

AMENDED IN ASSEMBLY MAY 9, 2016
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, 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, nor have we decreed that corporations have rights
8 separate from “We the People.”

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

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

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

1 corporate spending to influence elections, candidate selection,
2 policy decisions, and public debate.

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

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

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

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

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

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

37 (l) Article V of the United States Constitution empowers and
38 obligates the people of the United States of America to use the
39 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 Citizens United
15 and other judicial precedents in taking congressional action.

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

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

26
27 "Shall California's elected officials use all of their constitutional
28 authority, including, but not limited to, proposing and ratifying
29 one or more amendments to the United States Constitution, to
30 overturn Citizens United v. Federal Election Commission (2010)
31 558 U.S. 310, and other applicable judicial precedents, to allow
32 the full regulation or limitation of campaign contributions and
33 spending, to ensure that all citizens, regardless of wealth, may
34 express their views to one another, and to make clear that
35 corporations should not have the *same* constitutional rights ~~of~~ *as*
36 human beings?"

37
38 (b) Upon certification of the election, the Secretary of State
39 shall communicate to the Congress of the United States the results
40 of the election asking the question set forth in subdivision (a).

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

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

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

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

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

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

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