

2016

Corporations. Political Spending. Federal  
Constitutional Protections. Legislative Advisory  
Question.

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PROPOSITION **59** CORPORATIONS. POLITICAL SPENDING.  
FEDERAL CONSTITUTIONAL PROTECTIONS.  
LEGISLATIVE ADVISORY QUESTION.

59

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Asks whether California’s elected officials should use their authority to propose and ratify an amendment to the federal Constitution overturning the United States Supreme Court decision in *Citizens United v. Federal Election Commission*.
- *Citizens United* ruled that laws placing certain limits on political spending by corporations and unions are unconstitutional.
- States that the proposed amendment should clarify that corporations should not have the same constitutional rights as human beings.

**SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:**

- No direct fiscal effect on state or local governments.

FINAL VOTES CAST BY THE LEGISLATURE ON SB 254 (PROPOSITION 59)  
(CHAPTER 20, STATUTES OF 2016)

Senate:	Ayes 26	Noes 12
Assembly:	Ayes 51	Noes 26

ANALYSIS BY THE LEGISLATIVE ANALYST

**BACKGROUND**

**Political Campaign Spending.** Many people, corporations, labor unions, and other groups spend money to influence voters’ decisions in political campaigns. This spending includes:

- **Direct Contributions.** People can give money directly to candidates, political parties, and committees. These direct contributions are subject to federal, state, and local limits. In some cases, federal law does not allow direct contributions. For example, corporations and labor unions may not give money directly to a candidate for a federal office.
- **Independent Expenditures.** A person makes an “independent expenditure” if he or she spends money to influence

voters with no coordination with a candidate or campaign. For example, a person producing a radio commercial urging people to vote for a candidate is making an independent expenditure if the commercial is made without the involvement of the candidate’s campaign.

**Independent Expenditures Protected by U.S. Constitution.** Before 2010, federal law limited corporations and labor unions’ abilities to make independent expenditures in federal elections. Some California local governments had similar laws for local elections. In 2010, the U.S. Supreme Court determined in the *Citizens United* case that independent expenditures made by corporations and labor unions are a form of speech protected under the Constitution. Based on this determination and related

**ANALYSIS BY THE LEGISLATIVE ANALYST**

CONTINUED

court decisions, government may not limit the right of corporations and labor unions to make independent expenditures. This ruling applies to federal, state, and local governments.

***Two-Step Process to Change the Constitution.***

The Constitution may be changed through a two-step “amendment” process. Under this process, described below, only the Congress, state legislatures, and—if called by the Congress—constitutional conventions have a role in changing the Constitution. Since the Constitution became law in 1789, 33 amendments have been proposed and 27 amendments have been approved through this process.

- **Step One: The Congress Acts.** The process to change the Constitution begins with the Congress either (1) proposing changes or amendments to the Constitution or (2) calling a constitutional convention to propose amendments after the state legislatures of at least 34 states have asked for such a convention. No amendment has been proposed by a constitutional convention.
- **Step Two: The States Act.** At least 38 states must approve a proposed amendment before it becomes law. Depending on instructions from the Congress, states approve proposed amendments through either the state legislatures or state-level conventions.

Historically, only one amendment—the 21<sup>st</sup> Amendment repealing the prohibition of the sale of alcoholic beverages—has been approved through state-level conventions rather than by state legislatures.

**PROPOSAL**

Proposition 59 asks if California’s elected officials should use all of their constitutional authority—including, but not limited to, amending the Constitution—to:

- Reverse the effects of *Citizens United* and related court decisions.
- Allow the regulation and limitation of political campaign spending.
- Ensure individuals are able to express political views.
- Make clear that corporations should not have the same constitutional rights as people.

Proposition 59 is an advisory measure only. It does not require any particular action by the Congress or the California Legislature.

**FISCAL EFFECTS**

This measure would have no direct fiscal effect on state and local governments.

Visit <http://www.sos.ca.gov/measure-contributions> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html> to access the committee’s top 10 contributors.

