

AMENDED IN ASSEMBLY MARCH 3, 2016

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 22, 2015

**SENATE BILL**

**No. 254**

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**Introduced by ~~Senator Allen~~ *Senators Allen and Leno***  
***(Principal coauthors: Senators Hancock, Jackson, and Wieckowski)***

February 18, 2015

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~~An act to amend Section 73 of the Streets and Highways Code, relating to state highways.~~  
*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 254, as amended, Allen. ~~State highways: relinquishment.~~  
*Campaign finance: advisory election.*

*This bill would call a special election to be consolidated with the November 8, 2016, statewide general election. The bill would require the Secretary of State to submit to the voters at the November 8, 2016, 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.*

Existing law gives the Department of Transportation full possession and control of all state highways. Existing law describes the authorized routes in the state highway system and establishes a process for adoption of a highway on an authorized route by the California Transportation Commission. Existing law also provides for the commission to relinquish to local agencies state highway segments that have been deleted from the state highway system by legislative enactment or have been superseded by relocation, and in certain other cases.

This bill would revise and recast these provisions to delete the requirement that the portion to be relinquished be deleted from the state highway system by legislative enactment.

The bill would require the department, not later than April 1, 2016, and biennially thereafter, to make a specified report to the commission on which state highway routes or segments primarily serve regional travel and do not primarily facilitate interregional movement of people and goods. The bill would also authorize the department to identify in the report which of those routes and segments are the best candidates for relinquishment.

The bill would also authorize the commission to relinquish a portion of a state highway to a county or city, if the department and the county or city concerned have entered into an agreement providing for the relinquishment of a portion of a state highway, within the territorial limits of the county or city, that is not an interstate highway and does not primarily facilitate the interregional movement of people and goods, as determined in the report. The bill would also require that the relinquishment of those routes and segments is subject to certain conditions, including that the department complete a specified cost-benefit analysis and hold a public hearing on the proposed relinquishment.

The bill would require the commission to compile a list of all portions of the state highway system relinquished in the previous 12 months and include this information in its annual report to the Legislature, as specified.

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

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

- 1 *SECTION 1. This act shall be known and may be cited as the*
- 2 *Overtake Citizens United Act.*

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

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

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

8     *(c) In Connecticut General Life Insurance Company v. Johnson*  
9 *(1938) 303 U.S. 77, United States Supreme Court Justice Hugo*  
10 *Black stated in his dissent, “I do not believe the word ‘person’ in*  
11 *the Fourteenth Amendment includes corporations.”*

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

19     *(e) In Citizens United v. Federal Election Commission (2010)*  
20 *558 U.S. 310, the United States Supreme Court struck down limits*  
21 *on electioneering communications that were upheld in McConnell*  
22 *v. Federal Election Commission (2003) 540 U.S. 93 and Austin v.*  
23 *Michigan Chamber of Commerce. This decision presents a serious*  
24 *threat to self-government by rolling back previous bans on*  
25 *corporate spending in the electoral process and allows unlimited*  
26 *corporate spending to influence elections, candidate selection,*  
27 *policy decisions, and public debate.*

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

36     *(g) Corporations have used the artificial rights bestowed on*  
37 *them by the courts to overturn democratically enacted laws that*  
38 *municipal, state, and federal governments passed to curb corporate*  
39 *abuses, thereby impairing local governments’ ability to protect*  
40 *their citizens against corporate harms to the environment,*

1 consumers, workers, independent businesses, and local and  
2 regional economies.

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

10 (i) *In First National Bank of Boston v. Bellotti (1978) 435 U.S.*  
11 *765 and Citizens Against Rent Control/Coalition for Fair Housing*  
12 *v. Berkeley (1981) 454 U.S. 290, the United States Supreme Court*  
13 *rejected limits on contributions to ballot measure campaigns*  
14 *because it concluded that these contributions posed no threat of*  
15 *candidate corruption.*

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

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

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

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

33 *SEC. 3. A special election is hereby called to be held*  
34 *throughout the state on November 8, 2016. The special election*  
35 *shall be consolidated with the statewide general election to be*  
36 *held on that date. The consolidated election shall be held and*  
37 *conducted in all respects as if there were only one election and*  
38 *only one form of ballot shall be used.*

39 *SEC. 4. (a) Notwithstanding Section 9040 of the Elections*  
40 *Code, the Secretary of State shall submit the following advisory*

1 question to the voters at the November 8, 2016, consolidated  
2 election:

3  
4 “Shall the Congress of the United States propose, and the  
5 California Legislature ratify, an amendment or amendments to  
6 the United States Constitution to overturn *Citizens United v.*  
7 *Federal Election Commission* (2010) 558 U.S. 310, and other  
8 applicable judicial precedents, to allow the full regulation or  
9 limitation of campaign contributions and spending, to ensure that  
10 all citizens, regardless of wealth, may express their views to one  
11 another, and to make clear that the rights protected by the United  
12 States Constitution are the rights of natural persons only?”

