



California Bill Would Limit Political Spending by Foreign-Influenced U.S. Corporations

Letter of Support Filed With the California State Assembly

By Michael Sozan | March 2, 2022

Michael Sozan, a senior fellow at the Center for American Progress, submitted a formal letter of support to the California State Assembly in support of A.B. 1819, a bill to limit political spending by foreign-influenced U.S. corporations.

Dear Assembly Member Lee:

On behalf of the Center for American Progress, I write in strong support of A.B. 1819, the Stop Foreign Influence in California Elections Act, of which we are a proud “co-sponsor.” If enacted, this people-powered legislation will help stop political spending by foreign entities—including foreign investors who own appreciable levels of stock in U.S. corporations—thereby protecting California’s right to self-government.

I am a senior fellow at the Center for American Progress. Based in Washington, D.C., CAP is an independent, nonpartisan policy institute dedicated to improving the lives of all Americans through bold, progressive policies. My democracy reform work at CAP has involved research in the area of preventing election-related spending by foreign-influenced U.S. corporations. My publications include a report and fact sheet analyzing this policy, with the report republished in the Harvard Law School Forum on Corporate Governance.¹ These publications may be useful as the Legislature considers the pending legislation.

After reviewing this legislation, I conclude that it would provide an important tool to protect California’s elections and ballot initiatives from foreign influence and reduce the outsized role that corporate money plays in the outcomes of the state’s elections and ballot initiatives. This bold bill would strengthen the right of California’s residents to determine the political and economic future of their state and help ensure that lawmakers are accountable to voters instead of to foreign-influenced corporations. This legislation is particularly timely given that foreign investors now own approximately 40 percent of U.S. corporate equity, compared with just 4 percent of U.S. equity in 1986.²

This legislation follows on the heels of Seattle, Washington, which in 2020, passed similar legislation to protect its elections after a deluge of corporate political spending by at least one foreign-influenced U.S. corporation, Amazon. Moreover, the New York State Senate recently passed a similar bill, on a bipartisan vote, and the bill is now pending in the state Assembly.³ Several similar bills have been filed at the federal level by members of Congress, including Sen. Elizabeth Warren (D-MA) and Rep. Jamie Raskin (D-MD).⁴

Discussion

In the U.S. Supreme Court’s misguided decision in *Citizens United v. Federal Election Commission*, the court gave American corporations the ability to spend money in elections based on the premise that corporations are “associations of citizens.”⁵ However, many of the largest American-based corporations are owned appreciably by foreign entities. This creates a loophole in the Supreme Court’s ruling, as recognized in a dissenting opinion by then-Justice John Paul Stevens: Foreign entities can invest in U.S. corporations, which then spend large amounts of money from their corporate treasuries to influence the results of elections and ballot initiatives.⁶

As discussed in CAP’s report, referenced above, the foreign ownership thresholds used in California’s legislation are solidly grounded in corporate governance and related law, are constitutional, and have been supported by conservative lawmakers, corporate CEOs, and commissioners on the Federal Election Commission. Moreover, the U.S. Securities and Exchange Commission has recognized the power that shareholders have at the levels of ownership delineated in this legislation. This bill is not aimed at disincentivizing foreign investment in American companies but rather setting guardrails on when foreign-influenced companies can spend political dollars to influence elections and ballot measures.

Additionally, as detailed in CAP’s report, although the vast majority of U.S. businesses have no foreign owners, the largest U.S.-based corporations have appreciable foreign ownership. I analyzed data on foreign ownership of 111 U.S.-based publicly traded corporations in the S&P 500 stock index. The results include the following:

- When applying the 1 percent single foreign shareholder threshold, 74 percent of the corporations studied exceeded the threshold.
- When applying the 5 percent aggregate foreign shareholder threshold, 98 percent of the corporations studied exceeded the threshold.

These 111 corporations voluntarily disclosed \$443 million spent in federal and state elections from their corporate treasuries in the years 2015, 2016, and 2017.

Among smaller publicly traded corporations, 28 percent of the corporations that were randomly sampled exceeded the 5 percent aggregate foreign ownership threshold. From this analysis, it appears that smaller publicly traded corporations

may be less likely than their larger counterparts to have as much aggregate foreign ownership and therefore would likely be less affected by this legislation's ownership thresholds. It is also important to note that this legislation does not apply to non-profit corporations nor does it have any impact on individual immigrants.

Conclusion

At a time of rising foreign interference in U.S. elections, California should be commended for positioning itself at the forefront of legislative efforts across the nation to take proactive, commonsense steps to stop political spending by foreign-influenced American corporations. This legislation would go a long way in reassuring the people of California that their democratic right to self-government is protected.