★ ARGUMENT IN FAVOR OF PROPOSITION 59 ★

Vote YES on Proposition 59 to help get big money out of politics and restore a government of, by, and for the people.

*Corporations and billionaires should not be allowed to continue to buy our elections.*

But that's exactly what the United States Supreme Court did in the disastrous *Citizens United v. FEC* ruling. This misguided decision gave corporations the same "rights" as human beings and freed them to spend unlimited amounts of money in our elections. Other recent decisions overturned long-standing laws limiting how much billionaires could spend in an election.

As a result, corporations and their billionaire owners are spending unprecedented amounts of money to tilt the outcomes of our elections in their favor.

*Corporations and billionaires should not have a greater voice in our elections than California voters.* Corporations spend huge amounts of money to influence election results and make it harder for our voices to be heard.

The Supreme Court was wrong and must be corrected.

*Corporations play a vital role in our economy. But corporations aren't people.* They don't vote, get sick, or die in wars for our country. The Constitution was written to protect human beings, not corporations. The rights granted to corporations by the Supreme Court allow

them to drown out the voices of real people—as voters, consumers, workers, and small business owners.

We The People should have the right to set reasonable limits on the raising and spending of money by candidates and others to influence elections.

Vote YES on Prop. 59 and tell Congress to pass an amendment to the U.S. Constitution that puts an end to this corrosive political spending.

California voters have used ballot measures to instruct and improve our state and local governments before. Prop. 59 allows us to do this on this critical issue.

Real campaign finance reform can only happen with a groundswell of grassroots support from across the country. Let's do our part and vote YES on Proposition 59.

Help send a message to Congress to act now to strengthen our democracy.

*Vote YES on Proposition 59.*

**BEN ALLEN**, State Senator

**MICHELE SUTTER**, Co-Founder  
Money Out Voters In

**KATHAY FENG**, Executive Director  
California Common Cause

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 59 ★

Proposition 59 DOES NOTHING.

Even supporters admit that *all this measure does is "send a message to Congress."*

They admit that corporations "play a vital role in our economy."

The Legislature should focus on doing its job and stop putting meaningless measures on the ballot to ask Congress to limit free speech by overturning the Supreme Court.

Corporations give money. Labor unions give money. People give money. They all do it to support candidates they like and oppose candidates they don't.

Supporters of Proposition 59 say the people "should have the right to set reasonable limits on the raising and spending of money by candidates and others to influence elections."

*Who decides what those reasonable limits are?*

THIS CONGRESS?

THIS LEGISLATURE?

*Do you really want politicians currently in office to have the power to silence the voice of people or organizations who want to change the way our government works?*

Proposition 59 has NO force of law. It DOES NOTHING.

We've all agreed with many Supreme Court decisions.

We've all disagreed with many others.

One thing Democrats, Republicans and Non-Partisan voters CAN agree on is *that the Supreme Court should be above politics* and above picking winners and losers.

Proposition 59 is a political statement by a select few who want to impose their will on the many. Instead of putting do-nothing advisory measures on the ballot, the Legislature should focus on transparency and start doing the people's business.

Vote NO on Proposition 59 . . . It DOES NOTHING . . . IT MEANS NOTHING.

**JEFF STONE**, State Senator  
28th District

**K.H. ACHADJIAN**, Assemblyman  
35th District

★ ARGUMENT AGAINST PROPOSITION 59 ★

PROPOSITION 59 IS A BIG WASTE OF YOUR TIME AND OUR TAXPAYER DOLLARS.

The LEGISLATURE placed this NON-BINDING ADVISORY measure on the ballot to say they want campaign finance reform and want to curb the power of special interests in Sacramento, but it actually does nothing of the kind. Instead, it argues that *FREE SPEECH SHOULD NOT APPLY TO* small businesses and others who choose to incorporate as a corporation. What this measure fails to accomplish is:

- It FAILS to prohibit or limit corporate contributions to candidates and elected officials.
- It FAILS to prohibit or limit union contributions to candidates or elected officials.
- It FAILS to prohibit or limit corporate contributions to political parties.
- It FAILS to prohibit or limit union contributions to political parties.

