

# Public Campaign Financing in California:

*A Model Law for 21st Century Reform*

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## Foreword:

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*Public Campaign Financing in California: A Model Law for 21st Century Reform* is the latest in a series of Center for Governmental Studies (CGS) reports on public campaign financing in America. This new report provides concrete, detailed information about the specific, practical benefits of public campaign financing programs in state and local governments. Drawing on 28 years of CGS experience with such programs, the report explains why public campaign financing is constitutional and why it serves purposes that the Supreme Court has found to be compelling governmental interests.

The report also includes a fully-drafted model public campaign financing law. While this law is specifically tailored to campaigns in California, each aspect of the law can be applied to other jurisdictions as well.

CGS has researched and analyzed campaign finance laws since 1983, with a specific focus on public campaign financing. CGS has studied the practical impacts of public campaign financing programs in twenty-three states and sixteen local jurisdictions throughout the nation.<sup>1</sup> CGS has also published detailed charts on state and local public campaign financing laws, as well as roll-over maps showing their location.<sup>2</sup>

CGS has published several general reports on public financing, including a comprehensive analysis of state and local jurisdictions, *Keeping It Clean: Public Financing in American Elections* (2006); a primer, *Investing in Democracy: Creating Public Financing Elections in Your Community* (2003); and a report on innovative ways to fund public financing programs, *Public Financing of Elections: Where to Get the Money?* (2003).

CGS has also published detailed, jurisdiction-specific analyses of public financing programs in numerous state and local jurisdictions, including: *Public Campaign Financing in Albuquerque: Citizens Win with Clean Money Elections* (2011); *Public Campaign Financing in Portland: Should "Voter-Owned Elections" Survive?* (2010); *Public Financing: North Carolina Judiciary* (2009),

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<sup>1</sup>See Table of Authorities.

<sup>2</sup>See [http://cgs.org/images/publications/pub\\_fin\\_state\\_2007.pdf](http://cgs.org/images/publications/pub_fin_state_2007.pdf)

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*Public Campaign Financing in Florida: A Program Sours* (2008); *Public Campaign Financing in Wisconsin: Showing Its Age* (2008); *Public Campaign Financing in New Jersey—Governor: Weeding Out Big Money in the Garden State* (2008); *Public Campaign Financing in New Jersey—Legislature: A Pilot Project Takes Off* (2008); *Public Campaign Financing in Minnesota: Damming Big Money in the Land of 10,000 Lakes* (2008); *Public Campaign Financing in Michigan: Driving Towards Collapse?* (2008); *Political Reform That Works: Public Campaign Financing Blooms in Tucson* (2003); *A Statute of Liberty: How New York City's Campaign Finance Law is Changing the Face of Local Elections* (2003); *Dead On Arrival? Breathing Life into Suffolk County's New Campaign Finance Reforms* (2003); *On the Brink of Clean: Launching San Francisco's New Campaign Finance Reforms* (2002); and *Los Angeles: Eleven Years of Reform: Many Successes, More to be Done* (2001).

CGS also has a long history in drafting model campaign finance laws. CGS' first book, *The New Gold Rush: Financing California's Legislative Campaigns* (1985), published under the auspices of the California Commission on Campaign Financing, presented two fully-drafted model public campaign financing laws for California legislative campaigns. This model law became the basis for Proposition 68 on the California ballot in June 1988. In 1989, CGS published *Money and Politics in the Golden State: Shaping California's Local Elections*, a book that studied the campaign financing laws and practices in 18 cities and counties in California. It contained two model ordinances for local jurisdictions. Following its publication, the Los Angeles City Council adopted a public financing law, ratified by a public vote, which drew on the model law provisions in the CGS book.

The report is one in a series of more than 75 CGS books and publications on governance issues in California and other states. These analyses propose reforms in a broad range of areas, including campaign finance, ballot initiatives, redistricting, term limits, electoral systems and voter information. Copies of CGS reports are available at [www.cgs.org](http://www.cgs.org) and [www.policyarchive.org](http://www.policyarchive.org).

CGS is a non-profit, national non-partisan organization that creates innovative political and media solutions to help individuals participate more effectively in their communities and governments.

This report represents a combined effort by many CGS staff members and interns. CGS President, Robert Stern, initiated the report, principally authored the model law and oversaw the report's completion. CGS Director of Political Reform, Jessica Levinson, Legal Fellow, Molly Milligan, and Legal Intern, Hillary Rau, principally authored an amicus brief for the United States Supreme Court, which served as a foundation for part I of the report. CGS Legal Intern, Chad Roberts, drafted initial versions of the model law contained in part II of the report. Chief Executive Officer, Tracy Westen, provided conceptual overviews, valuable comments and editorial support. Smart Art and Design, Inc., created the graphic cover design. Stacey Kam provided the layout design.

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CENTER *for* GOVERNMENTAL STUDIES



10951 West Pico Boulevard, Suite 120  
Los Angeles, California 90064-2184  
Phone (310) 470-6590  
Fax (310) 475-3752  
[www.cgs.org](http://www.cgs.org)  
[center@cgs.org](mailto:center@cgs.org)



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## Executive Summary :

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Part One of this report briefly summarizes the history and beneficial impacts that public campaign financing laws have had throughout the nation.<sup>3</sup> The report finds that public campaign financing serves five important governmental interests: (1) reducing the negative influence of large contributions on candidates, officeholders and public policy; (2) freeing candidates from the time pressures of fundraising and increasing the time they have to discuss public issues with the voters; (3) empowering candidates to enlarge the public discussions and general awareness of political campaigns; (4) increasing citizen participation in the electoral process; and (5) increasing the number and diversity of political candidates.

Part Two of this report presents a comprehensive public campaign financing law for California—*The California Campaign Reform Act*. The Act is fully drafted and appears in the Appendix A to this report. It establishes a hybrid system of full and partial public financing systems for statewide and legislative candidates. It provides candidates with an initial lump sum of funds and then allows them to continue raising matching funds.

The Act first requires candidates to qualify for public financing by raising a specified amount of small campaign contributions, ranging from 750 contributions of \$5 or more for Assembly candidates, to 25,000 contributions of \$5 or more for gubernatorial candidates. Qualifying funds can only come from individual residents of the state. Once candidates qualify, the state provides them with a lump sum of funding to run their campaigns, depending on the office and the size of the jurisdiction.

