

COUNTY COUNCIL

COUNTY OF KAUA'I

Resolution

No. 2015-44, Draft 4

RESOLUTION URGING HAWAII'S CONGRESSIONAL DELEGATION TO ADDRESS EXCESSIVE CAMPAIGN SPENDING BY PROPOSING AND PASSING AMENDMENTS CLARIFYING THAT CORPORATIONS ARE NOT PEOPLE WITH CONSTITUTIONAL RIGHTS, IN PARTICULAR ELECTORAL RIGHTS, AND THAT UNLIMITED CAMPAIGN SPENDING IS NOT FREE SPEECH

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

WHEREAS, the United States Constitution was written and approved with the intention of protecting the rights of individual human beings ("natural persons"); and

WHEREAS, corporations are not mentioned in the Constitution, and the people of the United States ("The People") have never granted constitutional rights to corporations, nor decreed that corporations have authority that exceeds the authority of The People; and

WHEREAS, corporations can and do make important contributions to our society using advantages that government has wisely granted them, but corporations should not be considered natural persons; and

WHEREAS, in a 1938 opinion, United States Supreme Court Justice Hugo Black stated, "I do not believe the word 'person' in the Fourteenth Amendment includes corporations"; and

WHEREAS, the United States Supreme Court, in Austin v. Michigan Chamber of Commerce (1990), recognized as a threat to a republican form of government "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"; and

WHEREAS, the United States Supreme Court in Citizens United v. Federal Election Commission (2010) ("Citizens United") reversed the decision in Austin by rolling back legal limits on corporate spending in the electoral process and allowing unlimited corporate spending to sway votes and influence elections, candidate selection, and policy decisions; and

WHEREAS, the majority decision in Citizens United was recognized as a serious threat to self-government by the four dissenting justices. Corporations have special advantages not enjoyed by natural persons, such as limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets. These advantages allow them to amass and spend prodigious sums on campaign messages that often have far greater reach and influence than messages from individuals; and

WHEREAS, corporations have used the power and rights bestowed upon them by the courts to overturn democratically enacted laws that were passed at municipal, state, and federal levels to curb corporate abuse, thereby impairing local governments' ability to protect their citizens against corporate harm to the environment, to health, to workers, to independent businesses, and to local and regional economies; and

WHEREAS, the United States Supreme Court rightly held in Buckley v. Valeo (1976) that the appearance of corruption justified limits on contributions to candidates, but it wrongly ruled that spending money to influence elections is a form of constitutionally protected free speech, thus giving rise to the "money as speech" doctrine; and

WHEREAS, federal courts in Buckley and in SpeechNow.org v. FEC (2010) overturned limits on independent expenditures because the "corruption or perception of corruption" rationale was only applicable to direct contributions to candidates; and

WHEREAS, the United States Supreme Court in 1st National Bank of Boston v. Bellotti (1978) and Citizens Against Rent Control v. City of Berkeley (1986) unbelievably rejected limits on contributions to ballot measure campaigns because the contributions pose no threat of candidate corruption; and

WHEREAS, United States Supreme Court Justice Stevens observed in Nixon v. Shrink Missouri Government PAC (2000) that "money is property, it is not speech"; and

WHEREAS, Article V of the United States Constitution allows The People of the various states to amend the U.S. Constitution to correct those egregiously wrong decisions of the United States Supreme Court that challenge our democratic principles and the republican form of self-government; and

WHEREAS, there is widespread opposition to the Citizens United ruling that money is speech and that independent corporate campaign spending cannot be limited; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that corporations should not be endowed with the same constitutional rights as natural persons and because money is not speech, limits on political spending should be allowed to protect First Amendment rights and ensure a "fair playing field" in the arena of politics and public decision-making.

BE IT FURTHER RESOLVED, that the Council of the County of Kauai supports amending the United States Constitution to achieve campaign finance equity reform by ending the false doctrine of "corporate constitutional rights" in the arena of elections and voting, and by clarifying that money is property, not speech; and by allowing limits on campaign contributions and spending.

BE IT FURTHER RESOLVED, that the Council supports efforts by citizen groups to amend the United States Constitution toward these ends.

BE IT FINALLY RESOLVED, that copies of this Resolution be transmitted to United States Senator Brian Schatz, United States Senator Mazie Hirono, United States Representative Mark Takai, United States Representative Tulsi Gabbard, Mayor Bernard P. Carvalho, Jr., Governor David Y. Ige, State Senate President Ronald D. Kouchi, and Speaker of the State House of Representatives Joe Souki.

Introduced by: /s/ KIPUKAI KUALI'I
/s/ JOANN A. YUKIMURA

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	Aye	Nay	Excused	Recused
Chock	X			
Hooser	X			
Kagawa	X			
Kaneshiro	X			
Kuali'i	X			
Rapozo	X			
Yukimura	X			
Total	7	0	0	0

Certificate Of Adoption

We hereby certify that Resolution No. 2015-44, Draft 4 was adopted by the Council of the County of Kauai, State of Hawaii, Lihu'e, Kauai, Hawaii, on July 1, 2015.



County Clerk
Dated 07-02-2015



Chairman & Presiding Officer