

114TH CONGRESS  
1ST SESSION

# H. R. 446

To amend the Securities Exchange Act of 1934 to require shareholder authorization before a public company may make certain political expenditures, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 2015

Mr. CAPUANO (for himself, Mr. LYNCH, Mr. DEFazio, Ms. NORTON, Mr. ELLISON, Mr. LARSON of Connecticut, Mr. GRIJALVA, Mr. CONNOLLY, Mr. CUMMINGS, Ms. TSONGAS, Mrs. DAVIS of California, Mr. CONYERS, Mr. COHEN, Mr. TAKANO, Ms. PINGREE, Mr. SARBANES, Mr. WELCH, Ms. SLAUGHTER, Ms. MENG, and Mr. HASTINGS) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Securities Exchange Act of 1934 to require shareholder authorization before a public company may make certain political expenditures, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Shareholder Protection  
5 Act of 2015”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) corporations make significant political con-  
4 tributions and expenditures that directly or indi-  
5 rectly influence the election of candidates and sup-  
6 port or oppose political causes;

7 (2) decisions to use corporate funds for political  
8 contributions and expenditures are usually made by  
9 corporate boards and executives, rather than share-  
10 holders;

11 (3) corporations, acting through boards and ex-  
12 ecutives, are obligated to conduct business for the  
13 best interests of their owners, the shareholders;

14 (4) historically, shareholders have not had a  
15 way to know, or to influence, the political activities  
16 of corporations they own;

17 (5) shareholders and the public have a right to  
18 know how corporate managers are spending com-  
19 pany funds to make political contributions and ex-  
20 penditures benefitting candidates, political parties,  
21 and political causes;

22 (6) corporations should be accountable to share-  
23 holders in making political contributions or expendi-  
24 tures affecting Federal governance and public policy;  
25 and

1           (7) requiring a corporation to obtain the ex-  
2           press approval of shareholders prior to making polit-  
3           ical contributions or expenditures will establish nec-  
4           essary accountability.

5 **SEC. 3. SHAREHOLDER APPROVAL OF CORPORATE POLIT-**  
6 **ICAL ACTIVITY.**

7           The Securities Exchange Act of 1934 (15 U.S.C. 78a  
8 et seq.) is amended by inserting after section 14B (15  
9 U.S.C. 78n-2) the following:

10 **“SEC. 14C. SHAREHOLDER APPROVAL OF CERTAIN POLIT-**  
11 **ICAL EXPENDITURES AND DISCLOSURE OF**  
12 **VOTES OF INSTITUTIONAL INVESTORS.**

13           “(a) DEFINITIONS.—In this section—

14                   “(1) the term ‘expenditure for political activi-  
15 ties’—

16                           “(A) means—

17                                   “(i) an independent expenditure (as  
18 defined in section 301(17) of the Federal  
19 Election Campaign Act of 1971 (52 U.S.C.  
20 30101(17)));

21                                   “(ii) an electioneering communication  
22 (as defined in section 304(f)(3) of that Act  
23 (52 U.S.C. 30104(f)(3))) and any other  
24 public communication (as defined in sec-  
25 tion 301(22) of that Act (52 U.S.C.

1           30101(22))) that would be an election-  
2           eering communication if it were a broad-  
3           cast, cable, or satellite communication; or

4           “(iii) dues or other payments to trade  
5           associations or organizations described in  
6           section 501(c) of the Internal Revenue  
7           Code of 1986 and exempt from tax under  
8           section 501(a) of that Code that are, or  
9           could reasonably be anticipated to be, used  
10          or transferred to another association or or-  
11          ganization for the purposes described in  
12          clauses (i) or (ii); and

13          “(B) does not include—

14                 “(i) direct lobbying efforts through  
15                 registered lobbyists employed or hired by  
16                 the issuer;

17                 “(ii) communications by an issuer to  
18                 its shareholders and executive or adminis-  
19                 trative personnel and their families; or

20                 “(iii) the establishment and adminis-  
21                 tration of contributions to a separate seg-  
22                 regated fund to be utilized for political  
23                 purposes by a corporation; and

24                 “(2) the term ‘issuer’ does not include an in-  
25                 vestment company registered under section 8 of the

1 Investment Company Act of 1940 (15 U.S.C. 80a–  
2 8).

3 “(b) SHAREHOLDER AUTHORIZATION FOR POLIT-  
4 ICAL EXPENDITURES.—Each solicitation of proxy, con-  
5 sent, or authorization by an issuer with a class of equity  
6 securities registered under section 12 of this title shall—

7 “(1) contain—

8 “(A) a description of the specific nature of  
9 any expenditure for political activities proposed  
10 to be made by the issuer for the forthcoming  
11 fiscal year that has not been authorized by a  
12 vote of the shareholders of the issuer, to the ex-  
13 tent the specific nature is known to the issuer;  
14 and

15 “(B) the total amount of expenditures for  
16 political activities proposed to be made by the  
17 issuer for the forthcoming fiscal year; and

18 “(2) provide for a separate vote of the share-  
19 holders of the issuer to authorize such expenditures  
20 for political activities in the total amount described  
21 in paragraph (1).