The Act also places contribution limits on all state and local candidates running in California. Specifically, it lowers California's contribution limits and brings them into line with federal limits—establishing contribution limits of \$2,500 per candidate per election. In addition, the Act closes a number of loopholes in existing laws, bringing under the same contribution limit money raised by candidates and officeholders for ballot measure committees, legal defense committees, inauguration committees and officeholder accounts. The Act also prohibits off-year fundraising.

If enacted into law, *The California Campaign Reform Act* will serve all the compelling governmental interests described in Part One of this report.

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<sup>3</sup>Part One of this report draws heavily upon the *amicus curiae* brief that CGS submitted to the United States Supreme Court in this case of *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett*, 564 U.S. \_\_\_\_ (2011) (hereinafter *Arizona Free Enterprise*). That amicus brief can be found at [www.cgs.org](http://www.cgs.org).



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## INTRODUCTION

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Dozens of states and localities have enacted public campaign financing programs. These fall into two general categories: full public campaign financing programs (a.k.a. “clean money” programs) and partial public campaign financing programs (a.k.a. “matching funds” programs). In both types of programs, candidates first qualify by raising a small number of initial qualifying contributions from private donors.

In full public campaign financing programs, qualifying candidates then receive a lump sum of public funds to run their campaigns. In partial public campaign financing programs, qualifying candidates receive a match of public funds for each subsequent private contribution they raise. The ratio of that match varies by the jurisdiction. In both full and partial public campaign financing systems, some jurisdictions have provided participating candidates with additional public funds “triggered” by expenditures from privately financed opponents or independent expenditure groups, but these “trigger” provisions have recently been declared unconstitutional by the U.S. Supreme Court.<sup>4</sup>

In *Buckley v. Valeo* (1976),<sup>5</sup> the landmark and first Supreme Court case to examine the constitutionality of public campaign financing laws, the court recognized that public campaign financing programs promote important government interests at every level of government. Decades of experience and analysis demonstrate that these programs fully serve the primary functions identified by the Court in *Buckley*.

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<sup>4</sup> *Arizona Free Enterprise*, *supra*, n. 3.

<sup>5</sup> See *Buckley v. Valeo*, 424 U.S. 1 (1976).



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## Part One:

### **PUBLIC CAMPAIGN FINANCING SERVES IMPORTANT GOVERNMENTAL INTERESTS**

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Regardless of the type of public campaign financing—whether full (“clean money”) or partial (“matching funds”) public financing—CGS has concluded, based on actual electoral experience over more than three decades, that public campaign financing laws reduce the deleterious impact of large campaign contributions on the political process, free candidates from the time spent on fundraising and increase the time they spend discussing issues with voters, facilitate public discussions and awareness about campaigns, increase public participation in the electoral process, and increase the number and diversity of political candidates.

#### **A. Public Campaign Financing Reduces the Negative Influence of Large Contributions**

*“Only public funding can eliminate the special access afforded large donors by those who rely upon them for political survival.”<sup>6</sup>*

Voluntary public campaign financing systems reduce the need of participating candidate to rely on private contributions, and they increase the importance of small dollar donors, thus providing an alternative to the potentially corrupting influences of large private contributions.<sup>7</sup> Candidates and members of the electorate have both stated that public campaign financing programs reduce the potentially corrupting and pernicious influence of private money on the political process in a variety of jurisdictions. CGS has found evidence of this phenomenon in New Jersey, Maine, and North Carolina.

New Jersey experimented with a public campaign financing program for legislative candidates in general elections in 2005 and 2007. Assemblywoman Amy H. Handlin stated that without the public campaign financing program, “[s]ome politicians would go back to trading favors and votes in the never-ending pursuit of campaign cash,” and that “ordinary voters would be marginalized again.”<sup>8</sup> Similarly, former New Jersey State Senator William Schluter stated that with public campaign financing, contributors are forced to influence politicians with their arguments, not their checks, and that New Jersey’s system of public campaign financing was “a giant step in changing the stigma that New Jersey’s political landscape has a ‘For Sale’ sign on it.”<sup>9</sup>

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<sup>6</sup>Theodore Lazarus, *The Maine Clean Election Act: Cleansing Public Institutions of Private Money*, 34 Colum. J. L. & Soc. Probs. 79, 128 (2000).

<sup>7</sup>Ciara Torres-Spelliscy and Ari Weisbard, *What Albany Could Learn from New York City: A Model of Meaningful Campaign Finance Reform in Action*, 1 Alb. Gov’t L. Rev. 194, 243 (2008).

<sup>8</sup>Jessica Levinson, Center for Governmental Studies, *Public Campaign Financing: New Jersey Legislature – A Pilot Project Takes Off* (2008) at 17 [hereinafter Levinson, *New Jersey Legislature*].

<sup>9</sup>*Id.*

Similarly, in Maine, which adopted public campaign financing for statewide candidates in 1996, its public campaign financing program has contributed to a decrease in the “aggregate levels of direct-to-candidate private contributions, one of the most powerful avenues of monetary influence in the political system.”<sup>10</sup> Overall, the public campaign financing program “helped reduce Maine’s elected officials’ dependence on large campaign donors, resulting in a more effective and unencumbered democracy.”<sup>11</sup> Stated another way, “[b]y reducing the influence of large contributions, [Maine’s] Act reduces the increasingly disproportionate influence of those able to make such contributions and is thus more consistent with the ‘one person, one vote’ ideal.”<sup>12</sup>

In 2002, North Carolina adopted a system of full public campaign financing for Court of Appeals and Supreme Court candidates. The enactment of North Carolina’s law was motivated by a fear that private contributions to judicial candidates would threaten the integrity and independence of the judiciary—a fear that the U.S. Supreme Court specifically recognized as a legitimate government concern in *Caperton v. A.T. Massey Coal Co., Inc.*<sup>13</sup> North Carolina’s program reduced the influence of private contributions by making it unlawful for publicly funded candidates to raise more than 35 percent of their campaign funds in private contributions.<sup>14</sup>

## **B. Public Campaign Financing Frees Candidates from the Time Pressures of Fundraising and Increases Public Discussion about Elections**

*“The ‘money chase’ is perhaps the most severe public harm inflicted by [our current] campaign finance regime. . . .”*<sup>15</sup>

“When candidates and elected officials spend the overwhelming majority of their time on fundraising activities, they inevitably spend the majority of their time addressing the concerns of donors.”<sup>16</sup> Accordingly, state and local governments have an important government interest in freeing candidates from the rigors of fundraising.

