the U.S. Supreme Court and to also “create rules that require timely disclosure of campaign contributions and expenditures, disclaimers on who is paying for the political materials, and closing the issue ad loophole.” Read more from LWV Minnesota, Issue #6 of the Capitol Letter, April 29, 2010. Available at: http://www.inet7.lwvmn.org/CapitolLetter2010_06.pdf

¹⁶ **Author Commentary:** It appears the Senate companion bill, SF 3398, did not go as far as the House bill and very late in session, just prior to the vote, a revised Senate bill, SF 2471, incorporated most of House bill HF 3821, but removed the section on shareholder notification. SF 2471 was passed by the House and Senate and is current Minnesota law; albeit a law that may be struck down if *MCCL Inc. v. Lori Swanson* is decided in favor of MCCL. For further commentary, review LWV Minnesota Issue #7 of the Capitol Letter, May 12, 2010. Available at: http://www.inet7.lwvmn.org/CapitolLetter2010_07.pdf

¹⁷ M Dean. (2010, April 28). Common Cause Minnesota and League of Woman Voters MN Call on Leadership to Address Campaign Finance Reform [Web log comment]. Retrieved from <http://www.commonblog.com/2010/04/28/common-cause-and-league-of-women-voters-call-on-leadership-address-campaign-finance-reform/>

¹⁸ Minnesota House File 2754 and Senate File 2471. Final language passed into law and signed by Governor Pawlenty was in Senate File 2471. Available at <https://www.revisor.mn.gov/bin/showPDF.php>

¹⁹ Herb, Jeremy (2011 October 12). Minnesota a Model in Disclosure Law. *Star Tribune*. Available at: <http://www.startribune.com/politics/104747019.html>

²⁰ As the law stands now, a corporation/union may donate its own money to an existing independent expenditure committee/fund as long as it provides the name and address of the corporation. If the corporation/union solicits/receives money beyond its own revenue, the source of the contributions must be disclosed. Opponents believe the law adds “undue burden”. Walsh, James (2011 May 16). Minnesota Can Require Corporations To Report Political Spending, Court Says. *Star Tribune*. Available at <http://www.startribune.com/politics/121895804.html?source=error>

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²⁷ See Eighth Circuit District Court web site at www.ca8.uscourts.gov and search for case 10-3126 to watch for the final decision

²⁸ Brennan Center for Justice letter to Gary Goldsmith, Executive Director of the Minnesota Campaign Finance and Public Disclosure Board, June 12, 2011

²⁹ Minnesota Campaign Finance and Public Disclosure Board (2011 October 4). *Statement of Guidance: Providing guidance to Board staff in implementing the determination of "contribution" under Chapter 10A as applied to associations making expenditures to promote or defeat a ballot question.* Available at http://www.cfboard.state.mn.us/law/Guidance_BQ_Disclosure_10_4_11.pdf

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³³ Authors Disclosure: LWV Minnesota has an ongoing relationship with Target Corporation as a funding source for the publication of our bi-annual Voter Guide. LWV Minnesota maintains editorial control over the publication.

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³⁷ Minnesota Statute 10A.01, Subd. 9

³⁸ Minnesota Constitution Article VII, Sec. 9

³⁹ Minnesota Statute 10A.01, Subd. 11. Additional definition in 211A.01, Subd. 5

⁴⁰ Minnesota Statute 211A.12

⁴¹ Minnesota Statute 211B.01 Subd. 5. Additional definition in 211A.01, Subd. 6.

⁴² Minnesota Statute 10A.01, Subd. 18

⁴³ Minnesota Statute 211B.01. Additional definition in 211A.01 Subd. 8.

⁴⁴ Minnesota Statute 211B.15 Subd. 2

***The 2010 Citizens United Decision and Minnesota Campaign Law Briefing Paper
Committee members would like to thank the following individuals for meeting with
them and for providing very helpful insights, information, and resources:***

Rep. Ryan Winkler

August 29, 2011 at the home of Barb Person, St. Louis Park, MN

Mike Dean, Executive Director, Common Cause Minnesota

September 12, 2011 at the home of Barb Person, St. Louis Park, MN

Gary Goldsmith, Executive Director, MN Campaign Finance and Disclosure Board and Jeff Sigurdson, Assistant Director, MN Campaign Finance and Public Disclosure Board
October 17, 2011 at Campaign Finance & Public Disclosure Board Office, 190 Centennial Office Building, 658 Cedar Street, St. Paul, MN

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