13  
14 (b) Upon certification of the election, the Secretary of State  
15 shall communicate to the Congress of the United States the results  
16 of the election asking the question set forth in subdivision (a).

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

20 SEC. 5. (a) Notwithstanding the requirements of Sections 9040,  
21 9043, 9044, 9061, 9082, and 9094 of the Elections Code or any  
22 other law, the Secretary of State shall submit Section 4 of this act  
23 to the voters at the November 8, 2016, statewide general election.

24 (b) Notwithstanding Section 13115 of the Elections Code,  
25 Section 4 of this act and any other measure placed on the ballot  
26 by the Legislature for the November 8, 2016, statewide general  
27 election after the 131-day deadline set forth in Section 9040 of the  
28 Elections Code shall be placed on the ballot, following all other  
29 ballot measures, in the order in which they qualified as determined  
30 by chapter number.

31 (c) The Secretary of State shall include, in the ballot pamphlets  
32 mailed pursuant to Section 9094 of the Elections Code, the  
33 information specified in Section 9084 of the Elections Code  
34 regarding the ballot measure contained in Section 4 of this act.

35 SEC. 6. This act calls an election within the meaning of Article  
36 IV of the Constitution and shall go into immediate effect.

37 SECTION 1. ~~Section 73 of the Streets and Highways Code is~~  
38 ~~amended to read:~~

39 ~~73. (a) The Legislature finds and declares both of the~~  
40 ~~following:~~

1     ~~(1) Ownership and management of transportation infrastructure~~  
2 ~~should be placed at the most appropriate level of government.~~  
3 ~~Transportation infrastructure primarily serving regional travel and~~  
4 ~~not primarily facilitating interregional movement of people and~~  
5 ~~goods is typically best managed by local and regional government~~  
6 ~~entities. Transportation infrastructure, including interstate~~  
7 ~~highways, that is needed to facilitate interregional movement of~~  
8 ~~people and goods is typically best managed at the state government~~  
9 ~~level.~~

10     ~~(2) The Legislature intends for the department to identify routes,~~  
11 ~~and segments of routes, that may be appropriate candidates for~~  
12 ~~relinquishment and to streamline the process of approving~~  
13 ~~relinquishments where the department and the city or county have~~  
14 ~~entered into an agreement providing for the relinquishment.~~

15     ~~(b) (1) The commission may relinquish to a county or city a~~  
16 ~~portion of a state highway within the county or city that has been~~  
17 ~~superseded by relocation.~~

18     ~~(2) The commission shall not relinquish to a county or city a~~  
19 ~~portion of a state highway that has been superseded by relocation~~  
20 ~~until the department has placed the highway, as defined in Section~~  
21 ~~23, in a state of good repair. This requirement shall not obligate~~  
22 ~~the department for widening, new construction, or major~~  
23 ~~reconstruction, except as the commission may direct. A state of~~  
24 ~~good repair requires maintenance, as defined in Section 27,~~  
25 ~~including litter removal, weed control, and tree and shrub trimming~~  
26 ~~to the time of relinquishment.~~

27     ~~(c) Whenever the department and the county or city concerned~~  
28 ~~have entered into an agreement providing therefor, or the legislative~~  
29 ~~body of the county or city has adopted a resolution consenting~~  
30 ~~thereto, the commission may relinquish, to that county or city, any~~  
31 ~~frontage or service road or outer highway, within the territorial~~  
32 ~~limits of the county or city, that has been constructed as a part of~~  
33 ~~a state highway project, but does not constitute a part of the main~~  
34 ~~traveled roadway thereof.~~

35     ~~(d) The commission may also relinquish, to a county or city~~  
36 ~~within whose territorial limits it is located, any nonmotorized~~  
37 ~~transportation facility, as defined in Section 887, constructed as~~  
38 ~~part of a state highway project if the county or city, as the case~~  
39 ~~may be, has entered into an agreement providing therefor or its~~  
40 ~~legislative body has adopted a resolution consenting thereto.~~