Public campaign financing programs free candidates from the burden of “dialing for dollars.” “By freeing candidates from the time consuming rigor of fundraising, any public campaign financing program will leave more time available for public campaign financing-funded candidates to debate the issues and interact with voters.”<sup>17</sup> Specific examples of this benefit

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<sup>10</sup>Jason B. Frasco, *Full Public Funding: An Effective and Legally Viable Model for Campaign Finance Reform in the States*, 92 Cornell L. Rev. 733, 746 (2007).

<sup>11</sup>*Id.*

<sup>12</sup>Lazarus, *supra*, at 79.

<sup>13</sup>129 S.Ct. 2252 (2009).

<sup>14</sup>Jessica Levinson, Center for Governmental Studies, *Campaign Financing in North Carolina Judiciary: Balancing the Scales* (2009) at 26 [hereinafter Levinson, *Balancing the Scales*].

<sup>15</sup>Lazarus, *supra*, at 128.

<sup>16</sup>*Id.* at 129.

<sup>17</sup>Michael Clyburn, *Public Campaign Financing: The Path from Plutocracy to Pluralism*, 7 Seattle J. for Soc. Just. 285, 303 (2008),

of public financing were found in Maine, Portland, Oregon, Albuquerque, New Mexico, New York City,<sup>18</sup> and Tucson.<sup>19</sup>

In Maine, for instance, as a result of its voluntary public campaign financing program, “candidates and elected officials report that they are now able to spend significantly more time reaching a larger number of constituents instead of focusing on potential large donors.”<sup>20</sup>

Portland, Oregon, experimented with public campaign financing for elections held in 2006 and 2008 for citywide candidates. Portland City Council candidate John Branam reported that “[voters] appreciated the fact that [public campaign financing] afforded me the opportunity to spend more time talking about the issues as compared to dialing for dollars.”<sup>21</sup> City Council candidate Charles Lewis likewise stated that the public campaign financing program “allowed me to spend more time reaching out directly to voters and not to big money interests. I was able to spend the vast majority of my time meeting and talking with the people of Portland, not seeking large donations.”<sup>22</sup>

As a result of Albuquerque’s 2005 public campaign financing law, candidates in that city sang the praises of a system that allowed them to spend more time meeting with all constituents, not just those who could give campaign contributions. Incumbent Councilor Isaac Benton commented that “there was a big difference [running as a participating candidate]. Not having to fundraise—I had more time to focus on the issues.”<sup>23</sup> Councilor Dan Lewis, who successfully ran as a publicly funded challenger in 2009, stated, “I like that the election was issue oriented and there was no added pressure of fundraising. . . . I was able to focus on the message and the issues rather than the fundraising.”<sup>24</sup>

Candidates in jurisdictions throughout the nation have reported that public funding facilitates a discussion between themselves and their constituents, because they are not forced to spend all of their time fundraising.<sup>25</sup> CGS found specific instances of increased discussion between candidates and members of the public in New Jersey, Albuquerque, New Mexico, Portland, Oregon, and Tucson, Arizona.

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<sup>18</sup>Paul Ryan, Center for Governmental Studies, *A Statute of Liberty: How New York City’s Campaign Finance Law is Changing the Face of Local Elections* (2003) at 20 [hereinafter Ryan, *A Statute of Liberty*].

<sup>19</sup>As in other jurisdictions, the Tucson program allowed incumbents more time to legislate because less time was spent fundraising. Paul Ryan, Center for Governmental Studies, *Political Reform that Works: Public Campaign Financing Blooms in Tucson* (2003) at 19 [hereinafter Ryan, *Public Campaign Financing Blooms in Tucson*].

<sup>20</sup>Frasco, *supra*, at 747; see also citing Marc Breslow et al., *Money & Politics Implementation Project, Revitalizing Democracy: Clean Election Reform Shows the Way Forward* (2002) at 25; Maine Commission on Governmental Ethics and Election Practices, *2007 Study Report: Has Public Funding Improved Maine Elections?* (2007) at 1.

<sup>21</sup>Citizen Campaign Commission, *Second Biennial Report to the City Council and Citizens of Portland* (2009) [hereinafter *Second Biennial Report*] at 16-17.

<sup>22</sup>*Id.*

<sup>23</sup>Molly Milligan, Center for Governmental Studies, *Public Campaign Financing in Albuquerque: Citizens Win with Clean Money Elections* (2011) at 32 [hereinafter Milligan, *Citizens Win*].

<sup>24</sup>*Id.* at 32.

<sup>25</sup>In full public campaign financing systems candidates are freed from the burden of raising additional funds altogether and in partial public campaign financing programs, private contributions are supplemented with public funds.

In 1985 Tucson, Arizona adopted a system of public campaign financing. Kathleen Detrick, former City Clerk of Tucson, stated that “[Candidates] find that they [have to] go out there pounding the streets and talking to people about issues in order to get them to [give a small dollar qualifying contribution].”<sup>26</sup> Echoing that sentiment, Councilman Steve Leal reported that the program “forces the candidate to have to talk to a whole lot more people.”<sup>27</sup>

In New Jersey, former New Jersey State Assemblyman Bill Baroni, who ran as a publicly financed candidate, said the program was “the single best thing [he had ever] participated in politics.”<sup>28</sup> Baroni reported that public campaign financing gave him the freedom to interact fully with voters.<sup>29</sup> Assemblywoman Amy H. Handlin, who participated in the 2005 program, echoed Baroni’s reaction, saying that the program put an emphasis on face-to-face contact.<sup>30</sup>

In Portland in 2008, all six candidates who participated in Portland’s Campaign Finance Fund reported that their participation increased their opportunities to communicate directly with voters.<sup>31</sup> Commissioner Amanda Fritz, for instance, told the Portland Citizens Campaign Commission, “Because I didn’t have to dial for dollars, I had more time to try to meet as many Portlanders as possible.”<sup>32</sup> City Council candidate Jeff Bissonette reported that the process of gathering small qualifying contributions led to “some pretty serious conversations [with voters].” Bissonette emphasized that, because of the public campaign financing program, his communication with voters “[was not] about the money. It was about the issues. It was about the policies and the politics.”