I urge the passage of this legislation. Please let me know if I can be of further assistance.

Sincerely,
Michael L. Sozan

Endnotes

- 1 Michael Sozan, "Ending Foreign-Influenced Corporate Spending in U.S. Elections" (Washington: Center for American Progress, 2019), available at <https://www.americanprogress.org/issues/democracy/reports/2019/11/21/477466/ending-foreign-influenced-corporate-spending-u-s-elections/>; Michael Sozan, "Fact Sheet: Ending Foreign-Influenced Corporate Spending in U.S. Elections" (Washington: Center for American Progress, 2019), available at <https://www.americanprogress.org/issues/democracy/reports/2019/11/21/477468/ending-foreign-influenced-corporate-spending-u-s-elections-2/>; Michael Sozan, "Ending Foreign-Influenced Corporate Spending in U.S. Elections" (Cambridge, MA: Harvard Law School Forum on Corporate Governance, 2019), available at <https://corp.gov.law.harvard.edu/2019/12/06/ending-foreign-influenced-corporate-spending-in-u-s-elections/>.
- 2 Steve Rosenthal and Theo Burke, "Who's Left to Tax? US Taxation of Corporations and Their Shareholders" (Washington: Urban-Brookings Tax Policy Center, 2020), p. 2, available at <https://www.law.nyu.edu/sites/default/files/Who%E2%80%99s%20Left%20to%20Tax%3F%20US%20Taxation%20of%20Corporations%20and%20Their%20Shareholders-%20Rosenthal%20and%20Burke.pdf>.
- 3 Democracy Preservation Act, S. 1126B, 2021-2022 legislative session (January 10, 2022), available at <https://www.nysenate.gov/legislation/bills/2021/s1126>.
- 4 Anti-Corruption and Public Integrity Act, S. 5070, Section 721, 116th Cong., 2nd sess. (December 19, 2020), available at <https://www.congress.gov/bill/116th-congress/senate-bill/5070/text?q=%7B%22search%22%3A%5B%22warren%22%5D%7D&r=2&s=2>; Get Foreign Money Out of U.S. Elections Act, H.R. 6283, 117th Cong., 1st sess. (December 14, 2021), available at <https://www.congress.gov/bill/117th-congress/house-bill/6283?q=%7B%22search%22%3A%5B%22raskin+get+foreign+money+out%22%2C%22raskin%22%2C%22get%22%2C%22foreign%22%2C%22money%22%2C%22out%22%5D%7D&s=1&r=1>.
- 5 *Citizens United v. Federal Election Commission*, 588 U.S. 310 (2010), available at https://www.fec.gov/resources/legal-resources/litigation/cu_sc08_opinion.pdf.
- 6 In 2020, California witnessed the outsize effect of foreign-influenced corporate spending on a state ballot initiative. That initiative, known as Proposition 22, invalidated a pro-worker state law and allowed companies to classify their workers as contractors instead of employees. I wrote about Proposition 22 in an op-ed published in *The Mercury News*. As I stated there, one of the corporations that spent tens of millions of dollars to drive the ballot initiative—Uber—is partially owned and controlled by the government of Saudi Arabia. Another corporation—Lyft—which also spent tens of millions of dollars on Proposition 22, has seen appreciable ownership and control by a Chinese conglomerate and a Japanese conglomerate. This means that major foreign investors played a role—at least indirectly—in determining the fate of California policy. See Michael Sozan, "Opinion: Stop political spending by foreign-influenced U.S. firms," *The Mercury News*, December 15, 2020, available at <https://www.mercurynews.com/2020/12/15/opinion-stop-political-spending-by-foreign-influenced-u-s-firms/>; Jacey Fortin, "Uber C.E.O. Backtracks After Comparing Khashoggi's Killing to an Accident," *The New York Times*, November 11, 2019, available at <https://www.nytimes.com/2019/11/11/business/uber-ceo-jamal-khashoggi.html>; Zoe Henry, "Alibaba's 9 most high-profile investments in US start-ups," CNBC, October 14, 2016, available at <https://www.cnbc.com/2016/10/14/alibabas-9-most-high-profile-investments-in-us-start-ups.html>; Toru Hatano, "Rakuten books \$240m write-down as Mikitani exits Lyft's board," *Nikkei*, September 1, 2020, available at <https://asia.nikkei.com/Business/Technology/Rakuten-books-240m-write-down-as-Mikitani-exits-Lyft-s-board>.