1     ~~(e) (1) The commission may relinquish a portion of a state~~  
2 ~~highway to a county or city if the department and the county or~~  
3 ~~city concerned have entered into an agreement providing for the~~  
4 ~~relinquishment of that portion of that state highway, within the~~  
5 ~~territorial limits of the county or city, that is not an interstate~~  
6 ~~highway and does not primarily facilitate the interregional~~  
7 ~~movement of people and goods as determined in the report~~  
8 ~~described in subdivision (h). The department and the county or~~  
9 ~~city shall agree upon the condition or state of the relinquished~~  
10 ~~portion of the state highway at the time of its transfer from the~~  
11 ~~department to the county or city. The agreement shall specify any~~  
12 ~~financial terms upon which the department and county or city have~~  
13 ~~agreed. The agreement shall transfer all legal liability for the~~  
14 ~~relinquished portion of the state highway at the time of its transfer~~  
15 ~~from the department to the county or city.~~

16     ~~(2) A relinquishment pursuant to paragraph (1) shall not occur~~  
17 ~~unless all of the following conditions are met:~~

18     ~~(A) The commission has determined the relinquishment is in~~  
19 ~~the best interest of the state.~~

20     ~~(B) The department completes a cost-benefit analysis on behalf~~  
21 ~~of the state that may include a review of route continuity, market~~  
22 ~~value assessments of the proposed relinquishment and associated~~  
23 ~~parcels, a review of historical and estimated future maintenance~~  
24 ~~costs of the proposed relinquishment, or any other quantifiable~~  
25 ~~economic impacts.~~

26     ~~(C) The commission holds a public hearing on the proposed~~  
27 ~~relinquishment.~~

28     ~~(3) Upon relinquishment of a portion of a state highway under~~  
29 ~~this subdivision, the county or city accepting the relinquished~~  
30 ~~former portion of state highway shall maintain within its~~  
31 ~~jurisdiction signs directing motorists to the continuation of the~~  
32 ~~remaining portions of the state highway, if any, to the extent~~  
33 ~~deemed necessary by the department.~~

34     ~~(f) Relinquishment shall be by resolution. A certified copy of~~  
35 ~~the resolution shall be filed with the board of supervisors or the~~  
36 ~~city clerk, as the case may be. A certified copy of the resolution~~  
37 ~~shall also be recorded in the office of the recorder of the county~~  
38 ~~where the land is located and, upon its recordation, all right, title,~~  
39 ~~and interest of the state in and to that portion of state highway shall~~  
40 ~~vest in the county or city, as the case may be, and that highway or~~

1 portion thereof shall thereupon constitute a county road or city  
2 street, as the case may be.

3 (g) ~~The vesting of all right, title, and interest of the state in and  
4 to portions of state highways heretofore relinquished by the  
5 commission, in the county or city to which it was relinquished, is  
6 hereby confirmed.~~

7 (h) ~~Not later than April 1, 2016, and biennially thereafter, the  
8 department shall report to the commission on which state highway  
9 routes or segments primarily serve regional travel and do not  
10 primarily facilitate interregional movement of people and goods.  
11 The department may identify these routes or segments by one or  
12 more categories and shall indicate which routes and segments are  
13 the best candidates for relinquishment. The report shall include an  
14 aggregate estimate of future maintenance and preservation costs  
15 of the identified routes and segments. The commission, in  
16 consultation with the department, shall develop guidelines for this  
17 report.~~

18 (i) ~~(1) Prior to relinquishing a portion of a state highway to a  
19 county or a city, the department shall give 90 days' notice in  
20 writing of intention to relinquish to the board of supervisors, or  
21 the city council, as the case may be, of both the jurisdiction and  
22 location of the portion of the state highway to be relinquished and  
23 the jurisdictions immediately adjacent to the route where the state  
24 highway continues. Where the resolution of relinquishment  
25 contains a recital as to the giving of the notice, adoption of the  
26 resolution of relinquishment shall be conclusive evidence that the  
27 notice has been given.~~

28 ~~(2) With respect to a relinquishment pursuant to subdivision  
29 (b), within the 90-day period, the board of supervisors or the city  
30 council may protest in writing to the commission stating the reasons  
31 therefor, including, but not limited to, objections that the highway  
32 is not in a state of good repair, or is not needed for public use and  
33 should be vacated by the commission. If the commission does not  
34 comply with the requests of the protesting body, it may proceed  
35 with the relinquishment only after a public hearing given to the  
36 protesting body on 10 days' written notice.~~

37 (j) ~~The commission shall compile a list of all portions of the  
38 state highway system relinquished in the previous 12 months and~~

- 1 ~~include this information in its annual report to the Legislature~~
- 2 ~~pursuant to Section 14535 of the Government Code.~~

O