

Reprinted from:

THE PROVIDER

Vol. 38 - No. 3

The Newspaper of the Providers' Council

March 2017

EDITORIAL

Is it about free speech or free money?

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During the recent race to become the 45th President of our United States of America, enormous sums of money were raised and spent. According to the Washington Post, Hillary Clinton and Donald Trump raised nearly \$2.4 billion through typical campaigning, party contributions and, of course, the “unaffiliated” super PAC sources. And reports indicate another billion plus raised by the other candidates.

The ability to raise and spend huge sums of money – including funds from a growing list of “dark money” sources, where neither the donor nor source of funding is known – is staggering.

And a growing number of nonprofits registered with the Internal Revenue Service as either (c)(4), (c)(5) or (c)(6) organizations are being used in some of the dark money schemes. Bernie Sanders, who lost out on the Democratic Party nomination said, “...with a political campaign finance system that is corrupt and increasingly controlled by billionaires and special interests, I fear very much that, in fact, government of the people, by the people, and for the people is beginning to perish in the United States of America.”

The public, too, is crying out for change across political parties. In a *New York Times*/CBS poll, 84 percent of Americans (both Democrats and Republicans) believe money has too much influence in political campaigns. Additionally, nearly 75 percent also state that groups not affiliated with a candidate – but that fund campaigns – should list their contributors in an effort for more transparency.

Those cries, however, may be falling on some deaf ears in D.C. There is a growing momentum to allow 501(c)(3) organizations – those classified as tax-exempt with a primary purpose of supporting religious, charitable and/or education purposes – to engage in partisan activities and not only endorse but, of course, also put their charitable, tax-exempt dollars behind the endorsement.

In early January, a bill was filed in Congress called *H.R. 172 to restore the Free Speech and First Amendment rights of churches and exempt organizations by repealing the 1954 Johnson Amendment*. Further, newly elected president Donald Trump, in just his second week as president, stated at the National Prayer breakfast in Washington D.C. that “religious freedom” is under attack and asserted “*I will get rid of and totally destroy the Johnson Amendment ...*” ostensibly as a means to protect free speech. But others may argue the removal of the amendment is a ruse to put more undisclosed (and potentially tax-exempt) money into politics.

First, let’s be clear about what the Johnson Amendment is and what it is not. In 1954, then-Senator Lyndon B. Johnson of Texas pushed an amendment that is now law (IRS Code 26 USC 501(c)(3)) to prevent tax-exempt organizations and their dollars from influencing the political process. This law has withstood judicial scrutiny and has had wide bipartisan support for over six decades. It says all such 501(c)(3) organizations “*are absolutely prohibited from directly or indirectly participating in, or*

intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.”

This law applies to endorsing or opposing political candidates and also providing funding to campaigns. These organizations are permitted to participate in *nonpartisan* voter education and registration efforts. In addition, they can and do provide *nonpartisan* information and education on essential policy issues. Rabbi David Wolpe, once named the most influential rabbi in America, opposes the abolishment of the law and fears that “*preachers that do not endorse will be derided as pusillanimous and lacking conviction. Discourse in the synagogue and church, especially around election time, will be as toxic as our political discourse has become, because they will be one and the same.*”

The National Council of Nonprofits, along with Independent Sector, Interfaith Alliance and others are opposed to the change. The National Council’s Tim Delaney stated, “*Allowing political operatives to push endorsements would put nonprofits in a position where they become known as Democratic charities or Republican charities and put their missions at risk.*” We concur.

The Providers’ Council strongly encourages all 501(c)(3)s to fully participate in the democratic process of educating the public and elected leaders on matters of public policy and voter registration and engagement.

However, the line that has been drawn – to preclude endorsement of candidates and the related element of money in our political process – should remain. We don’t need political parties having their hands in our churches’ collection plates or looking to divert service dollars from our nonprofits’ primary missions. Those resources are often underfunded, and persuasive – or worse, coercive – techniques to force charitable organizations to pay up may create a system of winners and losers where the most vulnerable people end up losing again.

So let’s make it clear: If you want to participate as a voice for your constituency, please do as you can currently. Our issues in the nonprofit sector are broad, diverse and quintessential to democracy as we know it. Whether your interest is in faith, children’s services, clean water, animal rights, health care, adequate housing, food quality, human services or an infinite amount of other issues and concerns, there is a stage for your voice.

However, if you want to endorse candidates and engage in partisan politics, then first surrender your exempt status.

And if politicians truly want the public to subsidize their campaigns, then let’s all move to a system like the Presidential Election Campaign Fund. It isn’t foolproof and needs added protections, but it could limit the amount of outside money that needs to be raised.

Let’s not pervert the good intent of Congress 100 years ago when it allowed tax deductions for contributions to certain organizations. I don’t want to provide a tax benefit through nonprofits for electioneering. Lord knows we don’t need our faith services or our human services programs interrupted by a dreared campaign commercial ... do we?

For more information, please visit www.providers.org.