California Corporate & Securities Law

Political Spending Disclosure – Interest Does Not Equal Majority Support

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Last week, a group of ten eminent academics filed this petition asking the Securities and Exchange Commission to develop rules requiring public companies to disclose to shareholders the use of corporate resources for political activities. I believe that this is the wrong time for the SEC to be wading into these waters. Briefly, my reasons are as follows:

- The burden on reporting companies is already significant and adoption of the proposal will add to those burdens. One day, the camel's back will be broken by the weight of the incremental burdens placed upon it.
- The petitioners make the case that there is an increasing interest in political spending disclosures. They point out that on average these proposals enjoyed 32.5% support. In other words, 2/3 of the shareholders do not support political spending disclosures. In fact, the petitioners don't provide evidence of a single proposal that garnered majority support.
- The proposal would be tantamount to a forced subsidy by the majority of the minority. The petitioners do not explain why it is fair or equitable to require the majority to financially support the interest, however legitimate, of the minority in such disclosures.
- The petitioners fail to make the case for the need for Commission action. Some of the petitioners' arguments make the case that no intervention is needed. For example, they point out that an increasing number of companies have voluntarily elected to disclose political spending. The fact that so many proposals have been presented tells me that there is no problem in getting them before the shareholders. Why not simply let private ordering occur?

Here is my comment letter on the petition.

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