



Written by [Raven Clabough](#) on July 29, 2010

DISCLOSE Act Stalled by GOP Filibuster

Senate Democrats were unable to muster the necessary votes to break the Republican filibuster and vote to pass the DISCLOSE Act (Democracy Is Strengthened by Casting Light On Spending in Elections Act) yesterday.



The DISCLOSE Act would have allowed the FEC to regulate political speech on the Internet. Conservative website Hot Air saw the bill as targeting bloggers and “could be used to harass smaller, unfunded bloggers out of the realm of political debate.” It would also have banned political speech by holders of oil drilling leases on the Outer Continental Shelf, and banned companies that get large government contracts and those that have connections with foreign companies from running political ads.

As stated by the [Heritage Foundation](#), "The Center for Competitive Politics estimates that the ban on government contractors engaging in political speech will apply to over half of the fifty largest companies in the United States.... (unions and NGOs with foreign members are not affected). So companies owned 80% by Americans that are headquartered in the United States and whose employees are overwhelmingly American will not be able to engage in any political speech."

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The American Society of Association Executives (ASAE) explains that the DISCLOSE Act also would have “enhanced disclaimers in political ads to require corporations, unions, or trade associations to stand by any political ads they finance.” Likewise, the bill required organizations to either disclose all donors contributing \$1,000 or more to campaign, or for those organizations to set up specific accounts for the sole purposes of “campaign-related activities.”

The cloture vote to end the debate on the act failed by a partisan vote of 57-41. While Democratic Senator Chuck Schumer insists that he will not let the bill die, the legislation has no hope of passing before the midterm elections.

The DISCLOSE Act came in response to the *Citizens United* Supreme Court ruling, which overturned parts of the McCain-Feingold campaign finance law. Proponents of the DISCLOSE Act condemn the Court’s decision because they say it virtually allows for no caps on campaign funding. During President Obama’s January 2010 State of the Union address, the President singled out the Supreme Court justices in an unprecedented move to reprimand them for their ruling in that case. After that, it seemed only a matter of time before this legislation was introduced. This criticism was leveled against the High Court though the McCain-Feingold law as whole is clearly unconstitutional. The First Amendment says, in part: "Congress shall make no law ... prohibiting the ... freedom of speech or of the press."



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The legislation ran into trouble when it began to exempt large organizations like the National Rifle Association and labor unions, the very groups that the bill was allegedly targeting in the first place.

Though the bill was largely seen as a vehicle to stop Democratic critics from participating in the election process this year, as lawyers sorted through what could and could not be said in ads and by whom it could be said, the DISCLOSE Act faced staunch opposition from both liberal and conservative groups like the Chamber of Commerce, Congressional Black Caucus, the American Society of Association Executives, trade associations, the National Right to Life Committee, and smaller organizations that did not fall under the provisions the bill's exemptions.

The criticism intimidated many House Democrats from voting in favor of the bill, forcing House Speaker Nancy Pelosi to pull the bill from the House floor on June 17. The bill eventually passed the House narrowly last month and came before Senate Majority Leader Harry Reid.

Addressing the criticism over the exemptions in the bill, the Senate bill "removed from the House bill an exemption for transfers between a national organization and its state affiliates and between separate organizations, provisions aimed at helping unions" but maintained the exemptions for large organizations like the NRA and AARP, reports the Huffington Post.

Senate Democrats needed at least one Republican to support the bill in order to break the filibuster, but could not find one.

Instead, Harry Reid voted "no", allowing him the opportunity to bring the bill back at a later date.

Senate Minority Leader Mitch McConnell explained the GOP's opposition to the bill, which would "protect unpopular Democrat politicians by silencing their critics and exempting their campaign supporters from an all out attack on the First Amendment."

Reid would not allow Republicans to vote on amendments to the bill, but now says he will allow Republicans to vote on a few amendments to the legislation.

The *Boston Globe* writes that Senator Schumer "bemoaned the lack of bipartisanship that had carried campaign bills in the past." The Senator remarked, "It's like skins and shirts."

It should come as no surprise that the Democrats are now pushing to change the Senate's filibuster rules. Last weekend at Netroots Nation, progressives pressed Harry Reid about the "overuse" of the filibuster, insisting that the rules of the filibuster need to be reformed. Reid agreed.

[CBS news](#) reported, "Democratic Senator Tom Udall of New Mexico said at Netroots that he plans on proposing a rule change as the first order of business in the new congressional session next year," aware that by introducing the proposal at the beginning of session, the Dems would only need 50 votes, with the tie broken by the Vice President, as opposed to the typical 67 votes needed to change Senate rules.

According to the Huffington Post, however, five Democrats say they are unwilling to lower the 60 vote threshold, and four more Democrats admit that they are at least hesitant to support the change.

At least for now, with the DISCLOSE Act stalled and the filibuster rules still intact, the First Amendment retains a little luster for another day.



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