In Albuquerque, Matt Brix, Policy Director of the Center for Civic Policy, noted that in the 2009 city election, “[t]he campaign consisted more of retail politics—meet and greets, mailers, town hall meetings with groups of voters, radio spots.”<sup>33</sup> Councilor M. Debbie O’Malley, an incumbent who ran as a publicly funded candidate in 2007, echoed that sentiment, stating that with public funding, “you do a lot more outreach and the voters have a lot more ownership of the election process, because many of them have given \$5 to help get a candidate qualified.”<sup>34</sup>

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<sup>26</sup>Ryan, *Campaign Financing Blooms in Tucson*, *supra*, at 14-16.

<sup>27</sup>*Id.*

<sup>28</sup>Levinson, *New Jersey Legislature*, *supra*, at 17.

<sup>29</sup>*Id.* at 17.

<sup>30</sup>*Id.* at 19-20.

<sup>31</sup> *Second Biennial Report*, *supra*, at 16-17.

<sup>32</sup>*Id.* at 16.

<sup>33</sup>Milligan, *Citizens Win*, *supra*, at 26.

<sup>34</sup>*Id.* at 23.



### **C. Public Campaign Financing Programs Enlarge Public Discussion and General Awareness of Political Campaigns**

Public campaign financing increases public discussion about, and awareness of, electoral campaigns and specific candidates. CGS found specific examples of public financing programs facilitating increased awareness of political campaigns and promoting a broader public discussion in New Jersey and Portland, Oregon.<sup>35</sup> In Portland, Oregon, City Council candidate Jim Middaugh explained that “[public campaign financing] generated a lot of conversation in the community . . . [T]here isn’t anything else in our civic fabric that gets people talking to one another about City issues.”

According to a 2007 poll by the Eagleton Institute of Politics, voters in districts in New Jersey that offered public campaign financing received more information about the elections from a greater variety of sources, including campaign literature, radio and television ads, and news articles than voters statewide.<sup>36</sup> Seventy percent of voters in “clean elections districts” reported that they had heard either “quite a lot” or “some” about the legislative races in their districts compared with only 37 percent of voters statewide.<sup>37</sup>

Some public campaign financing programs also help foster a larger discussion about elections and candidates by requiring candidates to debate each other as a condition for accepting public funding. The public financing programs in Arizona, New Jersey, Austin, Los Angeles, New Haven, New York City, and San Francisco, for example, include provisions for candidate debates. Debates give voters additional opportunities to learn about their local candidates’ political views and qualifications.

### **D. Public Campaign Financing Increases Participation in the Electoral Process**

Public campaign financing programs help to increase public participation in elections. They promote citizen involvement in political campaigns, increase the number and diversity of contributors and expand the number and diversity of candidates who seek public office.

Giving campaign contributions is one way for members of the public to get involved in the electoral process. In localities and states with public campaign financing programs, there has typically been an increase in the number and diversity of small donations to publicly financed candidates. CGS specifically studied this phenomenon in Arizona,<sup>38</sup> New York City and

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<sup>35</sup>Second Biennial Report, *supra*, at 17.

<sup>36</sup>Peter Woolley And Tim Vercellotti, Rutgers Eagleton Institute of Politics, *Public Attitudes Toward the Clean Elections Initiative: Monitoring Study of the 2007 New Jersey Clean Elections Pilot Project* (2007) at 17-21.

<sup>37</sup>*Id.*

<sup>38</sup>Arizona adopted public campaign financing in 2000, and the number of contributors to Arizona gubernatorial campaigns more than tripled from 1998 to 2002. Steven M. Levin, Center for Governmental Studies, *Keeping It Clean: Public Financing in American Elections* (2006) at 11 [Hereinafter Levin, *Keeping It Clean*].

Portland, Oregon. New York City's public campaign financing program, in existence since 1988, has encouraged new donors to become involved in political campaigns. In each of the last three city election cycles, over half of the individuals who contributed to city campaigns were first-time donors.<sup>39</sup>

After Portland implemented a public campaign financing program in 2005, participating candidates reported an increase in the number of individuals who made donations to their campaigns.<sup>40</sup> Publicly funded candidate Chris Iverson described Portland's public campaign financing program as a "tool of inspiration to get people re-involved with politics," explaining that the implementation of public campaign financing brought "people into the political process . . . ."<sup>41</sup>

Public campaign financing programs not only lead to an increase in the number of small campaign contributors, they also encourage political participation in the form of political donations across a more geographically diverse cross-section of the electorate. CGS found specific instances of this phenomenon in New York City and Portland, Oregon.

New York City's public campaign financing program increased the geographic distribution of campaign contributions. Historically, a majority of contributions to New York City campaigns came from Manhattan donors, despite the fact that Manhattan residents make up less than a quarter of the city's total population. However, since New York City implemented its partial public campaign financing program, it has seen a trend toward greater geographical balance. Between 2001 and 2009, Manhattan's share of contributions dropped from 68 percent to 53 percent. By contrast, Brooklyn's and Queens' combined share of contributions rose from 25 percent in 2001 to 43 percent in 2009. Donor activity increased almost six-fold in Flushing, a heavily Asian- American neighborhood that is home to Queens' Chinatown.<sup>42</sup>

Publicly financed candidates in Portland's 2006 election relied on much broader and more geographically diverse donor bases than their privately funded opponents. Privately financed candidates received most of their donations from downtown Portland and a few other wealthy neighborhoods, while publicly financed candidates relied on donations from all different areas of the city.<sup>43</sup>

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<sup>39</sup>New York City Campaign Finance Board, *New Yorkers Make Their Voice Heard – A Report On The 2009 Elections* (2009) at I04-I05.

<sup>40</sup>Citizen Campaign Commission, *First Report to the City Council and Citizens of Portland* (2007) [hereinafter *First Report*] at I9-20.

<sup>41</sup>*Id.* at 20-21.

<sup>42</sup>New York City Campaign Finance Board, *supra*, at I09-I10.

<sup>43</sup>*First Report, supra*, at I9-20.

## **E. Public Campaign Financing Facilitates Greater Participation in the Electoral Process by Increasing the Number and Diversity of Political Candidates**

*“Public funding encourages more candidates to seek public office by providing them with the necessary means to communicate their messages effectively.”<sup>44</sup>*

Public campaign financing programs encourage participation in the electoral process by encouraging more individuals to run for public office, thus adding more speech to the general public debate.<sup>45</sup> With the aid of public campaign financing, candidates who do not have an existing network of private contributors have an opportunity to convey their message effectively to members of the electorate. Candidates in Los Angeles, Portland, Oregon, Arizona, New York City,<sup>46</sup> and Maine all explained that public financing provided them with the funds necessary to competitively run for office.

