

STAFF REPORT

DATE: February 21, 2012
TO: City Council
FROM: Steve Pinkerton, City Manager
RE: Resolution in Support of Assembly Joint Resolution No. 22

Recommendation

Review proposed Resolution in Support of Assembly Joint Resolution 22 and provide feedback, if desired, to staff. (*According to City Council policy, this item appears first as an informational item for review/comment and then at the next Council meeting for approval, unless the Council desires otherwise.*)

Fiscal Impact

There is no fiscal impact to approving this resolution.

Background

In 2010, the United States Supreme Court issued a ruling in the case of *Citizens United v. Federal Elections Committee* that effectively rolled back the legal limits on corporate spending in the electoral process, thereby creating an unequal playing field and allowing unlimited corporate spending to influence elections. These “rights” granted to corporations have proven controversial, resulting in a recent Assembly Joint Resolution (AJR 22) authored by Assemblymembers Bob Wieckowski (D-Fremont) and Michael Allen (D-Santa Rosa) and introduced into the Assembly on January 5, 2012. AJR 22 seeks to overturn the *Citizens United v. Federal Election Committee* ruling. Such a ruling could be overturned via an amendment to the US Constitution declaring that declares corporations are not entitled to the protections or rights of human beings.

This Assembly resolution has recently come to the City Council’s attention, with a request to consider a municipal resolution in support of AJR 22. As directed by the City Council, staff is returning with a proposed resolution for the City Council’s consideration.

According to the legislative summary, AJR 22 “...would memorialize the Legislature's disagreement with the decision of the United States Supreme Court in *Citizens United v. Federal Election Commission*, and would call upon the United States Congress to propose and send to the states for ratification a constitutional amendment to overturn *Citizens United v. Federal Election Commission* and to restore constitutional rights and fair elections to the people.”

The City of Davis currently has thresholds in place to trigger reporting for spending on political committees related to municipal elections (City Council candidates, ballot measures, etc.). However, the reporting requirements would not necessarily limit certain types of expenditures by a corporation. A constitutional amendment to limitations on spending by corporations could trickle down to have an effect on municipal elections.

Attachments:

1. Resolution
2. AJR 22

RESOLUTION 12-XXX, SERIES 2012

RESOLUTION IN SUPPORT OF ASSEMBLY JOINT RESOLUTION 22 TO OVERTURN
CITIZENS UNITED V. FEDERAL ELECTION COMMITTEE SUPREME COURT RULING

WHEREAS, in *Citizens United v. the Federal Election Commission* in 2010, the United States Supreme Court rolled back the legal limits on corporate spending in the electoral process, thereby creating an unequal playing field and allowing unlimited corporate spending to influence elections, and;

WHEREAS, free and fair elections are essential to democracy and effective self-governance, and;

WHEREAS, given modern media and the costs of election politics, unlimited spending in election politics without appropriate regulation greatly enhances the chances of misuse of the electoral process to the detriment of citizens of ordinary means, full and fair debate and fair elections; and

WHEREAS, persons are rightfully recognized as human beings while corporations are entirely human-made; and

WHEREAS, interpretation of the US Constitution by the Supreme Court to include corporations in the term 'persons' impacts the peoples' exercise of self-governance by endowing corporations with Constitutional protections intended for natural persons, and;

WHEREAS, Assemblymembers Bob Wieckowski (D-Fremont) and Michael Allen (D-Santa Rosa) have jointly authored Assembly Joint Resolution 22, which seeks to overturn the controversial *Citizens United v. Federal Election Committee* ruling that allows corporations to spend unlimited amounts of money from their treasuries to influence elections.

NOW, THEREFORE, BE IT RESOLVED, that the Davis City Council hereby supports AJR 22 and calls on our State and Federal officials to take measures to overturn *Citizens United v. Federal Election Committee* via constitutional amendment so that ordinary citizens will have a greater opportunity to participate in meaningful ways in fair elections and not be overwhelmed by corporate spending; and

BE IT FURTHER RESOLVED that the Davis City Council directs the City Manager to send copies of this Resolution to our State and Federal representatives.

PASSED AND ADOPTED on this 21st day of February, 2012, by the following vote:

AYES:

NOES:

Joseph F. Krovoza
Mayor

ATTEST:

Zoe Mirabile, CMC
City Clerk

Assembly Joint Resolution

No. 22

**Introduced by Assembly Members Wieckowski and Allen
(Coauthors: Assembly Members Ammiano, Hayashi, Hill, and
Huffman)
(Coauthors: Senators Hancock and Lieu)**

January 5, 2012

Assembly Joint Resolution No. 22—Relative to campaign finance reform.

