

February 23, 2022

Testimony on SB 895
Declaration of Rights - Campaign Financing Right to Know
Education, Health, and Environmental Affairs

Position: Favorable

Common Cause Maryland supports SB 895 which, pending approval by voters in the November 2022 election, would affirm the right of every single Maryland resident to know who and what entities spend money to influence their vote. SB 895 also protects their right to participate in publicly financed elections.

In the post-*Citizens United* era, money is more pervasive than ever in elections throughout the country. When the Supreme Court allowed for unlimited independent spending, the Maryland legislature responded by tightening up transparency and reporting of those donations when it passed the Campaign Finance Reform Act of 2013. SB 895 is an attempt to respond to the latest Supreme Court decisions with the same increase in transparency, specifically protecting the reforms we have put in place.

The United States Supreme Court has made numerous decisions that has led to hundreds of millions of dollars being raised and spent through secret money groups, denying Americans' their right to know who is funding political campaigns in our elections. One example of a recent decision is from July 2021 where the United States Supreme Court made a ruling in the case of *Americans for Prosperity Foundation v. Bonta, Attorney General of California* striking down a California law that required charitable organizations that raise tax-deductible funds to disclose their larger donors to the State Attorney General. The result of this decision is to undermine reasonable disclosure requirements in the name of privacy.

In Maryland, participating organizations – both 501 (c)(4) and (6) – that make political disbursements to political committees are required to, within 48 hours of making an aggregate political disbursement of more than \$6,000, officially report the date and amount of disbursements made to influence a state elections in the past two years, identifying each person who made a cumulative donation of \$10,000 or more to the participating organization. This level of transparency has ensured donors that could have huge impacts on a variety of elections in Maryland are unable to hide behind participating organizations. SB 895 protects this transparency.

To be clear, the Supreme Court's decision in *Americans for Prosperity* is a narrow decision finding a specific and unique California law was unconstitutional but does not affect disclosure regulations that have been repeatedly upheld by the Supreme Court. Nothing in that decision should be read to preclude states like Maryland from protecting current laws that requires major donors to political campaigns be disclosed.

In *Citizens United*, the Court said

the public has an interest in knowing who is speaking about a candidate shortly before an election. ... prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits, and citizens can see whether elected officials are "in the pocket" of so-called moneyed interests." ...The First Amendment protects political speech; and disclosure permits citizens and

shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.

SB 895 also affirms our right to continue establishing public campaign financing programs at the state and local level at a time where we must actively work to strengthen the voice of citizens against the growing influence of special interest money.

Public campaign financing helps break down barriers to participating in our democracy, creating a government that looks more like us and works better for us. In 2013, the Maryland legislature passed the Campaign Finance Reform Act which included enabling language that allowed counties to create public campaign financing programs. The Montgomery County Council quickly passed their own program by unanimous vote in 2014, successfully using the program during the 2018 election cycle. Since then, Howard County, Prince George's County, Baltimore City, and Baltimore County have established program and Anne Arundel County will likely have a charter amendment on the ballot this November for voter approval. With many of these programs in use, candidates for county council and executive have been able to build competitive campaigns powered by the communities they seek to represent instead of special interests and a handful of wealthy donors.

These programs have been gaining popularity in Maryland for a simple reason: particularly since the *Citizens United* decision, Americans across the political spectrum feel that our campaign system is disconnected from the populace, and that LLCs and wealthy individuals render regular Marylanders' voices meaningless in the current campaign finance environment. Public campaign financing programs, on the other hand, lift up regular Marylanders' voices, and empower those with community-supported ideas who may not have connections to deep-pocketed interests. SB 895 protects these existing programs and future efforts to establish programs at the state and local level.

Maryland has a well-developed system of campaign finance law, a system that ensures everyday citizens can trace who is making donations and what special interest voices are being heard in that process. SB 895 would protect this law, ensuring transparency and accountability so we can fight back against the flood of money that is entering our system.

We respectfully urge a favorable report.

