

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SJR 18 (McNerney)
Version: June 2, 2026
Hearing Date: June 9, 2026
Fiscal: No
Urgency:
AWM

SUBJECT

Campaign finance reform

DIGEST

This resolution memorializes the Legislature's strong disagreement with the decision of the United States Supreme Court in *Citizens United v. Federal Elections Commission* (2010) 558 U.S. 310 (*Citizens United*) and encourages states to limit the powers of corporations to contribute to political campaigns.

This resolution is sponsored by the author and is supported by Consumer Watchdog. The Committee has not received timely opposition to this bill. The Senate Elections and Constitutional Amendments Committee is set to hear this resolution on the morning of this Committee's afternoon hearing.

SUMMARY

Existing constitutional law:

- 1) Provides that the U.S. Constitution, the laws of the United States, and treaties made by the United States are the supreme law of the land. (U.S. Const., art. VI, cl. 2.)
- 2) Provides that Congress shall make no law abridging the freedom of speech, or the right of the people to peaceably assemble, and to petition the government for redress of grievances. (U.S. Const., 1st amend. (the First Amendment) & 14th amends.; *see Gitlow v. People of State of New York* (1925) 268 U.S. 652, 666 (First Amendment guarantees apply to the states through the due process clause of the Fourteenth Amendment).)
- 3) Provides that every person may freely speak, write, and publish their sentiments on all *subjects*, and that a law may not restrain or abridge liberty of speech. (Cal. Const., art. I, § 2 (Section 2).)

Existing federal law establishes limits on the amounts that an individual, candidate committee, political action committee (PAC), or party committee may donate to a candidate committee, PAC, or party committee in federal elections. (52 U.S.C. § 30125; *see also* 11 C.F.R., pt. 300, §§ 300.1 et seq.)

Existing state law establishes limits on the amounts an individual, business entity, committee, or PAC may contribute to a candidate or officeholder in a statewide election or a committee or PAC; these limits also apply in local elections unless the city or county has enacted its own law addressing contribution limits. (Gov. Code, tit. 9, ch. 5, art. 3, §§ 85300 et seq.)

This resolution:

1) Declares that:

- a) The protections afforded by the First Amendment to the United States Constitution to the people of our nation are fundamental to our democracy.
- b) The First Amendment to the United States Constitution was intended to protect the free speech rights of natural persons.
- c) For the past five decades, starting with the decision in *Buckley v. Valeo* (1976) 424 U.S. 1, a divided United States Supreme Court has transformed the First Amendment into a powerful tool for corporations seeking to evade and invalidate democratically enacted reforms.
- d) The United States Supreme Court's transformation culminated in their *Citizens United* opinion.
- e) The United States Supreme Court's ruling in *Citizens United* overturned longstanding precedent prohibiting corporations from spending their general treasury funds in our elections.
- f) Justice Stevens' concurring and dissenting opinion in *Citizens United*, joined by Justices Ginsburg, Breyer, and Sotomayor, noted 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 prodigious sums on campaign messages, often in favor of policies that harm natural persons.
- g) The United States Supreme Court's opinion in *Citizens United* has unleashed a torrent of corporate money into our political process, including from independent expenditure-only political action committees, known as Super PACs, and "dark money" funds from groups that do not disclose their donors and that may come from foreign sources, unmatched by any campaign expenditure totals in United States history.
- h) According to the Brennan Center for Justice, nearly \$2 billion of dark money was spent during the 2024 federal election cycle.
- i) *Citizens United* prevents states from enforcing state laws and state constitutional provisions separating corporate money from elections.

