Voters are left in the dark on campaign spending by corporations

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Voters are usually inclined to vote their pocketbooks. But that's become more difficult with every election, as the pocketbooks that carry the most weight aren't those of the individual voter, but corporations and plutocrats.

Recent history tells us that the magnitude of big donors' campaign spending rises as their commitment to the public interest shrinks. Mercury Insurance and its founder and chairman, George Joseph, spent a combined $31 million in 2010 and 2012 to pass two almost identical ballot initiatives to remake state auto insurance rules in Mercury's favor and to the public's disadvantage. The spending was so conspicuous that voters recoiled, rejecting both measures.

The analogous cases on this year's ballot involve Propositions 45 and 46, which would both strengthen state regulations in healthcare. Accordingly, they've attracted stupendous contributions from corporate interests.

Proposition 45 would give the state insurance commissioner much-needed authority to approve or reject health insurance rates in advance. The No on 45 war chest is nearly $57 million, the vast majority of which has come from insurers operating in the state such as Kaiser, Blue Shield and WellPoint.

Last month, Insurance Commissioner Dave Jones labeled a 9.8% average rate increase by Anthem Blue Cross as "excessive and unreasonable." Anthem, a WellPoint subsidiary, pared it back to an average of 8%, but that didn't even go halfway to meet Jones' objections. He said a 2.1% increase was warranted, but he doesn't have the authority under current law to make his objections stick. This should tell you why spending even $57 million to kill the measure is a bargain for insurers.

Proposition 46 would loosen the state's recovery limit on medical malpractice pain-and-suffering claims from the grossly outdated $250,000 set in 1975. The opponents of this necessary measure have raised nearly $60 million to kill it, mostly from the malpractice insurance industry; much of the $2.5 million raised to support the measure has come from consumer attorneys. As we've written before, the existing law almost exclusively benefits insurers; doctors don't see a fraction of the savings that their insurers reap, and patients are left without an important check on poorly performing physicians and surgeons.

In these cases, state law requires that campaign donors disclose their identities — up to a point. Corporate donors are becoming ever savvier about finding ways to conceal their spending. This isn't about whether they have the legal right to make political donations — the Supreme Court's infamous 2010 Citizens United ruling secured them that right — but about whether they want customers or shareholders to know where they're putting their money.

Shareholder interest in how much money their companies spend on politics, and where, is high. In recent years, according to a study by Lucian Bebchuk of Harvard and Robert L. Jackson Jr. of Columbia, disclosure of such spending has been the top subject of shareholder proposals at U.S. public companies.

One reason is the perception that the political interests of executives aren't invariably aligned with those of their shareholders. It's one thing for companies to lobby for government policies that enhance their profits; but CEOs and board members may be funding their personal political preferences — even personal political ambitions — with corporate funds. Inevitably, at least some shareholders will consider themselves out of step with the corporate brass: "Shareholders do not sort themselves among companies according to their political preferences," Bebchuk and Jackson observe.

Although some major companies make voluntary disclosures, there are no rules governing how they do so. And much of this spending is through intermediaries that afford companies practical anonymity. Bebchuk and Jackson calculated the political spending of eight major corporate lobbying organizations — the U.S. Chamber of Commerce, Business Roundtable and six trade groups, including the Pharmaceutical Research and Manufacturing Assn., the American Petroleum Institute, and the National Assn. of Manufacturers — totaled more than $1.5 billion from 2005 through 2010. Unpacking these contributions to get at individual companies' donations would be impossible.

Moreover, this spending has been increasing sharply, rising from $353 million in the 2005-06 electoral cycle to $814 million in 2009-10.

The torrent of cash from corporations and the wealthy has begun to drive small donations out of the political marketplace, according to the Center for Responsive Politics. In every midterm election through 2010, the number of individual donors contributing $200 or more increased, reaching a high of 817,464 that year. This year it's down, to fewer than 667,000 as of last week. The center expects the number to rise until Tuesday, but not by enough to top 2010.

"As the post-Citizens United campaign finance system matures," says the center's executive director, Sheila Krumholz, "we're seeing evidence that the traditional campaign apparatus has been overtaken by shadow counterparts."

The one government agency that could shine a light on this trend, the Securities and Exchange Commission, is missing in action. Although the SEC's former chair, Mary Schapiro, had sponsored an effort to craft a rule governing corporate disclosure of political spending, her successor, Mary Jo White, has taken it off the table. The result is that millions, even billions, of dollars flow to political candidates and causes "under the radar screen," Bebchuk and Jackson say.

The spending by most corporations remains a black box to "even a determined individual shareholder willing to collect all available public information," they say.

To the individual voter, this has to appear as a threat. When corporate interests deploy their pocketbooks in an election — whether directly, as Kaiser, Blue Shield and Anthem are doing in

California, or surreptitiously, via the Chamber of Commerce or a major trade group — their presumed goal is to pick the voters' pockets. The only sensible choice is to vote the other way.