LEGISLATIVE COUNSEL'S DIGEST

AJR 22, as introduced, Wieckowski. Campaign finance reform.

This measure would memorialize the Legislature's disagreement with the decision of the United States Supreme Court in *Citizens United v. Federal Election Commission*, and would call upon the United States Congress to propose and send to the states for ratification a constitutional amendment to overturn *Citizens United v. Federal Election Commission* and to restore constitutional rights and fair elections to the people.

Fiscal committee: no.

- 1 WHEREAS, The protections afforded by the First Amendment
2 to the United States Constitution to the people of our nation are
3 fundamental to our democracy; and
4 WHEREAS, The First Amendment to the United States
5 Constitution was designed to protect the free speech rights of
6 people, not corporations; and
7 WHEREAS, Corporations are not people but, instead, are entities
8 created by the laws of states and nations; and

1 WHEREAS, For the past three decades, a divided United States
2 Supreme Court has transformed the First Amendment into a
3 powerful tool for corporations seeking to evade and invalidate
4 democratically enacted reforms; and
5 WHEREAS, This corporate misuse of the First Amendment and
6 the United States Constitution reached an extreme conclusion in
7 the United States Supreme Court’s ruling in Citizens United v.
8 Federal Election Commission (2010) 130 S.Ct. 876; and
9 WHEREAS, The United States Supreme Court’s ruling in
10 Citizens United v. Federal Election Commission overturned
11 longstanding precedent prohibiting corporations from spending
12 their general treasury funds in our elections; and
13 WHEREAS, The opinion of the four dissenting justices in
14 Citizens United v. Federal Election Commission noted that
15 corporations have special advantages not enjoyed by natural
16 persons, such as limited liability, perpetual life, and favorable
17 treatment of the accumulation and distribution of assets, that allow
18 them to spend prodigious sums on campaign messages that have
19 little or no correlation with the beliefs held by natural persons; and
20 WHEREAS, The United States Supreme Court’s ruling in
21 Citizens United v. Federal Election Commission will now unleash
22 a torrent of corporate money in our political process unmatched
23 by any campaign expenditure totals in United States history; and
24 WHEREAS, Citizens United v. Federal Election Commission
25 purports to invalidate state laws and state constitutional provisions
26 separating corporate money from elections; and
27 WHEREAS, The United States Supreme Court’s ruling in
28 Citizens United v. Federal Election Commission represents a
29 serious and direct threat to our democracy; and
30 WHEREAS, The general public and political leaders in the
31 United States have recognized, since the founding of our country,
32 that the interests of corporations do not always correspond with
33 the public interest and that, therefore, the political influence of
34 corporations should be limited; and
35 WHEREAS, In 1816, Thomas Jefferson wrote, “I hope we shall
36 ... crush in [its] birth the aristocracy of our monied corporations
37 which dare already to challenge our government to a trial of
38 strength and bid defiance to the laws of our country”; and
39 WHEREAS, Article V of the United States Constitution
40 empowers and obligates the people and states of the United States

1 of America to use the constitutional amendment process to correct
2 those egregiously wrong decisions of the United States Supreme
3 Court that go to the heart of our democracy and republican form
4 of self-government; and

5 WHEREAS, Notwithstanding the decision in Citizens United
6 v. Federal Election Commission, legislators have a duty to protect
7 democracy and guard against the potentially detrimental effects
8 of corporate spending in local, state, and federal elections; now,
9 therefore, be it

10 *Resolved by the Assembly and the Senate of the State of*
11 *California, jointly,* That the Legislature of the State of California
12 respectfully disagrees with the majority opinion and decision of
13 the United States Supreme Court in Citizens United v. Federal
14 Election Commission; and be it further

15 *Resolved,* That the Legislature of the State of California calls
16 upon the United States Congress to propose and send to the states
17 for ratification a constitutional amendment to overturn Citizens
18 United v. Federal Election Commission and to restore constitutional
19 rights and fair elections to the people; and be it further

20 *Resolved,* That the Chief Clerk of the Assembly transmit copies
21 of this resolution to the President and Vice President of the United
22 States, the Speaker of the House of Representatives, the Minority
23 Leader of the House of Representatives, the Majority Leader of
24 the United States Senate, the Minority Leader of the United States
25 Senate, and to each Senator and Representative from California
26 in the Congress of the United States.

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