



Summary of Initiative 735

Prepared for members of the Washington House of Representatives by the House Office of Program Research.

This information has been prepared in response to various requests for a summary of Initiative 735. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

BRIEF SUMMARY

- Requests the state congressional delegation to propose an amendment to the United States Constitution regarding campaign financing.
- Requests the state to ratify the constitutional amendment once passed by Congress.

BACKGROUND

Initiative 735

Initiative 735 was filed in 2015 as an initiative to the Legislature. Once certified, an initiative to the Legislature is submitted to the Legislature at its next regular session, at which time the Legislature must take one of three actions:

- adopt the initiative as proposed, in which case it becomes law without a vote of the people;
- reject or take no action on the proposed initiative, in which case the initiative must be placed on the ballot at the next state general election; or
- approve an alternative to the proposed initiative, in which case both the original proposal and the Legislature's alternative must be placed on the ballot at the next state general election.

The Legislature did not act on Initiative 735 during its 2016 Regular Session. This initiative is, therefore, being submitted to the people for approval or rejection at the November 2016 general election.

The ballot title and ballot measure summary are as follows:

Ballot Title

Statement of Subject: Initiative Measure No. 735 concerns a proposed amendment to the federal constitution.

Concise Description: 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 []

Ballot Measure Summary

The measure would urge the Washington state congressional delegation to propose a federal constitutional amendment clarifying that constitutional rights belong only to individuals, not corporations; 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; and that political contributions and expenditures must be promptly disclosed to the public. The measure would urge the legislature to ratify such an amendment.

Overview of Campaign Finance and Protected Speech

Political speech is protected as a fundamental right under the First Amendment to the United States Constitution. The government may only regulate political speech if there is a compelling governmental interest in limiting or restricting that right.

Federal law provides a regulatory system over the financing of political election campaigns, mainly through the Federal Elections Campaign Act of 1971 and the Bipartisan Campaign Reform Act of 2002, (BCRA) also known as "McCain-Feingold." These laws generally regulate the contributions and expenditures made in political campaigns, as well as the public disclosure of those activities.

The United States Supreme Court (Court) has considered the constitutionality of these campaign finance laws in a number of cases. In 2010, the Court decided *Citizens United v. Federal Elections Commission (FEC)*, which struck down a major part of the BCRA that restricted the use of corporate or union general treasury funds to pay for independent political advertisements. That decision overruled previous decisions upholding such restrictions and determined that corporate and union spending on independent political advocacy is protected as free speech and may not be banned. In 2014 the Court struck down another part of the BCRA in *McCutcheon v. FEC*, which limited the aggregate amount of political contributions an individual could make in a two-year period.

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Overview of Constitutional Amendment Process

The United States Constitution (Constitution) Article V provides two ways for amending the Constitution. The first method allows Congress to propose an amendment that is approved by a two-thirds vote in the House and Senate. The second method requires Congress to call a constitutional convention to propose amendments when requested by two-thirds of the state legislatures. Any amendment proposed under either method is adopted only if ratified by three-fourths of the state legislatures.

SUMMARY

The voters of the State of Washington request the state congressional delegation to propose a constitutional amendment to Congress that provides the following:

- The rights enumerated in the Constitution are for individual persons.
- The judiciary may not interpret the First Amendment of the Constitution, protection of free speech, to include the spending of money.
- Government is fully empowered to regulate campaign financing to protect against undue influence over government and the political process, and all political contributions and expenditures must be disclosed prior to an election.
- The proposed amendment does not limit the people's First Amendment rights.

The voters request the state to ratify this constitutional amendment once it is passed by Congress. The Secretary of State is directed to distribute this Initiative, upon enactment, to the Governor, all state legislators, Congress, and the President.

Effective Date: The measure takes effect 30 days after the election at which it is approved.

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