AMENDED IN SENATE APRIL 30, 2014

AMENDED IN SENATE APRIL 8, 2014

AMENDED IN SENATE MARCH 28, 2014

SENATE BILL No. 1272

Introduced by Senator Lieu
(Principal coauthor: Senator Jackson)
(Coauthors: Senators DeSaulnier, Hancock, Padilla and Torres)
(Coauthors: Assembly Members Wieckowski and Williams)

February 21, 2014

An act to submit an advisory question to the voters relating to campaign finance, calling an election, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1272, as amended, Lieu. Campaign finance: advisory election.

This bill would call a special election to be consolidated with the November 4, 2014, statewide general election. The bill would require the Secretary of State to submit to the voters at the November 4, 2014, consolidated election an advisory question asking whether the Congress of the United States should propose, and the California Legislature should ratify, an amendment or amendments to the United States Constitution to overturn Citizens United v. Federal Election Commission (2010) 558 U.S. 310, and other applicable judicial precedents, as specified. The bill would require the Secretary of State to communicate the results of this election to the Congress of the United States.

This bill would declare that it is to take effect immediately as an act calling an election.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Overturn Citizens United Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) The United States Constitution and the Bill of Rights are intended to protect the rights of individual human beings.

(b) Corporations are not mentioned in the United States Constitution and the people have never granted constitutional rights to corporations, nor have we decreed that corporations have authority that exceeds the authority of "We the People."

(c) In Connecticut General Life Insurance Company v. Johnson (1938) 303 U.S. 77, United States Supreme Court Justice Hugo Black stated in his dissent, "I do not believe the word 'person' in the Fourteenth Amendment includes corporations."

(d) In Austin v. Michigan Chamber of Commerce (1990) 494 U.S. 652, the United States Supreme Court recognized the threat to a republican form of government posed by "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas."

(e) In Citizens United v. Federal Election Commission (2010) 558 U.S. 310, the United States Supreme Court struck down limits on electioneering communications that were upheld in McConnell v. Federal Election Commission (2003) 540 U.S. 93 and Austin v. Michigan Chamber of Commerce. This decision presents a serious threat to self-government by rolling back previous bans on corporate spending in the electoral process and allows unlimited corporate spending to influence elections, candidate selection, policy decisions, and public debate.

(f) In Citizens United v. Federal Election Commission, Justices John Paul Stevens, Ruth Bader Ginsburg, Stephen Breyer, and Sonia Sotomayor noted in their dissent that corporations have special advantages not enjoyed by natural persons, such as limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets, that allow them to spend huge sums on campaign messages that have little or no correlation with the beliefs held by natural persons.

(g) Corporations have used the artificial rights bestowed upon them by the courts to overturn democratically enacted laws that municipal, state, and federal governments passed to curb corporate abuses, thereby impairing local governments' ability to protect their citizens against corporate harms to the environment, consumers, workers, independent businesses, and local and regional economies.

(h) In Buckley v. Valeo (1976) 424 U.S. 1, the United States Supreme Court held that the appearance of corruption justified some contribution limitations, but it wrongly rejected other fundamental interests that the citizens of California find compelling, such as creating a level playing field and ensuring that all citizens, regardless of wealth, have an opportunity to have their political views heard.

(i) In First National Bank of Boston v. Bellotti (1978) 435 U.S. 765 and Citizens Against Rent Control/Coalition for Fair Housing v. Berkeley (1981) 454 U.S. 290, the United States Supreme Court rejected limits on contributions to ballot measure campaigns because it concluded that these contributions posed no threat of candidate corruption.

(j) In Nixon v. Shrink Missouri Government PAC (2000) 528 U.S. 377, United States Supreme Court Justice John Paul Stevens observed in his concurrence that "money is property; it is not speech."

(k) A February 2010 Washington Post-ABC News poll found that 80 percent of Americans oppose the ruling in Citizens United.

(*l*) Article V of the United States Constitution empowers and obligates the people of the United States of America to use the constitutional amendment process to correct those egregiously wrong decisions of the United States Supreme Court that go to the heart of our democracy and the republican form of self-government.

(m) The people of California and of the United States have previously used ballot measures as a way of instructing their elected representatives about the express actions they want to see them take on their behalf, including provisions to amend the United States Constitution.

SEC. 3. A special election is hereby called to be held throughout the state on November 4, 2014. The special election shall be consolidated with the statewide general election to be held on that date. The consolidated election shall be held and conducted

in all respects as if there were only one election and only one form of ballot shall be used.

SEC. 4. (a) Notwithstanding Section 9040 of the Elections Code, the Secretary of State shall submit the following advisory question to the voters at the November 4, 2014, consolidated election:

"Shall the Congress of the United States propose, and the California Legislature ratify, an amendment or amendments to the United States Constitution to overturn Citizens United v. Federal Election Commission (2010) 558 U.S. 310, and other applicable judicial precedents, to allow the full regulation or limitation of campaign contributions and spending, to ensure that all citizens, regardless of wealth, may express their views to one another, and to make clear that the rights protected by the United States Constitution are the rights of natural persons only?"

(b) Upon certification of the election, the Secretary of State shall communicate to the Congress of the United States the results of the election asking the question set forth in subdivision (a).

(c) The provisions of the Elections Code that apply to the preparation of ballot measures and ballot materials at a statewide election apply to the measure submitted pursuant to this section.

SEC. 5. This act calls an election within the meaning of Article IV of the Constitution and shall go into immediate effect.

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