Los Angeles City Councilmember Ed Reyes stated that the city’s public campaign financing was crucial to his successful run for office in 2001.<sup>47</sup> “[As a first generation American,] I don’t have the traditional ties to the power groups or the power structure. I literally came from the neighborhood. Without public financing, I knew that I wouldn’t have been able to throw a stone like in the David and Goliath story. I probably would have been throwing a pebble. With public financing, I knew I had a shot.”<sup>48</sup>

Portland Commissioner Amanda Fritz reported that the burden of fundraising would have dissuaded her from running for office in 2008 had public financing not been available. Fritz said, “I am not very good at asking for money . . . and I don’t think that being good at asking for money should be a prerequisite for serving on the City Council.”<sup>49</sup> In Arizona there was a 24 percent increase in the number of candidates participating in the primary when one compares the first full election after the implementation of public campaign financing with the last year prior to the implementation.<sup>50</sup>

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<sup>44</sup>Lazarus, *supra*, at 79.

<sup>45</sup>*Id.*

<sup>46</sup>In New York City, the combination of making additional public funds available to run electoral campaigns and implementing term limits drew record numbers of candidates for city office in 2001. Ryan, *A Statute of Liberty*, *supra*, at 21.

<sup>47</sup>Paul Ryan, Center for Governmental Studies, *Los Angeles: Eleven Years of Reform: Many Successes, More to be Done* at 23 (2001) [hereinafter Ryan, *Eleven Years Of Reform*].

<sup>48</sup>*Id.*

<sup>49</sup>Hilary Rau, Center for Governmental Studies, *Public Campaign Financing Portland: Should “Voter-Owned Elections” Survive?* at 12 (2010).

<sup>50</sup>Michael Clyburn, *Public Campaign Financing: The Path from Plutocracy to Pluralism*, 7 Seattle J. for Soc. Just. 285, 302 (2008), citing The Clean Elections Institute, *The Road to Victory: Clean Elections Shape 2002 Arizona Elections* (2002).

According to a 2006 survey by the Maine Commission on Governmental Ethics and Election Practices, 87 percent of first-time candidates who participated in the state's public financing program reported that the availability of public funding was "very important to their decision to run for office."<sup>51</sup> In addition, a report by the U.S. General Accounting Office (now known as the Government Accountability Office) on the public campaign financing programs in Arizona and Maine found that 55 percent of participating candidates considered public campaign financing a "great" or "very great" factor in their decision to run for office in 2000.<sup>52</sup>

Public campaign financing programs also allow more female and minority candidates to competitively run for office. CGS specifically found an increase in the number of women and minorities running for office in Arizona, New York City, and Maine.<sup>53</sup> In Maine, 71 percent of female candidates who participated in the state's public campaign financing program said that the availability of public funding was "very important" to their decision to run for office.

In Arizona, the number of Native American and Latino candidates nearly tripled between 2000 and 2002 with the implementation of public campaign financing.<sup>54</sup> Arizona's public campaign financing system also encouraged more women to run for office.<sup>55</sup> In addition, in Arizona, the public campaign financing system "encouraged some candidates who would not have otherwise run for office, particularly women, to run."<sup>56</sup>

In New York City, minority representation on the City Council has increased steadily since public campaign financing was implemented in 1989.<sup>57</sup> In 2001, the combination of increased public funding and term limits resulted in "an even more diverse group of candidates [for City Council] than has typically been seen in the city, including the emergence of new immigrant voices from the Asian-American and Russian-American communities, among others."<sup>58</sup> In 2009, New York voters for the first time elected a majority of minority candidates to the City Council.<sup>59</sup>

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<sup>51</sup>Maine Commission on Governmental Ethics and Election Practices, *2007 Study Report: Has Public Funding Improved Maine Elections?* (2007) at I.

<sup>52</sup>U.S. Government Accountability Office (GAO), *Campaign Finance Reform: Early Experiences of Two States that Offer Full Public Funding for Political Candidates* (2003) at 4.

<sup>53</sup>Maine Commission on Governmental Ethics and Election Practices, *supra*, at I.

<sup>54</sup>Levin, *Keeping It Clean*, *supra*, at 7.

<sup>55</sup>Frasco, *supra*, at 758, citing Marc Breslow et al., *Money & Politics Implementation Project, Revitalizing Democracy: Clean Election Reform Shows the Way Forward* (2002) at 25.

<sup>56</sup>Frasco, *supra*, at 758.

<sup>57</sup>Torres-Spelliscy and Weisbard, *supra*, at 226.

<sup>58</sup>Levin, *Keeping It Clean*, *supra*, at 7.

<sup>59</sup>New York City Campaign Finance Board, *supra*, at 142.

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## Part Two:

### **REFORMING CALIFORNIA'S CAMPAIGN FINANCE SYSTEM**

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As Part One of this report illustrates, public campaign financing programs provide candidates, constituents and all members of the public with a variety of benefits. CGS believes it is time to bring those benefits to the State of California. Therefore, based on its decades of research, analysis and experience drafting model laws, CGS has drafted The California Campaign Reform Act.

The Model Law draws on a number of sources: the proposed Federal Fair Elections Act pending in Congress, the Political Reform Act of 1974 (as amended) and the CGS Report, *Loopholes, Tricks and End Runs*, published in 2009, which outlined several ways that candidates and elected officials collect money outside of the normal campaign finance system. In addition, the law is based on almost three decades of research and analysis undertaken by CGS and its staff, beginning with the CGS' 1985 book, *The New Gold Rush: Financing California's Legislative Campaigns*, authored by CGS' California Commission on Campaign Financing. Other pertinent CGS publications are listed in the Foreword of this report.

The California Campaign Reform Act establishes public financing of state campaigns, limits contributions to all candidates, both state and local, running in California and closes loopholes in existing campaign finance laws. Voters and elected officials in several local jurisdictions in California have already approved proposals establishing public financing of campaigns. Candidates can now seek public funds for campaigns in six California jurisdictions: Long Beach, Los Angeles, Oakland, Richmond, Sacramento and San Francisco. However, because of the ban on public financing contained in Proposition 73, passed by the voters in 1988, only charter cities are able to enact public financing. The vast majority of California cities are general law cities, which are prohibited from passing any public financing laws, even if financed locally.