- j) The United States Supreme Court's opinion in *Citizens United* represents a serious and direct threat to our democracy.
 - k) The general public and political leaders have recognized, since the founding of our country, that the interests of corporations do not always correspond with the public interest and, therefore, the political influence of corporations should be limited.
 - l) In 1816, Thomas Jefferson wrote, "I hope we shall...crush in [its] birth the aristocracy of our monied corporations which dare already to challenge our government to a trial of strength and bid defiance to the laws of our country."
 - m) Legislators have a duty to protect democracy and guard against threats to the integrity of our elections.
 - n) Montana and several other states are pursuing ballot initiatives and legislation to limit the power of corporations operating within the state to contribute to political campaigns.
- 2) States that it is resolved:
- a) By the Senate and the Assembly of California, jointly, that the Legislature of the State of California respectfully but strongly agrees with the majority opinion of the United States Supreme Court in *Citizens United* and encourages states to limit the powers of corporations to contribute to political campaigns, consistent with the United States Constitution.
 - b) That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the United States Senate, the Minority Leader of the United States Senate, and to each Senator and Representative from California in the Congress of the United States.

COMMENTS

1. Author's comment

According to the author:

This year marks the 50-year anniversary of the landmark *Buckley v. Valeo* decision, where the Supreme Court decided that campaign expenditure limits are unconstitutional. This decision, paired with the *Citizens United* decision in 2010, has led to the proliferation of corporate money in our political system. The amount of dark money spent on elections continues to grow every election cycle. This broken campaign finance system has prevented us from addressing some of the biggest issues facing our state and our country. Dark money has also made government more responsive to corporate interests than the public, increased cynicism among voters, and corroded the very institutions we are meant to protect. SJR 18 sends a message that the California Legislature stands against the *Citizens United* decision

and encourages states to limit the power of corporations to contribute to political campaigns.

2. Background on the United States Supreme Court's evolving approach to corporate elections expenditures

After the Watergate scandal, which revealed how much donor money could influence politics, Congress passed the Federal Election Campaign Act of 1974 (the Act) to overhaul campaign laws and reduce corruption in elections.¹ Among other things, the bill created the Federal Election Commission (FEC) and set limits on how much a person could contribute to, or expend on behalf of, candidates, and how much a candidate could spend on their own behalf.² The passage of the Act commenced a 52-year fight over money, particularly corporate money, in politics.

In 1976, the United States Supreme Court held in *Buckley v. Valeo* that the Act's candidate and independent expenditure limits violated the First Amendment to the United States Constitution.³ The Court, in a per curiam opinion, took the position that the expenditure of money is speech, not conduct, and therefore that restricting contributions and expenditures "necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached."⁴ The Court upheld, however, the contribution limits, stating that "[a] limitation on the amount of money a person may give to a candidate or campaign organization...involves little direct restraint on his [sic] political communication, for it permits the symbolic expression of support evidenced by a contribution but does not in any way infringe the contributor's freedom to discuss candidates and issues."⁵ Two years later, the Court reaffirmed this approach in *First National Bank of Boston v. Bellotti*, holding that a state cannot prohibit a corporation from making contributions or expenditures relating to a ballot measure unless the measure materially affects the property, business, or assets of the corporation.⁶

The next two significant Supreme Court cases addressing money in politics were more tolerant of campaign restrictions than *Buckley*. In *Austin v. Michigan Chamber of Commerce*, the Court upheld a Michigan law prohibiting corporations from using corporate treasury funds for independent expenditures to support or oppose candidates for state office.⁷ And in *McConnell v. FEC*, the Court considered, and largely upheld, the Bipartisan Campaign Reform Act of 2002 (BCRA), which updated federal election law "to purge national politics of what was conceived to be the pernicious influence of "big

¹ See Pub. L. No. 93-443, 88 Stats. 1263 (1974).

² *Ibid.*

³ (1976) 424 U.S. 1, 19, .

⁴ *Id.* at pp. 18-19.

⁵ *Id.* at pp. 20-21.

⁶ (1978) 435 U.S. 765, 795.