Instead, Proposition 59 asks the California members of Congress to change the First Amendment of the United States Constitution. Do you really want THIS CONGRESS to tinker with the FIRST AMENDMENT which guarantees and protects:

- Your right to practice your religion?
- Your right to FREE SPEECH?
- Your right to a FREE PRESS?
- Your right to peaceably assemble and associate with others?
- Your right to petition your government?

Supporters of Proposition 59 argue that “corporations aren’t people.” But, many Churches are incorporated.

Newspapers and Television networks are incorporated. Facebook, Google, and Twitter are incorporated. Even organizations like Common Cause, the League of Women Voters, and the American Civil Liberties Union (ACLU) are incorporated. People shouldn’t lose their Constitutional rights just because they choose to become involved in a company or organization that is incorporated.

Our BALLOTS should NOT be clogged with pointless NON-BINDING measures.

This is the first, but if you vote “yes” it surely won’t be the last. Instead, your NO VOTE sends a clear message to the Legislature:

- Stop WASTING OUR MONEY—This measure costs taxpayers half a million dollars, or more.
- Stop CLOGGING OUR BALLOT with meaningless measures that DO NOTHING.
- Start DISCLOSING political contributions WITHIN 24 HOURS of receipt year-round.
- Start DOING YOUR JOB. Fix our broken education system. Fix our broken roads. Protect us from crime.

Nobody likes the current state of Politics in America or California. But PROPOSITION 59 is just a “feel-good” measure that does NOTHING to increase disclosure of money being spent in politics.

Please VOTE NO on PROPOSITION 59. IT DOES NOTHING.

**JEFF STONE**, State Senator  
28th District

**KATCHO ACHADJIAN**, State Assemblyman  
35th District

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 59 ★

DON’T BE FOOLED BY THE OPPONENTS’ MISLEADING SCARE TACTICS.

Vote YES on Proposition 59 because if we don’t overturn the Supreme Court’s disastrous *Citizens United* ruling we will NEVER be able to enact the reforms that we need to PREVENT CORPORATIONS AND WEALTHY SPECIAL INTERESTS FROM BUYING OUR ELECTIONS.

Opponents want you to believe that overturning *Citizens United* will affect your First Amendment rights. Only BIG MONEY INTERESTS who want to control our elections have anything to fear from overturning *Citizens United*.

Corporations should not have the same rights as human beings—they should not be allowed to spend unlimited amounts of money to control our elections. BUT THAT IS EXACTLY WHAT THE *CITIZENS UNITED* DECISION LET THEM DO! It struck down limits on corporate and union political spending.

Democrats, Republicans, and independent voters agree that *Citizens United* should be overturned with a

constitutional amendment. Vote YES on Proposition 59 to tell Congress to act.

Overturning *Citizens United* will open the way to meaningful campaign finance reform that will return ownership of our elections back to ordinary Americans! Voting YES on Proposition 59 will send a clear message to Congress that We the People want OUR voices heard during elections.

*Don’t let the opponents fool you—corporations and billionaires should not be allowed to continue to buy our elections.*

Vote YES on Proposition 59 to help get big money out of politics and restore a government of, by, and for the PEOPLE.