The Model Law is aimed at accomplishing the following goals: (1) reducing the negative influences of money on campaigns, in part by reducing the amount of money candidates can collect from special interests and large donors; (2) reducing the amount of time candidates have to spend raising money; (3) empowering candidates to enlarge the public discussions and general awareness of political campaigns; (4) increasing citizen participation in the electoral process; and (5) increasing the number and diversity of political candidates. Overall, these goals also increase public confidence in the electoral and governmental processes.

## **A. The Model Law Establishes a Hybrid of Full and Partial Public Financing Systems**

CGS' Model Law establishes a public financing system that is a hybrid combination of "full"<sup>60</sup> and "partial"<sup>61</sup> public campaign financing systems. The Model Law in this report takes the best of the full and partial public financing programs and combines them into one system, much like the public financing system being used in Connecticut. The Model Law requires candidates to raise a certain number of contributions ranging from 750 contributions of \$5 or more for Assembly candidates, to 25,000 contributions of \$5 or more for gubernatorial candidates. In addition, Assembly candidates must raise at least \$25,000. Candidates for State Senate will have to raise twice as much as Assembly candidates. Gubernatorial candidates must raise at least \$1.5 million. Other statewide candidates must raise at least 15,000 contributions totaling at least \$250,000.

Qualifying funds may only come from individuals who are residents of the state. Thus, corporate, labor union and PAC money will not qualify a candidate for public funds. (Note: California does not prohibit candidates from receiving corporate or labor union funds as the federal law does for federal campaigns.)

## **B. The Model Law Provides That Only Competitive Candidates Should Qualify for Public Funds**

Only serious candidates should receive public funds. If all candidates received public funds, precious program resources would quickly become depleted. If the qualification requirements are too stringent, on the other hand, too few competitive candidates will receive the funds necessary to run competitive campaigns.

Under the Model Law, candidates can receive public funds in two ways. First, all eligible candidates who face competitive opponents<sup>62</sup> receive a lump sum of 50% of the base amount. The base funding amounts will depend on how much was spent by the winner in the last two elections for the office being sought. Then these candidates will be eligible to receive additional matching funds (matching contributions of between \$5 and \$100 on a four to one match) up to 100% of the base amount. Thus a candidate in a competitive race can receive up to 150% of the base amount (a 50% initial grant plus matching funds up to 100%).

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<sup>60</sup>As discussed above, the traditional full or "clean money" system requires candidates to collect a certain number of \$5 contributions in order to qualify for public funding. Once a candidate qualifies for the public funds, the candidate may not raise any more contributions and in return is given a large amount of money that entirely funds the campaign. Full public campaign financing programs encourage candidates to seek a large number of very small contributions from a wide source of donors. Candidates are therefore prohibited from raising large contributions. Many full public campaign financing systems do allow seed money contributions of up to \$100 to get the candidate started.

<sup>61</sup>As also discussed above, a partial public financing program, also known as a matching funds program, requires candidates to raise a certain amount of funds in private contributions, for example \$25,000 in \$250 or less. These contributions are then matched at one to one, or even as high as six to one.

<sup>62</sup>In order to try to preserve public funds, the Model Law provides that a candidate in a non-competitive race will only receive 10% of the matching funds provided in competitive races. However, there is no magic formula as to what works in all instances.

**C. The Model Law Provides for a Dedicated, Predictable Funding Source**

The public financing program proposed by this Model Law will be funded by a 10 percent surtax on all criminal and civil penalties imposed throughout the state; in addition, the program will receive all fines imposed on candidates and committees. This is modeled after a very successful Arizona public financing program that consistently has enough funds from the surtax; in fact, Arizona's public financing fund has returned over \$64 million to the state's General Fund since 2003. If, however, the program falls short of funds, the Fair Political Practices Commission will have the authority to determine how much should be appropriated from the General Fund to cover the costs.

**D. The Model Law Reduces Contribution Limits for Privately Financed Candidates**

The Model Law also regulates how nonparticipating candidates can raise and spend campaign funds. It sets a contribution limit of \$2,500 per candidate per election. This limit is the same as the federal limit, which applies to Presidential, U.S. Senate and House candidates. This limit would reduce California contributions by as much as 90% in the case of the governor's race where the limits are now set at \$26,000 per election. Even the legislative limits of \$3,900 are much higher than the current federal thresholds of \$2,500.

**E. The Model Law Prevents Off-Year Fundraising for All Candidates**

The Model Law provides that no candidate—whether privately or publicly financed—can receive funds in non-election years. This ensures that campaign funds are given for campaign purposes, not for governmental access purposes. Past CGS reports have found that incumbents raise 90% of the funds in non-election years. Challengers usually do not begin fundraising until the year of the election.

**F. The Model Law Closes Significant Loopholes in California's Law**

The Model Law also provides that limits on funds raised apply to all candidates and elected officials. Funds under this restriction include money raised for ballot measure committees, legal defense committees, inauguration committees, officeholder accounts, travel, political party fundraising, and leadership political action committees.

## CONCLUSION

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Based on more than thirty years of national experience with campaign finance reforms at the state and local levels, and almost as many years of analysis by CGS, Part One of this report demonstrates that public campaign financing reduces corruption or its appearance, allows candidates to spend more time with all of their prospective constituents, allows more candidates to run for office, allows more individuals to get involved in politics and the electoral process, and broadens the public debate related to political campaigns. Drawing on these conclusions, the Model Law described in Part Two of this report and presented in full as Appendix I provides a needed public financing law that will help to ensure that candidates have sufficient funding to mount creditable campaigns.

At a time when public confidence in elected officials is at an all-time low, when too many people feel their elected representatives work for contributors and not for constituents, and when the integrity of the electoral process is threatened by the pernicious influence of money, it is vitally important to enact the Model Law. Simply put, the Model Law reduces the negative influences of campaign money on the political process. While such a law may be difficult to enact in these tough economic times, it is time to start the debate now on how our campaign finance system can be improved.



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## Appendix A:

# MODEL LAW PROVISIONS CALIFORNIA – CAMPAIGN REFORM ACT

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### SEC 1. Title

This chapter shall be known as the California Campaign Reform Act of 2012.

### SEC 2. Findings and Declarations

The people find and declare each of the following:

- (a) Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.
- (b) There is a public perception that elected officials are less interested in the problems of their own constituents than the problems of wealthy contributors.
- (c) There is a public impression that the small contributor has an insignificant role to play in political campaigns.
- (d) High campaign costs are forcing candidates for elected office to spend more time on fundraising and less time discussing more important matters.