⁷ (1990) 494 U.S. 652, 655, *overruled by Citizens United v. Federal Elections Commission* (2010) 558 U.S. 310, 319.

money” campaign contributions.’ ”⁸ The Court upheld the BCRA’s soft-money contribution limits, provisions treating electioneering communications that were “coordinated” with a campaign as contributions to that campaign, and provisions requiring a corporation or union to use a segregated fund, rather than general funds, to finance electioneering communications, among others.⁹ The only piece of the BCRA the Court struck down was the prohibition on campaign donations by minors.¹⁰ In reaching this conclusion, the *Austin* majority opinion noted that Congressional bans on corporate election contributions dated back to 1907, after President Theodore Roosevelt called for such a ban in his 1905 State of the Union address.¹¹

In 2010, the Court veered back towards *Buckley* in *Citizens United*.¹² The Supreme Court originally granted certiorari and heard oral argument on narrow questions relating to whether a full-length anti-Hillary Clinton film should be treated as an electioneering communication that could not be broadcast during election periods.¹³ After oral argument, Chief Justice John Roberts initially assigned the majority opinion to himself and planned to write a narrow opinion in favor of the petitioner.¹⁴ Justice Kennedy, however, wanted the opinion to invalidate existing Supreme Court precedent, and eventually convinced the other conservative justices to join him, even though the parties had not briefed the court or had the chance to argue the question.¹⁵ Justice Stevens, tasked with writing the dissenting opinion, threatened to publicly accuse the Chief Justice of violating the Court’s procedures to reach his desired outcome; only then did the Court order supplemental briefing and oral argument on whether to overrule *Austin* and *McConnell*.¹⁶ Unsurprisingly, then, the Court’s majority opinion answered in the affirmative, holding that *Austin* was incorrect and that the First Amendment does not permit a restriction on corporate political speech on the basis of the speaker’s corporate identity.¹⁷ *Citizens United* thus opened the floodgates to unlimited corporate independent expenditures in elections.

⁸ (2003) 540 U.S. 115.

⁹ *Id.* at pp. 136-137.

¹⁰ *Id.* at p. 232.

¹¹ *Id.* at pp. 115-116.

¹² *Citizens United, supra*, 558 U.S. at pp. 365-366.

¹³ See *Citizens United v. FEC*, United States Supreme Court Docket No. 08-205, Questions Presented, available at <https://www.supremecourt.gov/search.aspx?filename=/docketfiles/08-205.htm>. All links in this analysis are current as of June 4, 2026.

¹⁴ Toobin, *Money Unlimited* (May 14, 2012) *The New Yorker*, available at <https://www.newyorker.com/magazine/2012/05/21/money-unlimited>.

¹⁵ *Ibid.* The justices who planned to join Kennedy were Chief Justice Roberts and Justices Scalia, Thomas, and Alito. (*Ibid.*)

¹⁶ *Ibid.*; see *Citizens United v. FEC*, United States Supreme Court Docket No. 08-205, Questions Presented, *supra*.

¹⁷ *Citizens United, supra*, 558 U.S. at p. 365. The Court opened the floodgates further in *McCutcheon v. FEC* (2014) 572 U.S. 185, 193, when a divided Court invalidated the BRCA’s aggregate election expenditure limits. (*Id.* at pp. 193 (plur. opn. of Scalia, J.), 229 (conc. opn. of Thomas, J.)) Justice Thomas, who concurred in the judgment only, argued that all contribution limits, not just the aggregate limit, should be abolished. (*Id.* at p. 231 (conc. opn. of Thomas, J.))

Justice Stevens, joined by Justices Ginsburg, Breyer, and Sotomayor, concurred in part and dissented in part to the majority's opinion in *Citizens United*.¹⁸ These four justices argued that, "[i]n the context of election to public office, the distinction between corporate and human speakers is significant" because corporations are "not actually members" of our society:

[C]orporations have no consciences, no beliefs, no feelings, no thoughts, no desires. Corporations help structure and facilitate the activities of human beings, to be sure, and their "personhood" often serves as a useful legal fiction. But they are not themselves members of "We the People" by whom and for whom our Constitution was established.¹⁹

Justice Stevens went on to explain that restrictions on corporate speech do not, in fact, restrict the speech of any actual person, because it is only "derivative speech, speech by proxy," for the persons causing the corporation to act.²⁰ He also set forth evidence that the majority opinion's approach toward corporate speech rights was ahistorical and inconsistent with the Framers' treatment of corporations.²¹

3. This resolution memorializes the Legislature's disagreement with *Citizens United* and encourages states to limit the power of corporations to contribute to political campaigns

