

Summary of the Empowering Citizens Act

The Empowering Citizens Act (ECA) is comprehensive campaign finance reform legislation that would empower citizens in all federal elections.

The ECA combines the ideas behind the Presidential Funding Act (H.R.414), Representatives David Price and Chris Van Hollen's bill to modernize and repair the presidential campaign financing system, with a new title creating a similar, voluntary small donor empowerment program for congressional races. This title, based on the August 2012 Brennan Center/Democracy 21 report, would provide a 5 to 1 match for small contributions.

The ECA would also establish strengthen rules against coordination between candidates or parties and outside spending groups by forbidding candidate-specific Super PACs from acting as operating arms of campaigns of candidates they are supporting.

A New Focus on Small Donors

The symbol of federal elections should be ordinary citizens, not a few donors with thick wallets.

Under the *Citizens United* decision, unlimited expenditures by groups receiving unlimited contributions cannot be limited. Steps can be taken, however, to dramatically increase the role and importance of small donors in financing federal elections

Under the Empowering Citizens Act the following rules would apply to candidates participating in the system:

- The first \$250 of contributions by individuals to presidential candidates and the first \$250 of contributions by individuals to House and Senate candidates would be matched with public funds at a 5 to 1 ratio. In the Congressional system, there would be no public grants; private individuals would completely control distribution of public matching funds to candidates.

Thus, a candidate participating in the system would receive \$1,250 in public funds for a \$250 contribution, and would end up with a total of \$1,500. This would provide important new incentives for citizens to give and for candidates to seek small donations from their constituents. In the case of a larger contribution only the first \$250 would be matched.

- The current individual contribution limit of \$2,500 per donor, per election would be cut in half to \$1,250 per donor, per election for candidates who participate in the system. The present contribution limit would remain unchanged for candidates who do not participate in the system.
- In order to allow candidates to respond to a deluge of Super PAC dollars, national parties could make unlimited expenditures in coordination with candidates participating in the system, provided the unlimited expenditures were made from a pool of contributions raised by the party that was limited to \$1,250 per donor, per year.
- There would be no spending limit for candidates who participate in the system. The reality is that candidate spending limits are no longer viable in the wake of *Citizens United* since outside

groups can now make unlimited expenditures funded by unlimited contributions to oppose candidates.

- To protect the national treasury, there would be a limit on the total amount of public funds available to a presidential, Senate or House candidate. Additionally, candidates would have to qualify to participate in the system. To qualify, a presidential candidate would have to raise a threshold amount of individual contributions (totaling \$25,000 in each of 20 states) and Senate and House candidates would have to raise a threshold total amount of in-state individual contributions, counting only the first \$250 of any individual contribution to reach the threshold total amount (\$40,000 for House races and the product of \$40,000 and the number of congressional districts in the state for Senate races).
- To fund the system, the bill would increase the current check off the amount of the check-off on the income tax form to fund the public financing system from \$3 to \$20 per individual and from \$6 to \$40 for a married couple, and indexes these amounts for inflation. Additionally, the bill would allow Americans, through their taxes, to donate to the public financing system fund.

Ending Candidate-Specific Super PACs, Strengthening Rules Prohibiting Coordination

Currently, some candidate-specific Super PACs operate as virtual arms of the candidates they support. To close this loophole, the ECA defines such PACs as coordinated with the candidates they support and thereby unable, under existing law, to spend more than \$2,500 for the candidates per election.

The ECA also would define a candidate and Super PAC to be coordinated where the Super PAC is directly or indirectly established by or with the encouragement of, or tacit approval by, the candidate it supports; or where the candidate or his agents solicits funds for or shares fundraising lists with the Super PAC; or where the Super PAC is established, directed or managed by former aides or consultants to the candidate, or where the candidate or his agents has more than incidental discussions with the Super PAC about the candidate's campaign strategies or needs.

The ECA also would strengthen the rules prohibiting coordination between candidate or parties and outside spending groups by treating payments made by any person for covered communications pursuant to any general or particular understanding, or more than incidental discussions, with the candidate, the candidate's authorized committee or the political party about the payments or covered communications.

Additionally, the Act also would prohibit candidates from soliciting any funds for a Super PAC or for any other Section 527 political committee that can receive unlimited contributions. Currently, as interpreted by the FEC, candidates and officeholders and their agents can solicit funds for a Super PAC or 527 group as long as they indicate they are only asking for contributions in amounts that comply with federal contribution limits. This weak rule permits candidates and their agents to directly participate in Super PAC fundraising events where unlimited funds are being raised. By their appearance and comments at such fundraisers, candidates, in essence, are permitted under current FEC rules to raise unlimited contributions. The ECA would prohibit federal candidates and officeholders from doing so and would restore the integrity of the existing statutory prohibition on officeholders and candidates raising unlimited contributions for Super PACs or other 527 groups that can accept unlimited contributions.