The Honorable Edmund G. Brown, Jr.
State Capitol, Suite 1173
Sacramento, CA 95814

May 27, 2016

Dear Governor Brown,

SB 254, The "New" Overturn Citizens United Act has arrived at your desk.

We urge you to sign it.

In July of 2014 you allowed *SB 1272, The Overturn Citizens United Act* to go forward to the ballot without your signature.

A few weeks later the California Supreme Court in a 5 to 1 result granted the petitioner's request for emergency relief while the legitimacy of the ballot measure, which by then had been designated *Proposition 49*, was considered. The Secretary of State was ordered to remove the measure from the November 2014 California ballot.

This act by the California Supreme Court was unprecedented. Never before in the history of California had the Court removed a ballot measure that the Legislature had enacted. The Court also altered the legal standard for such action from requiring "a clear showing of invalidity" to a statement that the validity was "uncertain."

The Chief Justice of the California Supreme Court, Tani Cantil-Sakauye, cautioned her colleagues against taking "this extraordinary step," writing that she saw "no such clear showing" of invalidity. She reminded the five other Justices of the Court's own precedent and wrote further that the Court was "disenfranchising voters."

On January 4th of this year the Court released a 6 to 1 decision finding that Proposition 49 was always a legitimate exercise of legislative authority but declined to order *Prop 49* back onto the 2016 ballot, instead writing that the CA Legislature could pass another bill.

The California Legislature filed a writ for rehearing and asked the Court to "reform" the date and order the measure restored to the 2016 ballot. The Legislature provided the Court with a bounty of precedent showing how the Court routinely reforms the enactment dates of bills when the Court's process extends beyond a law's original implementation date.

Our coalition partners filed an amicus letter to accompany the Legislature's writ describing the citizens' campaign that drove SB 1272 to the ballot, which you yourself remarked on in your July 15, 2014 letter when citing the "enthusiastic support" for the bill.

On February 24th the Court denied the writ for rehearing. A week later a new bill, SB 254, was introduced by Senators Allen and Leno.

The California Legislature has moved quickly to pass the now bi-partisan bill not only to make California's disenfranchised voters whole, but to respond to what they see as a balance of powers question raised by the High Court's action. As Senator Allen said in the Assembly Appropriations hearing and reiterated in the Senate Elections Committee hearing last week "[I]t would set an unacceptable precedent if we don't stick to our guns."

You wrote in 2014 that though you were allowing SB 1272 to go to the ballot you were "not inclined to repeat this practice of seeking advisory opinions from voters."

We hope you will reconsider that disinclination in light of the facts that make this circumstance unique.

There will almost certainly be many more measures on the 2016 California ballot than were on the 2014 ballot. Concerns about voter fatigue and ballot clutter are warranted, but as Senator Loni Hancock said in the Senate Elections Committee hearing that when her "constituents complain to her about ballot measures it's the complicated ones, not this one. They're eager to vote on this one however they intend to vote."

We would also ask you to consider what Chief Justice Cantil-Sakauye said when this issue was raised in the October 6, 2015 oral arguments on *HJTA v. Padilla*. She said "[W]hat does ballot clutter matter if it leads to substantive law."

The last time the California Legislature placed a Voter Instruction on the statewide ballot regarding an Article V issue was in 1892 and the question posed to voters concerned the direct election of senators. The measure passed overwhelmingly and while the national conversation and marshalling of political will took time, the 17th Amendment to our constitution was ultimately ratified.

Californians have a right "to instruct their representatives" as per Article 1, sec 3(a) of the California Constitution.

The only formal way by which we can exercise the right to instruct is to persuade our elected officials to place voter instruction measures on the California ballot. We support the campaign to place The Overturn Citizens United Act on the California ballot because we believe the question posed by SB 254 is of grave importance to the survival of our representative form of democracy.

We urge you to Let The People Vote and sign SB 254 into law.

Sincerely,

Emily Rusch
Executive Director
CALPIRG

John Bonifaz
President
Free Speech For People

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President
California Clean Money Campaign

John Fox
Senior Democracy Campaigner
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