### SEC 3. Purposes of this Chapter

The people enact this Act to accomplish the following purposes:

- (a) To ensure that individuals have a fair and equal opportunity to run for elected office;
- (b) To counter the perception that public policy is influenced more by the size of contributions than what is in the best interest of the people of California;
- (c) To assist candidates in raising enough money to communicate their views and positions adequately to the public without excessive expenditures or large contributions, thereby promoting public discussion of the important issues involved in political campaigns;
- (d) To reduce the pressure on candidates to raise large campaign war chests beyond the amount necessary to communicate reasonably with voters;

- (e) To eliminate off year fundraising;
- (f) To reduce excessive fundraising advantages of incumbents and thus encourage competition for elected office;
- (g) To allow candidates to spend a lesser proportion of their time on fundraising and a greater proportion of their time engaging on important issues;
- (h) To improve the disclosure of contribution sources in reasonable and effective ways;
- (i) To ensure that candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns; and
- (j) To help restore public trust in the state's electoral institutions.

**SEC 4. Chapter 5.9** (commencing with section 85900 added to Title 9 of the California Government Code, to read as follows):

**Chapter 5.9—Campaign Reform Fund**

**Section 85900. Interpretation of this chapter**

Unless the term is specifically defined in this chapter or the contrary is stated or clearly appears from the context, the definitions set forth in the Political Reform Act of 1974 (Government Code Sections 81000 et seq.) shall govern the interpretation of this Article.

**Section 85901. Definitions**

In this chapter:

- (a) “Accrued expense” means an expenditure that is not paid at the time the service is provided but is a debt owed by a campaign to a vendor or a sub vendor for goods or services.
- (b) “Actual and necessary expense” means an expense which is reasonable and that would be reimbursed by the state or approved by the Commission.
- (c) “Allocation from the fund” means an allocation of money from the campaign reform fund to a participating candidate.
- (d) “Base amount” means an amount equal to 80 percent of the average spending of the cycle by winning candidates in the last two election cycles for the office that such candidate is seeking.

*Comment: Redistricting will require that use of this formula be delayed until the completion of two legislative election cycles following implementation of Prop 11. In the meantime, CGS proposes that base amount be defined as 80 percent of the average spending by all winning Assembly or Senate candidates in the last two election cycles, not just the average spending by the winning candidate in a particular Assembly or Senate district.*

(e) “Campaign activity” means an action taken by an elected official, candidate, candidate committee, controlled committee, or any other committee or entity the actions of or decisions over which the elected official or candidate has significant influence in connection with a primary, general, special, or recall election that promotes the election or defeat of a candidate to a public office or for the success or defeat of a ballot measure. Such activities include but are not limited to fundraising, advertising, holding meetings and rallies, maintaining a campaign office or offices, paying for staff, consultants, and polling services, organizing volunteers, identifying voters, and participating in get out the vote activities.

(f) “Candidate committee” means the committee designated by a candidate to:

- (1) Promote the candidate’s candidacy; and
- (2) Serve as the recipient of contributions and the disbursing of expenditures.

(g) “Charitable entity” means an organization described in section 170(c) of the Internal Revenue Code of 1986. (26 U.S.C. 170(c).)

(h) “Cycle” means the time period during which candidates campaign for any primary, general, special, or recall election.

(i) “Entity” means an organization that has a distinct identity separate from those of its members and that in addition has legal rights and obligations.

(j) “Exploratory activity” means the actions taken by an individual to determine whether to undertake a campaign for public office including but not limited to fundraising, the conduct of opinion polls, or the creation of a committee to assist in such actions.

(k) “Fund” means the Campaign Reform Fund established by Section 85902.

(l) “Loan” means a transfer of money, property, guarantee, or anything of value in exchange for an obligation, conditional or not, to repay in whole or in part.

(m) “Market value” means the estimated amount at which property or services would change hands between a willing seller and a willing buyer when neither is under compulsion to sell or to buy and both have reasonable knowledge of the relevant facts.

(n) "Matching contribution" means a matching payment provided to a participating candidate for matchable small dollar contributions, as provided under Section 85923.

(o) "Matchable small dollar contribution" means, with respect to a candidate, any contribution (or a series of contributions):

- (1) Which is not a qualifying contribution (or does not include a qualifying contribution);
- (2) Which is made by an individual who is not prohibited from making a contribution under this Act; and
- (3) The aggregate amount of which is at least \$5 but does not exceed the greater of:
  - (a) \$100 per election; or
  - (b) The amount determined by the Commission under Section 85927.

(p) "Non-competitive election" means not more than one candidate has campaign funds (including payments from the Fund) in an amount equal to or greater than 10 percent of the allocation a candidate would be entitled to receive under this Act for that election.

(q) "Nonparticipating candidate" means a candidate for statewide or legislative office in California who is not a participating candidate.

(r) "Official or political duties" means the activities of an elected official or candidate that are reasonably related to legislative activities, constituent services, or a political campaign.

(s) Participating candidate means a candidate for statewide office, legislative office, or State Board of Equalization who is certified under Section 85912 as being eligible to receive an allocation from the Fund.

(t) "Personal hospitality" means hospitality, meals, beverages, transportation, lodging, and entertainment furnished but not commercially provided by an individual and motivated by a personal friendship that would have been given and received even if the recipient were not an elected official or candidate.

(u) "Political communication" means a message, whether broadcast, written, or communicated by electronic or other means, with no commercial purpose that conveys information of any sort about an election or for a political purpose.

(v) “Political party” means an organization or association of individuals under whose name candidates appear on a ballot for a partisan office, including state and county central committees and political clubs.

(w) “Political purpose” means anything that influences:

- (1) The election or nomination for election of any individual to elected office;
- (2) The recall or retention in office of an individual holding elected office;
- (3) The qualification of or the vote on a ballot measure;
- (4) The recount of an election concerning individual candidates or a ballot measure; or
- (5) The official or political duties of or access to an elected official or candidate based on his or her position.

(x) “Qualifying contribution” means, with respect to a candidate, a contribution that:

- (1) Is in an amount:
  - (a) Not less than the greater of \$5 or the amount determined by the Commission under Section 85927; and
  - (b) Not more than the greater of \$100 or the amount determined by the Commission under Section 85927.
- (2) Is made by an individual:
  - (a) Who is a resident of California; and
  - (b) Who is not otherwise prohibited from making a contribution under this Act.
- (3) Is made during the campaign reform qualifying period; and
- (4) Meets the requirements of Section 85907.

