

Assembly Committee on Elections
California State Capitol

RE: AB 20 (Corporate-Free Elections Act)

April 21, 2021

Dear Chair Berman, Vice Chair Seyarto, and Members of the Committee,

I am the Legal Director of Free Speech For People, a national non-partisan non-profit organization, that works to renew our democracy and to limit the influence of money in our elections. I write to endorse AB 20, the Corporate-Free Elections Act. This bill would bring California up to par with sister states by prohibiting corporations from directly funding political candidates' campaigns.

Under current state law, corporations and other "business entities" may contribute as much to a candidate for local or state office as an individual would be allowed to contribute. These amounts currently range from \$4,900 for candidates for city, county, legislative, and state pension boards, to \$32,400 for candidates for governor.¹ Many corporations take broad advantage of this opportunity. For example, according to California Fair Political Practices Commission data, companies like Chevron, Uber and Lyft contributed the legal maximum to dozens of state legislators in 2019-20, and lower amounts to many more state legislators and city council candidates.²

This poses an unacceptable risk of corruption and creates the appearance of corruption. Contributions to candidates from corporations and other business entities pose a heightened risk of corruption because they are far more likely to be understood as in exchange for favorable legislative or regulatory treatment. For this reason, nearly half the states ban corporations from contributing to candidates.³

The bill does not restrict officers, employees, or shareholders of a business entity from making contributions. Obviously, they can make contributions of their own personal funds directly to candidates. But if they want to route their contributions

¹ See Cal. Fair Political Practices Comm'n (FPPC), *State Contribution Limits and Voluntary Expenditure Ceilings*, <https://www.fppc.ca.gov/learn/campaign-rules/state-contribution-limits.html>.

² See FPPC, *Chevron*, <https://bit.ly/3utiFa5>; FPPC, *Uber Technologies Inc.*, <https://bit.ly/3dDjwhz>; FPPC, *Lyft Inc.*, <https://bit.ly/3fNip1B>.

³ See Nat'l Conf. of State Legislatures, *State Limits on Contributions to Candidates 2019-2020 Election Cycle*, <https://bit.ly/3cWltqi>.

through the company (perhaps with the convenience of payroll deduction), then the company can establish a “sponsored committee” under Section 82048.7 of the Government Code.

The bill is constitutional. U.S. Supreme Court precedent confirms that laws banning corporations and similar business entities from contributing to candidates are constitutional under the First Amendment and other principles. *See FEC v. Beaumont*, 539 U.S. 146 (2003). And the U.S. Supreme Court’s decision in *Citizens United v. FEC*, 558 U.S. 310 (2010), which invalidated a law banning *independent expenditures* by corporations, did not disturb *Beaumont*. Indeed, since 2010, at least five federal courts of appeal (including the Ninth Circuit, which has jurisdiction over California) have upheld laws banning corporate contributions to candidates against challenge.⁴

Thank you for considering this testimony.

Sincerely,

Ron Fein
Legal Director

⁴ *See Iowa Right to Life Comm., Inc. v. Tooker*, 717 F.3d 576, 601 (8th Cir. 2013), *Minn. Citizens Concerned for Life, Inc. v. Swanson*, 692 F.3d 864, 877-880 (8th Cir. 2012); *United States v. Danielczyk*, 683 F.3d 611, 615-619 (4th Cir. 2012); *Ognibene v. Parkes*, 671 F.3d 174, 194-197 (2d Cir. 2011); *Thalheimer v. San Diego*, 645 F.3d 1109, 1124-1126 (9th Cir. 2011); *see also 1A Auto, Inc. v. Director of Office of Campaign & Political Fin.*, 105 N.E.3d 1175, 1186 (Mass. 2018) (same), *cert. denied*, 139 S. Ct. 2613 (2019).