

## SENATE THIRD READING

SJR 18 (McNerney)

As Amended June 2, 2026

Majority vote

**SUMMARY**

Expresses the Legislature's disagreement with the United States (US) Supreme Court's decision in *Citizens United v. Federal Elections Commission (Citizens United)*. Encourages states to adopt policies to limit the powers of corporations to contribute to political campaigns.

**Major Provisions**

- 1) States the Legislature's respectful but strong disagreement with the majority opinion of the US Supreme Court in *Citizens United*. Encourages states to adopt policies to limit the powers of corporations to contribute to political campaigns, consistent with the US Constitution.
- 2) Makes various findings and declarations, including the following:
  - a) For the past five decades, starting with the decision in *Buckley v. Valeo* (1976) 424 U.S. 1, a divided US Supreme Court has transformed the First Amendment into a powerful tool for corporations seeking to evade and invalidate democratically enacted reforms.
  - b) The US Supreme Court's transformation culminated in the *Citizens United* opinion.
  - c) Justice Stevens' concurring and dissenting opinion in *Citizens United* 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.
  - d) The US Supreme Court's opinion in *Citizens United* has unleashed a torrent of corporate money in our political process, including from "dark money" funds from groups that do not disclose their donors and that may come from foreign sources.
  - e) *Citizens United* prevents states from enforcing state laws and state constitutional provisions separating corporate money from elections.
  - f) 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.

**COMMENTS**

State and federal courts have repeatedly held that the giving and spending of campaign money involves the exercise of free speech. The US Supreme Court found in *Buckley v. Valeo* (1976), 424 US 1, that any "restriction on the amount of money a person or group can spend on political communication during a campaign 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." The Supreme Court in *Buckley* ruled that expenditure limits during a campaign were unconstitutional for this reason. In the same case, however, the court upheld campaign contribution limits, noting that "[b]y contrast with a limitation on expenditures for political

expression, a limitation upon the amount that any one person or group may contribute to a candidate or political committee entails only a marginal restriction upon the contributor's ability to engage in free communication."

In January 2010, the US Supreme Court issued its decision in *Citizens United v. Federal Election Commission* (2010) 558 U.S. 310. The case involved a nonprofit corporation, Citizens United, which sought to air television commercials promoting a film critical of then-Senator and presidential candidate Hillary Clinton. At the time, federal law prohibited corporations and labor unions from using general treasury funds to finance "electioneering communications" or communications that expressly advocated the election or defeat of a candidate. Citizens United was concerned that broadcasting the advertisements could expose it to civil and criminal penalties.

In its decision, the Supreme Court struck down the 63-year old law that prohibited corporations and unions from using their general treasury funds to make independent expenditures (IEs) in federal elections, finding that the law unconstitutionally abridged the freedom of speech.

Less than three months later, a federal appellate court further expanded the scope of permissible campaign spending in *SpeechNow.org v. FEC* (2010) 599 F.3d 686. In that case, the US Court of Appeals for the District of Columbia Circuit ruled that federal contribution limits were unconstitutional when applied to contributions made by individuals to groups engaged solely in IEs.

The court relied heavily on the reasoning of *Citizens United*, particularly its conclusion that IEs, unlike direct contributions to candidates, do not create a risk or appearance of quid pro quo corruption. Because such expenditures do not present a sufficiently compelling governmental interest to justify restrictions on First Amendment rights, the court concluded that contributions to organizations making only IEs likewise could not be restricted.

Specifically, the court stated that "in light of the Court's holding [in *Citizens United*] as a matter of law that IEs do not corrupt or create the appearance of quid pro quo corruption, contributions to groups that make only IEs also cannot corrupt or create the appearance of corruption." The *SpeechNow.org* decision is widely recognized as establishing the legal framework for Super PACs—political action committees that may raise unlimited contributions for the purpose of making IEs in federal elections.

One clause of this resolution references efforts in Montana and other states to limit corporate spending in political campaigns through a novel legal approach. Rather than directly regulating campaign contributions or expenditures, these proposals seek to restrict political spending by redefining the powers granted to corporations under state law.

In Montana, proponents have been collecting signatures to qualify a ballot initiative for the November election that would expressly limit the powers of "artificial persons," including corporations. The measure would provide that such powers do not include the ability to spend money on political candidates or ballot issues. Any entity that violates the law would forfeit its ability to conduct business in Montana.

Supporters contend that the Montana proposal would withstand constitutional scrutiny because it does not directly regulate political speech or impose campaign finance restrictions. Instead, it limits the powers that corporations receive as a condition of operating under state law. In May,

Hawaii enacted legislation based on a similar concept and inspired by the Montana initiative. The law is scheduled to take effect on July 1, 2027. Last month, a legal challenge to the measure was filed in the US District Court for the District of Hawaii.

Similarly, AB 1984 (Rogers) of the current legislative session, seeks to amend California law to provide that corporations do not possess the authority to engage in political spending. That bill is pending in the Assembly Banking and Finance Committee, where it received a hearing for testimony only earlier this year.

Given the US Supreme Court's longstanding skepticism toward restrictions on corporate political spending, it remains uncertain whether this novel strategy of limiting corporate powers, rather than directly regulating political expenditures, will survive judicial review.

Please see the policy committee analysis for a full discussion of this resolution.

### **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."

### **Arguments in Support**

In support of this resolution, Consumer Watchdog writes, "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... 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.' SJR 18 resolves that the California State Legislature strongly disagrees with the *Citizens United* decision and encourages states to limit the power of corporations to contribute to political campaigns."

### **Arguments in Opposition**

None received.

## **FISCAL COMMENTS**

None. This measure is keyed non-fiscal by the Legislative Counsel.

**VOTES**

**SENATE FLOOR: 28-8-4**

**YES:** Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla,

Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

**NO:** Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Valladares

**ABS, ABST OR NV:** Alvarado-Gil, Gonzalez, Pérez, Strickland

**ASM ELECTIONS: 6-2-0**

**YES:** Pellerin, Bennett, Berman, Elhawary, Solache, Stefani

**NO:** Johnson, Ellis

**UPDATED**

VERSION: June 2, 2026

CONSULTANT: Ethan Jones / ELECTIONS / (916) 319-2094

FN: 0003270