22 “(c) VOTE REQUIRED TO MAKE EXPENDITURES.—  
23 No issuer shall make an expenditure for political activities  
24 in any fiscal year unless such expenditure—

1           “(1) is of the nature of those proposed by the  
2 issuer in subsection (b)(1); and

3           “(2) has been authorized by a vote of the ma-  
4 jority of the outstanding shares of the issuer in ac-  
5 cordance with subsection (b)(2).

6           “(d) FIDUCIARY DUTY; LIABILITY.—

7           “(1) FIDUCIARY DUTY.—A violation of sub-  
8 section (c) shall be considered a breach of a fidu-  
9 ciary duty of the officers and directors who author-  
10 ized the expenditure for political activities.

11           “(2) LIABILITY.—An officer or director of an  
12 issuer who authorizes an expenditure for political ac-  
13 tivities in violation of subsection (c) shall be jointly  
14 and severally liable in any action brought in a court  
15 of competent jurisdiction to any person or class of  
16 persons who held shares at the time the expenditure  
17 for political activities was made for an amount equal  
18 to 3 times the amount of the expenditure for polit-  
19 ical activities.

20           “(e) DISCLOSURE OF VOTES.—

21           “(1) DISCLOSURE REQUIRED.—Each institu-  
22 tional investment manager subject to section 13(f)  
23 shall disclose not less frequently than annually how  
24 the institutional investment manager voted on any  
25 shareholder vote under subsection (a), unless the

1 vote is otherwise required by rule of the Commission  
2 to be reported publicly.

3 “(2) RULES.—Not later than 6 months after  
4 the date of enactment of this section, the Commis-  
5 sion shall issue rules to carry out this subsection  
6 that require that a disclosure required under para-  
7 graph (1)—

8 “(A) be made not later than 30 days after  
9 a vote described in paragraph (1); and

10 “(B) be made available to the public  
11 through the EDGAR system as soon as prac-  
12 ticable.

13 “(f) SAFE HARBOR FOR CERTAIN DIVESTMENT DE-  
14 CISIONS.—Notwithstanding any other provision of Federal  
15 or State law, if an institutional investment manager makes  
16 the disclosures required under subsection (e), no person  
17 may bring any civil, criminal, or administrative action  
18 against the institutional investment manager, or any em-  
19 ployee, officer, or director thereof, based solely upon a de-  
20 cision of the investment manager to divest from, or not  
21 to invest in, securities of an issuer due to an expenditure  
22 for political activities made by the issuer.”.

1 **SEC. 4. REQUIRED BOARD VOTE ON CORPORATE EXPENDI-**  
2 **TURES FOR POLITICAL ACTIVITIES.**

3 The Securities Exchange Act of 1934 (15 U.S.C. 78  
4 et seq.) is amended by adding after section 16 (15 U.S.C.  
5 78p) the following:

6 **“SEC. 16A. REQUIRED BOARD VOTE ON CORPORATE EX-**  
7 **PENDITURES FOR POLITICAL ACTIVITIES.**

8 “(a) DEFINITIONS.—In this section, the terms ‘ex-  
9 penditure for political activities’ and ‘issuer’ have the  
10 meaning given the terms in section 14C.

11 “(b) LISTING ON EXCHANGES.—Not later than 180  
12 days after the date of enactment of this section, the Com-  
13 mission shall, by rule, direct the national securities ex-  
14 changes and national securities associations to prohibit the  
15 listing of any class of equity security of an issuer that  
16 is not in compliance with the requirements of any portion  
17 of subsection (c).

18 “(c) REQUIREMENT FOR VOTE IN CORPORATE BY-  
19 LAWS.—

20 “(1) VOTE REQUIRED.—The bylaws of an  
21 issuer shall expressly provide for a vote of the board  
22 of directors of the issuer on—

23 “(A) any expenditure for political activities  
24 in excess of \$50,000; and

25 “(B) any expenditure for political activities  
26 that would result in the total amount spent by



1           the issuer for a particular election (as defined  
2           in section 301(1) of the Federal Election Cam-  
3           paign Act of 1971 (52 U.S.C. 30101(1))) in ex-  
4           cess of \$50,000.