**MARK LENO**, State Senator

**MICHELE SUTTER**, Co-Founder  
Money Out Voters In

**KATHAY FENG**, Executive Director  
California Common Cause

59

~~pupils or more per school or the parents or legal guardian personally visit the school to apply for the waiver and that they there be provided a full description of the educational materials to be used in the different educational program choices and all the educational opportunities available to the child. Under such parental waiver conditions, children may be transferred to classes where they are taught English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law. Individual schools in which guardians of 20 pupils or more of a given grade level receive a waiver in any grade request a language acquisition program that is designed to provide language instruction shall be required to offer such a class; otherwise, they must allow the pupils to transfer to a public school in which such a class is offered: program to the extent possible, based upon the requirements of Section 305.~~

~~(b) If a school district implements a language acquisition program pursuant to this section, it shall do both of the following:~~

~~(1) Comply with the kindergarten and grades 1 to 3, inclusive, class size requirements specified in Section 42238.02.~~

~~(2) Provide, as part of the annual parent notice required pursuant to Section 48980 or upon enrollment, the parent or legal guardian of a minor pupil with information on the types of language programs available to pupils enrolled in the school district, including, but not limited to, a description of each program.~~

~~SEC. 6. Section 311 of the Education Code is repealed. 311. The circumstances in which a parental exception waiver may be granted under Section 310 are as follows:~~

~~(a) Children who already know English: the child already possesses good English language skills, as measured by standardized tests of English vocabulary comprehension, reading, and writing, in which the child scores at or above the state average for his or her grade level or at or above the 5th grade average, whichever is lower; or~~

~~(b) Older children: the child is age 10 years or older, and it is the informed belief of the school principal and educational staff that an alternate course of educational study would be better suited to the child's rapid acquisition of basic English language skills; or~~

~~(c) Children with special needs: the child already has been placed for a period of not less than thirty days during that school year in an English language classroom and it is subsequently the informed belief of the school principal and educational staff that the child has such special physical, emotional, psychological, or educational needs that an alternate course of educational study would be better suited to the child's overall educational development. A written description of these special needs must be provided and any such decision is to be made subject to the examination and approval of the local school superintendent, under guidelines established by and subject to the review of the local Board of Education and ultimately the State Board of Education. The existence of such special needs shall not compel issuance of a waiver, and the parents shall be fully informed of their right to refuse to agree to a waiver.~~

~~SEC. 7. Section 320 of the Education Code is amended to read:~~

~~320. As detailed in Article Section 5 of Article IX of the California Constitution, and Article 2 (commencing with~~

60

~~Section 305) and Article 3 (commencing with Section 310), respectively, all California school children have the right to be provided with an English language public education. If a California school child has been denied the option of an English language instructional curriculum in public school, the child's parent or legal guardian shall have legal standing to sue for enforcement of the provisions of this statute, and if successful shall be awarded normal and customary attorney's fees and actual damages, but not punitive or consequential damages. Any school board member or other elected official or public school teacher or administrator who willfully and repeatedly refuses to implement the terms of this statute by providing such a free public education and an English language educational option at an available public school to a California school child may be held personally liable for fees and actual damages by the child's parents or legal guardian. public education.~~

~~SEC. 8. Section 335 of the Education Code is amended to read:~~

~~335. The provisions of this act may be amended by a statute that becomes effective upon approval by the electorate or by a statute to further the act's purpose passed by a two-thirds majority vote of each house of the Legislature and signed by the Governor.~~

~~SEC. 9. Sections 2 to 8, inclusive, of this act shall become operative on July 1, 2017.~~

## PROPOSITION 59

The following advisory question is submitted to the people in accordance with Section 4 of Senate Bill 254 of the 2015–16 Regular Session (Chapter 20, Statutes of 2016).

Advisory Question: "Shall California's elected officials use all of their constitutional authority, including, but not limited to, 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, to allow the full regulation or limitation of campaign contributions and spending, to ensure that all citizens, regardless of wealth, may express their views to one another, and to make clear that corporations should not have the same constitutional rights as human beings?"

## PROPOSITION 60

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Labor Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

## PROPOSED LAW

The California Safer Sex in the Adult Film Industry Act

The people of the State of California do hereby ordain as follows:

SECTION 1. Title.

This Act shall be known and may be cited as "The California Safer Sex in the Adult Film Industry Act" (the "Act").

SEC. 2. Findings and Declarations.

The people of the State of California hereby find and declare all of the following:

58