

requires or justifies the Commission to alter its conclusion that donations to host committees are commercially, not politically, motivated. According to some commenters, the provision of goods and services by a host committee has never been considered an in-kind contribution, and BCRA did not amend the statutory definition of in-kind contribution in 2 U.S.C. 431(8)(A)(i). A commenter also pointed out that another provision of BCRA repealed certain Commission regulations. Because Congress did not similarly address the convention financing regulations, its silence is "a conclusive indication that there was no Congressional intent that the Commission modify these regulations in any way," according to this commenter. One commenter argued that BCRA's prohibitions in 2 U.S.C. 441i(a) are limited to national party committees, their agents, and any entity that is established, financed, maintained, or controlled by the national party committees. In this commenter's view, host committees do not constitute any of these covered persons, so host committees should be permitted to continue accepting and using non-Federal funds to pay for certain convention related costs.

Other commenters advocated for the exact opposite position, citing BCRA's unqualified prohibition on the national party committees' accepting any non-Federal funds. These commenters construed both FECA and BCRA to prohibit a convention committee from accepting in-kind contributions from a host committee funded by corporate donations. These commenters also contended that conventions have become vehicles for the infusion of massive amounts of non-Federal funds into both political parties and to their candidates and officeholders. Another commenter argued that the changes to the Commission's host committee regulations in 1977, 1979, 1994, and 1999 make continued reliance on the original justification unwarranted. More than 1,100 timely, essentially identical, comments that the Commission received by e-mail expressed support for the use of tax dollars to fund party conventions "precisely so that parties may turn away other sources of inappropriate funds."

For many of these same reasons, a petition for rulemaking sought the repeal or revision of the Commission's regulations that permit host committees to accept corporate and labor organization funds and to use these funds for expenses incurred in conducting a nominating convention.

One commenter presented data that it claimed challenged some of the

assumptions upon which the Commission's host committee rules are based. This commenter argued that the tremendous escalation of private contributions to finance host committees, traced over the course of several conventions, is inconsistent with the assumptions that the host committee and municipal fund exception to the expenditure limit is a "very narrow exception" and that such donations are not politically motivated. However, the commenter also documented that party leaders at the State and local level have been active in raising funds for conventions held in their cities to nominate candidates of the opposing party.

Other commenters challenged the data and conclusions drawn by this commenter. They argued that the increase in corporate funding reflects a general trend of increasing corporate sponsorship for large-scale civic events. A decreased willingness or ability of State and local governments to assist endeavors of this scale was also cited as a potential explanation for rising private donations.

The Commission's consideration of these issues begins with consideration of BCRA's language. Nothing in the text of BCRA, however, expressly addresses convention financing.

The Commission then looked to BCRA's legislative history on these issues. In light of the sparse and inconclusive legislative history, the NPRM sought comment as to whether Congress intended BCRA to change the rules for convention financing, and it cited the very few statements on this topic made during the Senate's consideration of BCRA. For example, Senator Mitch McConnell said the bill "will end national party conventions as we have known them." 148 Cong. Rec. S2122 (daily ed. Mar. 20, 2002).

Only two commenters addressed these remarks. One noted that the Supreme Court and other courts have found the views of legislative opponents to be an unreliable guide to the construction of a statute, citing *National Labor Relations Board v. Fruit & Vegetable Packers, Local 760*, 377 U.S. 58, 66 (1964); *Bryan v. United States*, 525 U.S. 384, 196 (1998) (quoting *Schwegman Bros. v. Calvert Distillers Corp.*, 341 U.S. 384, 394–95 (1951)); and *Illinois Commerce Comm'n v. Interstate Commerce Comm'n*, 879 F.2d 917, 923 n. 47 (D.C. Cir. 1989). The only other commenter to address these remarks stated that they show that Congress understood that BCRA's national party and Federal candidate provisions would prohibit non-Federal funds in relation to Presidential nominating conventions.

Because of the scarcity of comment indicating the pre-enactment intent of those who wrote or voted for the bill, the Commission affords little weight to the single passing comment made in the waning hours of floor debate. See *NLRB v. Fruit & Vegetable Packers, Local 760*, 377 U.S. 58, 66 (1964) (noting that legislative opponents, "[i]n their zeal to defeat a bill, \* \* \* understandably tend to overstate its reach").

BCRA's principal sponsors in Congress did not file comments in response to the NPRM in this rulemaking. However, in comments filed in the Non-Federal Funds rulemaking, the sponsors did address convention financing. The Commission declines to rely on a single post-enactment statement in a separate rulemaking that unspecified "tight restrictions" exist as a basis to determine that BCRA effectively prohibits a major source of funding for the Presidential nominating conventions.

In considering whether BCRA bars convention committees from accepting in-kind donations from host committees and municipal funds, the Commission considered several other factors as well. Title I of BCRA, entitled "Reduction of Special Interest Influence" and the cornerstone of BCRA, begins with the prohibition on national party committees. BCRA, sec. 101(a), 116 Stat. at 82. Presidential nominating conventions are the only publicly funded endeavors of a national party committee. Underlying the convention public funding program is an elaborate statutory regime, 26 U.S.C. 9008, which Congress created. Moreover, Members of Congress often play substantial roles in Presidential nominating conventions. In fact, since 1996, all Democratic Members of Congress have served as automatic delegates to their party's convention, according to one of the commenters.

The Commission's regulations on host committees have been in effect since the earliest days of the Commission. Despite other changes to the host committee regulations, the Commission has consistently maintained that donations of funds to host committees are, as a matter of law, distinct from other donations by prohibited sources in that they are motivated by a desire to promote the convention city and hence are not subject to the absolute ban on corporate contributions in 2 U.S.C. 441b. This conclusion is buttressed by the fact that frequently members of the opposite political party have played prominent and active roles in convention host committees. For example, in 2000 David L. Cohen, a