5           “(2) PUBLIC AVAILABILITY.—An issuer shall  
6           make the votes of each member of the board of di-  
7           rectors for a vote required under paragraph (1) pub-  
8           licly available not later than 48 hours after the vote,  
9           including in a clear and conspicuous location on the  
10          Internet website of the issuer.

11          “(d) NO EFFECT ON DETERMINATION OF COORDINA-  
12          TION WITH CANDIDATES OR CAMPAIGNS.—For purposes  
13          of the Federal Election Campaign Act of 1971 (52 U.S.C.  
14          30101 et seq.), an expenditure for political activities by  
15          an issuer shall not be treated as made in concert or co-  
16          operation with, or at the request or suggestion of, any can-  
17          didate or committee solely because a member of the board  
18          of directors of the issuer voted on the expenditure as re-  
19          quired under this section.”.

20          **SEC. 5. REPORTING REQUIREMENTS.**

21          Section 13 of the Securities Exchange Act of 1934  
22          (15 U.S.C. 78m) is amended by adding at the end the  
23          following:

24          “(s) REPORTING REQUIREMENTS RELATING TO CER-  
25          TAIN POLITICAL EXPENDITURES.—

1           “(1) DEFINITIONS.—In this subsection, the  
2 terms ‘expenditure for political activities’ and  
3 ‘issuer’ have the same meaning as in section 14C.

4           “(2) QUARTERLY REPORTS.—

5           “(A) REPORTS REQUIRED.—Not later than  
6 180 days after the date of enactment of this  
7 subsection, the Commission shall amend the re-  
8 porting rules under this section to require each  
9 issuer with a class of equity securities reg-  
10 istered under section 12 of this title to submit  
11 to the Commission and the shareholders of the  
12 issuer a quarterly report containing—

13           “(i) a description of any expenditure  
14 for political activities made during the pre-  
15 ceding quarter;

16           “(ii) the date of each expenditure for  
17 political activities;

18           “(iii) the amount of each expenditure  
19 for political activities;

20           “(iv) the votes of each member of the  
21 board of directors authorizing the expendi-  
22 ture for political activity, as required under  
23 section 16A(c);

24           “(v) if the expenditure for political ac-  
25 tivities was made in support of or opposed

1 to a candidate, the name of the candidate  
2 and the office sought by, and the political  
3 party affiliation of, the candidate; and

4 “(vi) the name or identity of trade as-  
5 sociations or organizations described in  
6 section 501(c) of the Internal Revenue  
7 Code of 1986 and exempt from tax under  
8 section 501(a) of such Code which receive  
9 dues or other payments as described in  
10 section 14C(a)(1)(A)(iii).

11 “(B) PUBLIC AVAILABILITY.—The Com-  
12 mission shall ensure that, to the greatest extent  
13 practicable, the quarterly reports required  
14 under this paragraph are publicly available  
15 through the Internet website of the Commission  
16 and through the EDGAR system in a manner  
17 that is searchable, sortable, and downloadable,  
18 consistent with the requirements under section  
19 24.

20 “(3) ANNUAL REPORTS.—Not later than 180  
21 days after the date of enactment of this subsection,  
22 the Commission shall, by rule, require each issuer to  
23 include in the annual report of the issuer to share-  
24 holders a summary of each expenditure for political  
25 activities made during the preceding year in excess

1 of \$10,000, and each expenditure for political activi-  
2 ties for a particular election if the total amount of  
3 such expenditures for that election is in excess of  
4 \$10,000.”.

5 **SEC. 6. REPORTS.**

6 (a) SECURITIES AND EXCHANGE COMMISSION.—The  
7 Securities and Exchange Commission shall—

8 (1) conduct an annual assessment of the com-  
9 pliance of issuers and officers and members of the  
10 boards of directors of issuers with sections 13(s),  
11 14C, and 16A of the Securities Exchange Act, as  
12 added by this Act; and

13 (2) submit to Congress an annual report con-  
14 taining the results of the assessment under para-  
15 graph (1).

16 (b) GOVERNMENT ACCOUNTABILITY OFFICE.—The  
17 Comptroller General of the United States shall periodically  
18 evaluate and report to Congress on the effectiveness of the  
19 oversight by the Securities and Exchange Commission of  
20 the reporting and disclosure requirements under sections  
21 13(s), 14C, and 16A of the Securities Exchange Act, as  
22 added by this Act.

23 **SEC. 7. SEVERABILITY.**

24 If any provision of this Act, an amendment made by  
25 this Act, or the application of such provision or amend-

1 ment to any person or circumstance is held to be unconsti-  
2 tutional, the remainder of this Act, the amendments made  
3 by this Act, and the application of such provision or  
4 amendment to any person or circumstance shall not be af-  
5 fected thereby.

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