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Transparent Elections for Rhode Island

The Brennan Center strongly supports proposed legislation that would enhance the transparency of money spent to influence Rhode Island elections. The changes proposed by Senate Bill 2569 and House Bill 7859 are necessary to modernize Rhode Island's campaign finance disclosure scheme and are squarely within the State's regulatory power. We commend Governor Chafee and other state leaders who support these reforms, and urge the legislature to adopt them without delay.

There is a need for campaign finance reform in Rhode Island.

It is indisputable that the people of Rhode Island have an interest in mandating the robust disclosure of money in state politics. This type of transparency deters corruption and promotes a healthy democracy by making sure that voters are fully informed when they head to the polls. For these reasons, the U.S. Supreme Court and lower federal courts have repeatedly upheld state and federal disclosure laws.[1]

Democracies of small states such as Rhode Island may be especially vulnerable to the threat of "unknown, undisclosed, and potentially limitless" spending by outside groups like Super PACs, as noted by state Representative Chris Blazejewski.[2] In the 2010 elections, for example, outside groups spent an estimated $1.9 million to influence the outcome of Rhode Island elections, without providing any valuable information about the source of that money.[3] Groups with generic names like "Ocean State Action" and "Committee for Justice and Fairness" only had to report the name of their director and a business address, information that fails to reveal the persons and interests behind those groups.[4] The threat of special interest spending is especially acute in light of this fall's statewide referendum on

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[1] The constitutionality of robust campaign finance disclosure has been endorsed by the Court since *Buckley v Valeo*, 424 U.S. 1, 66-68 (1976). The Court recently reaffirmed this position in *Citizens United*, emphasizing that disclosure "provides the electorate with information and insures that the voters are fully informed about the person or group who is speaking." 130 S. Ct. 876, 915 (2010). Since *Citizens United*, lower federal courts have uniformly upheld disclosure laws.

[2] THE CW 28 PROVIDENCE, *Governor Lincoln D. Chafee Joins with Legislative Leaders, Common Cause RI to Announce Campaign Finance Disclosure Legislation*, Feb. 16, 2012, http://www.thecwprov.com/newsroom/rhode-is land-news/videos%20/vid_81.shtml.

[3] Stephen Beale, *Who Influenced RI's Election*, GOLOCAL PROV NEWS, Nov. 23, 2010, http://www.gol ocalprov.com/news/independent-expenditures/.

[4] *See id.*

gambling, which will likely attract substantial attention.[5] Indeed, in general, national trends point to increased outside spending in this year's elections and elections to come.[6]

New reporting and disclaimer requirements would remedy gaps in the current law.

Disclosure requirements under current law do not capture a substantial amount of electioneering activity, thereby leaving Rhode Islanders in the dark about the source of large sums spent to influence their votes. The new bills would fix this problem. Under the proposed reform, when a person or group spends over $250 on political advertisements—deemed "independent expenditures" or "electioneering communications"—the spender must promptly file a report about the expenditure identifying all donors who have given $1,000 or more within the previous twelve months.[7]

In addition, enhanced disclaimer provisions would require all political advertisements—including, television, radio and internet ads—to provide the name of the sponsoring organization and other information, including the name of the group's chief officer or treasurer, its address, and a statement of either agreement or independence.[8] Further, all non-profit organizations would have to list their top five donors from the past twelve months in the communication.[9] These requirements directly respond to existing problems in Rhode Island law, and would allow voters to quickly and accurately identify outside spenders.[10]

The proposed reporting requirements would not be unduly burdensome.

Under the pending bills, politically-active organizations have an alternative to limit the scope of their disclosure obligations by creating a separate account for political expenditures.[11] Donors who do not want to finance the political activities of an organization, or who want to remain anonymous while supporting the group's general activities, can simply donate to the organization's general accounts and specify that their contribution is not for political use.

To be sure, a group may have to withstand a slight administrative burden to create a new bank account and separate donations for political and non-political use. There is no reason to think, however, that any such burden is more significant than accounting

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[5] Steve Klamkin, *Senate leaders back full campaign finance disclosure*, WPRO NEWS, Feb. 16, 2012, http://63 0wpro.com/Article.asp?id=2396348&spid=37719.

[6] *See* Ctr. for Responsive Politics, *Outside Spending*, http://www.opensecrets.org/outsidespending/index.p hp (last visited Apr. 24, 2012) (comparing outside spending during the 2012 federal election cycle to the same point in previous election cycles).

[7] S. 2569 § 17-25.3-1, 2012 Leg. (R.I. 2012).

[8] *Id.*, at § 17-25.3-3.

[9] *Id.*, at § 17-25.3-3(d).

[10] *Id.*, at § 17-25.3-3.

[11] *Id.*, at § 17-25.3-2.

requirements necessitated by federal tax law and state non-profit corporate law. And, any small burden is wholly justified by the public interest in campaign finance disclosure.

This bill has appropriate enforcement provisions.

In order to ensure that the new reforms are followed, the bills also provide for strengthened enforcement of campaign finance disclosure laws. Importantly, serious penalties would only apply to those who "willfully and knowingly" violate a provision—ensuring that those who simply make a reporting mistake or a late filing will not be subject to a felony charge.[12] Moreover, past experience underscores the necessity of strong penalty provisions. Indeed, two candidates for public office in Barrington failed to file campaign finance reports for races in 2008 and 2010 and have still not paid fines.[13] Not only are these individuals shirking money owed, by not filing the reports, voters were never knew the sources of the money financing their elections.

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[12] *Id.*, at § 17-25.3-4.

[13] William Rupp, *2 Candidates Still Owe Fines; 1 Paid*, BARRINGTON PATCH, Feb. 3, 2012, http://barring ton.patch.com/articles/2-candidates-still-owe-campaign-fines.