



CALIFORNIA 2016
BALLOT BACKGROUNDER

Proposition **59**
Instruction on Campaign Finance

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Purpose

Proposition 59 is an advisory question put on the ballot by the California Legislature asking voters whether they support the reversal of the U.S. Supreme Court decision in *Citizens United v. Federal Election Commission* (2010) and related Supreme Court rulings that place First Amendment restrictions on government regulation of political contributions and expenditures.

Background

For more than forty years, the U.S. Supreme Court has held that the First Amendment’s protection of freedom of speech applies to political contributions and expenditures. This interpretation of the First Amendment has handicapped political reformers who seek to limit money in politics.

In its rulings, the Court has distinguished between political contributions and expenditures. While it has allowed Congress and the states to place certain limitations on campaign contributions, it has generally invalidated laws that seek to restrict political expenditures. “Political expenditures” include spending by campaigns as well as independent expenditures by third parties.

For a time, the Court allowed Congress and the states to treat corporations and labor unions differently than individuals for purposes of restricting political expenditures—that is, the Court

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allowed Congress and the states to prohibit political expenditures by corporations and unions. Such restrictions were a central feature of the 2002 McCain-Feingold Bipartisan Campaign Reform Act.

The Court abolished this exception in *Citizens United vs. F.E.C.* (2010).¹ In that decision, the Court held that organizations such as corporations and labor unions have the same First Amendment protections as individuals, and that Congress and the states cannot restrict their independent political expenditures. The decision did not affect campaign finance laws that limit contributions to political candidates, but it freed up corporations and unions to make unlimited independent expenditures. The ruling led to a sharp increase in political spending by corporations and unions.

The *Citizens United* ruling and related decisions are controversial, especially among political progressives concerned about the influence of money in politics. In 2016, the California Legislature decided to place a non-binding measure on the ballot to allow voters to express their opposition to these rulings and their desire to see the federal Constitution amended to allow for full regulation or limitation of campaign contributions and expenditures.

Existing Law

Under current Supreme Court precedents, political expenditures are protected by the First Amendment, regardless of whether they are made by individuals or by organizations such as corporations and labor unions. Under *Citizens United*, direct contributions to candidates by labor unions and corporations can still be prohibited.

Proposal

Proposition 59 is an advisory question, meaning its outcome imposes no binding obligation on the Legislature or other state officials. The purpose of Proposition 59 is to gauge public opinion regarding the U.S. Supreme Court's *Citizens United* decision and related precedents.

The question reads as follows:

“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 vs. Federal Election Commission* (2010), 558

¹ *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).
<https://www.supremecourt.gov/opinions/09pdf/08-205.pdf>

U.S. 310, and other applicable judicial precedents, to allow the full regulation and 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?”

Fiscal Impact

This is an advisory question and has minimal fiscal impact.

Supporters

Supporters include:

- Democratic State Senator Ben Allen (author)
- California Common Cause
- Money Out Voters In
- California Democratic Party
- California Labor Federation
- California Teachers Association
- U.S. Senator Bernie Sanders

Arguments of Supporters

Proponents argue that the Supreme Court was wrong to give corporations the same rights as human beings and to rule that the First Amendment protects political money as speech. The Court’s decisions, they say, have distorted democracy by giving a disproportionate voice to corporations and the wealthy over ordinary citizens. The people of California should petition their representatives to reverse these rulings.

Opponents

Opponents include:

- Republican State Senator Jeff Stone
- Republican State Assemblymember K.H. Achadjian
- League of Women Voters of California

No committee has been formed to oppose the measure.

Arguments of Opponents

Opponents argue that because Proposition 59 is only an advisory measure, it is a waste of time, money, and effort. The Legislature, they say, should focus on other topics. Some also say that Proposition 59 promotes the violation of free speech rights, including the rights of groups that have chosen to incorporate, such as small businesses or nonprofits.

Conclusion

Proposition 59 is an advisory question and does not impose binding obligations on the Legislature or other state officials.

A Yes vote would send the message that the California electorate opposes the *Citizens United* decision and related Supreme Court rulings. It would urge elected officials to support a federal Constitutional amendment authorizing full regulation or limitation of political contributions and spending and specifying that corporations should not have the same constitutional rights as natural persons.

A No vote means that voters do not want to send this message.

For more information on Proposition 59, visit:

www.roseinstitute.org

www.moneyoutvotersin.org/prop_59

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