

AMENDED IN ASSEMBLY APRIL 28, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY MARCH 3, 2016

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 22, 2015

**SENATE BILL**

**No. 254**

---

---

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

*(Coauthors: Assembly Members ~~Bloom and Dababneh~~ Bloom,*  
*Dababneh, Cristina Garcia, Gonzalez, and Williams)*

February 18, 2015

---

---

An act to submit to the voters a voter instruction relating to campaign finance, calling an election, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 254, as amended, Allen. Campaign finance: voter instruction.

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 a voter instruction asking whether California's elected officials should use all of their constitutional authority, including proposing and ratifying one or more 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. The bill would require the Secretary of State, if prohibited by court order from submitting the voter instruction to the voters at the November 8, 2016, statewide general election, as specified, to submit the voter instruction to the voters at the next occurring election.

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:*

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

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

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

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

10 *(b) Corporations are not mentioned in the United States  
11 Constitution, nor have we decreed that corporations have rights  
12 separate from “We the People.”*

13 (c) In Connecticut General Life Insurance Company v. Johnson  
14 (1938) 303 U.S. 77, United States Supreme Court Justice Hugo  
15 Black stated in his dissent, “I do not believe the word ‘person’ in  
16 the Fourteenth Amendment includes corporations.”

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

24 (e) In Citizens United v. Federal Election Commission (2010)  
25 558 U.S. 310, the United States Supreme Court struck down limits  
26 on electioneering communications that were upheld in McConnell  
27 v. Federal Election Commission (2003) 540 U.S. 93 and Austin  
28 v. Michigan Chamber of Commerce. This decision presents a  
29 serious threat to self-government by rolling back previous bans

1 on corporate spending in the electoral process and allows unlimited  
2 corporate spending to influence elections, candidate selection,  
3 policy decisions, and public debate.

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

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

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

26 (i) In *First National Bank of Boston v. Bellotti* (1978) 435 U.S.  
27 765 and *Citizens Against Rent Control/Coalition for Fair Housing*  
28 *v. City of Berkeley* (1981) 454 U.S. 290, the United States Supreme  
29 Court rejected limits on contributions to ballot measure campaigns  
30 because it concluded that these contributions posed no threat of  
31 candidate corruption.

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

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

38 (l) Article V of the United States Constitution empowers and  
39 obligates the people of the United States of America to use the  
40 constitutional amendment process to correct those egregiously

1 wrong decisions of the United States Supreme Court that go to the  
2 heart of our democracy and the republican form of self-government.

3 (m) Article I of the California Constitution guarantees the right  
4 of the people to instruct their representatives, petition government  
5 for redress of grievances, and assemble freely to consult for the  
6 common good.

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

12 (o) California's United States Senators and Representatives  
13 would benefit from having instructions from California voters  
14 about the United States Supreme Court's ruling in ~~Citizen's~~  
15 *Citizens United* and other judicial precedents in taking  
16 congressional action.

17 SEC. 3. A special election is hereby called to be held  
18 throughout the state on November 8, 2016. The special election  
19 shall be consolidated with the statewide general election to be held  
20 on that date. The consolidated election shall be held and conducted  
21 in all respects as if there were only one election and only one form  
22 of ballot shall be used.

23 SEC. 4. (a) Notwithstanding Section 9040 of the Elections  
24 Code, the Secretary of State shall submit the following voter  
25 instruction to the voters at the November 8, 2016, consolidated  
26 election:

27  
28 "Shall California's elected officials use all of their constitutional  
29 authority, including, but not limited to, proposing and ratifying  
30 one or more amendments to the United States Constitution, to  
31 overturn *Citizens United v. Federal Election Commission* (2010)  
32 558 U.S. 310, and other applicable judicial precedents, to allow  
33 the full regulation or limitation of campaign contributions and  
34 spending, to ensure that all citizens, regardless of wealth, may  
35 express their views to one another, and to make clear that  
36 corporations should not have the constitutional rights of human  
37 beings?"

38

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

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

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

12 (b) Notwithstanding Section 13115 of the Elections Code,  
13 Section 4 of this act and any other measure placed on the ballot  
14 by the Legislature for the November 8, 2016, statewide general  
15 election after the 131-day deadline set forth in Section 9040 of the  
16 Elections Code shall be placed on the ballot, following all other  
17 ballot measures, in the order in which they qualified as determined  
18 by chapter number.

19 (c) The Secretary of State shall include, in the ballot pamphlets  
20 mailed pursuant to Section 9094 of the Elections Code, the  
21 information specified in Section 9084 of the Elections Code  
22 regarding the ballot measure contained in Section 4 of this act.

23 SEC. 6. If the Secretary of State is prohibited from complying  
24 with Sections 4 and 5 of this act until after November 8, 2016, by  
25 court order pending resolution of an unsuccessful legal challenge  
26 to the validity of this act, then the Secretary of State shall submit  
27 Section 4 of this act to the voters at the next occurring election.

28 SEC. 7. This act calls an election within the meaning of Article  
29 IV of the Constitution and shall go into immediate effect.