Since *Citizens United*, outside campaign spending has skyrocketed. According to Open Secrets, a nonprofit organization that tracks campaign expenditures, corporations, individuals, and other groups spent \$92,024,619 in the 2012 national election, and \$1,460,549,194 in the 2024 national election.²² These figures represent only direct spending and do not account for Super PACs, whose spending was \$609,925,369 in 2012 and \$2,688,997,939 in 2024.²³

This resolution recognizes the corrupting influence that unlimited corporate spending has had on our elections and expresses the Legislature's disagreement with the majority's opinion in *Citizens United*. The resolution also recognizes that some states are experimenting with legislation to limit corporate political expenditures through the transformation of the corporate form, and encourages states to continue adopting

¹⁸ *Citizens United*, *supra*, 558 U.S. at p. 393 (conc. and diss. opn. of Stevens, J.).

¹⁹ *Id.* at p. 465.

²⁰ *Id.* at p. 466.

²¹ *Id.* at pp. 428-430 ("As a matter of original expectations, then, it seems absurd to think that the First Amendment prohibits legislatures from taking into account the corporate identity of a sponsor of electoral advocacy. As a matter of original meaning, it likewise seems baseless – unless one evaluates the First Amendment's "principles," or its "purpose," at such a high level of generality that the historical understandings of the Amendment cease to be a meaningful constraint on the judicial task" (internal citations omitted)).

²² See Open Secrets, Outside Spending, Total by Type of Spender for 2012 & 2024,

<https://www.opensecrets.org/outside-spending/summary>.

²³ *Ibid.*

policies to limit corporate elections expenditures consistent with the United States Constitution.

4. Arguments in support

According to Consumer Watchdog:

This year marks the 50-year anniversary of the *Buckley v. Valeo* decision, where the United States Supreme Court ruled that placing limits on independent expenditures violated the First Amendment of the U.S. Constitution. This decision equated the power to spend on political campaigns with the guaranteed right to freedom of speech. This precedent paved the way for the *Citizens United* decision in 2010, which established that corporations have the same rights of people, including freedom of speech.

Since the Supreme Court's 2010 decision, Super PACs and dark money organizations have spent billions influencing elections while shielding donors from public scrutiny. The result has been a political system where corporate interests wield extraordinary influence over policymaking, often at the expense of average citizens.

A 2014 study from the Cambridge University Press found that "business interests have substantial independent impacts on U.S. government policy, while average citizens and mass-based interest groups have little or no independent influence."

SUPPORT

Consumer Watchdog

OPPOSITION

None received

RELATED LEGISLATION

Pending legislation: AB 1984 (Rogers, 2026) redefines the powers of a corporation incorporated under the laws of, or authorized to do business in, California to provide that such corporations do not have the right to engage in political spending, except as expressly provided by law for political committees. AB 1984 is pending before the Assembly Banking and Finance Committee.

Prior legislation:

SB 254 (Allen, Ch. 20, Stats. 2016) placed a ballot measure on the November 8, 2016, ballot asking voters whether California's elected officials should use their constitutional authority to propose and ratify one or more amendments to the United States

Constitution to overturn *Citizens United*. SB 254 was placed on the ballot as Proposition 59 and was approved by the voters.

SB 1272 (Lieu, Ch. 175, Stats. 2014) called a special election, consolidated with the November 4, 2014, statewide general election, to pose to the voters 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*. The California Supreme Court ordered the Secretary of State not to place the measure on the ballot in 2014 pending a determination as to whether the Legislature has the authority to place an advisory question on the ballot; although the Supreme Court ultimately ruled in the Legislature's favor, the opinion came down after the November 2014 election, so the voters did not have the opportunity to vote on the issue. (See *Howard Jarvitz Taxpayers Ass'n v. Soto* (2016) 62 Cal.4th 486.)

AB 644 (Wieckowski, 2013) was largely similar to SB 1272 (Lieu, Ch. 175, Stats. 2014), except that it would have placed the advisory question on the regular ballot, not through a special election. AB 644 died in the Assembly Elections and Redistricting Committee.