(y) “Qualifying period” means, with respect to any candidate for statewide office, legislative office, or State Board of Equalization, the period:

- (1) Beginning on the date on which the candidate files a statement of intent under Section 85906; and
- (2) Ending on the date that is 60 days before the date of the primary election.

(z) “Relative” means a spouse, dependent child, or any natural person who is a significant partner of the elected official or candidate and who lives with the elected official or candidate.

(aa) “Significant influence” means a level of involvement in a committee or a non-commercial entity by an elected official or candidate, or his or her agent, which includes, but is not limited to, allowing his or her name or his or her public office to be used in the entity’s name, attending its meetings not open to the general public, sitting as a member of the committee or on its board of directors, participating in any joint acts with it, directing, approving or disapproving any expenditure made by it, or participating substantially in its fundraising projects.

(bb) “Subvendor” means a third party that makes one or more expenditures on behalf of an elected official, candidate or committee, including, but is not limited to, expenditures made by consultants and services and merchandise purchased using a credit card.

(cc) “Transfer” means the movement or exchange of funds or anything of value between political committees, party committees, or candidate committees.

#### **Section 85902. Establishment of the Campaign Reform Fund**

There is established in the state treasury a fund to be known as the “Campaign Reform Fund.”

#### **Section 85903. Amounts Held by Fund**

The Campaign Reform Fund shall consist of the following amounts:

- (a) A 10% surcharge on all criminal and civil penalties.
- (b) All fines paid for violations of this chapter shall be deposited directly into the Fund.
- (c) Candidates receiving contributions which violate any provision of this chapter shall submit these contributions to the Commission for deposit in the fund in order to remain eligible to receive allocations from the Campaign Reform Fund.
- (d) There is hereby appropriated from the General Fund to the Campaign Reform Fund an amount to be determined by the Commission to be sufficient to cover the full cost of establishing a public campaign financing system for statewide office, legislative office, and State Board of Equalization.

*Comment: Although it may not be politically feasible at present, CGS recommends this program be funded by a combination of a surtax on civil and criminal penalties plus a legislative appropriation from the General Fund. We make this suggestion because appropriations from the these funds are the most secure and sustainable source of funding, and will give the public campaign financing program established by this Act the best chance of surviving.*

**Section 85904. Use of Fund**

The sums in the Fund shall be used to provide benefits to participating candidates.

**Section 85905. Insufficient Amounts**

If there are insufficient funds to provide the maximum matching funds available to a candidate in any election, funds shall be distributed to candidates on a pro rata basis. Candidates shall be permitted to continue raising matchable small donor donations up to the maximum payment amount prescribed by Section 85922.

*Comment: Another alternative in the event of insufficient funds is to lift the matchable small donor contribution limits on all participating candidates to allow them to receive contributions up to the contribution limits applicable to non-participating candidates. However, while this option may give participating candidates a better opportunity to compete with well-financed candidates, it will also allow large contributions into the campaigns of participating candidates.*

**Section 85906. Eligibility Requirements**

A candidate for statewide office, legislative office, or State Board of Equalization is eligible to receive an allocation from the Fund for any election if the candidate meets the following requirements:

- (a) The candidate files with the Commission a statement of intent to seek certification as a participating candidate under this title during the period beginning on the qualifying period start date and ending on the last day of the qualifying period;
- (b) The candidate meets the qualifying contribution requirements;
- (c) Not later than the last day of the qualifying period, the candidate files with the Commission an affidavit signed by the candidate and the treasurer of the candidate's principal campaign committee declaring that the candidate:
  - (1) Has complied and, if certified, will comply with the contribution and expenditure requirements;
  - (2) If certified, will comply with the debate requirements;
  - (3) If certified, will not run as a nonparticipating candidate during such year in any election for the office that such candidate is seeking; and
  - (4) Has either qualified or will take steps to qualify under California law to be on the ballot.

### Section 85907. Qualifying Contribution Requirement

In order to qualify to receive payments from the campaign reform fund, a candidate shall meet the requirements for the office that the candidate is seeking in the primary election:

(a) Governor:

- (1) A number of qualifying contributions equal to or greater than 25,000; and
- (2) A total dollar amount of qualifying contributions equal to or greater than \$1,500,000.

*Comment: Although CGS provides suggested requirements for gubernatorial candidates as part of a model public campaign financing law, we recognize the astronomical costs associated with running for Governor in California. For this reason, it may be advisable for purposes of a pilot program to adopt public campaign financing for only state legislative offices, statewide offices, and State Board of Equalization. Limiting public funding to these offices initially would allow California voters to try a new system at a much lower cost. The 25,000 qualifying contribution requirement is less than what would be required for United States Senate candidates under the Federal Fair Elections Now proposal in Congress (28,500). CGS believes this level of support demonstrates broad appeal while not requiring too much from those without preexisting networks of support.*

(b) Other statewide offices (Lieutenant Governor, Secretary of State, Attorney General, Controller, Treasurer, Insurance Commissioner, Superintendent of Public Instruction):

- (1) A number of qualifying contributions equal to or greater than 15,000; and
- (2) A total dollar amount of qualifying contributions equal to or greater than \$250,000.

*Comment: For statewide offices, other than governor, candidates should be required to collect a large number of qualifying contributions but not as many as candidates for governor.*

(c) California State Senate:

- (1) A number of qualifying contributions equal to or greater than 1,500; and
- (2) A total dollar amount of qualifying contributions equal to or greater than \$50,000.

*Comment: The 1,500 qualifying contribution requirement is equal to the number of qualifying contributions which would be required of candidates for the United States House of Representatives under the Federal Fair Elections Now proposal in Congress.*



*CGS chooses to adopt this number because the districts for each of these offices are similar in size.*

(d) California State Assembly:

- (1) A number of qualifying contributions equal to or greater than 750; and
- (2) A total dollar amount of qualifying contributions equal to or greater than \$25,000.

*Comment: The 750 qualifying contribution requirement and \$25,000 dollar amount are exactly half the requirements for state Senate candidates. CGS reached this number because state Senate candidates represent twice as many Californians as do Assembly members.*

(e) State Board of Equalization:

- (1) A number of qualifying contributions equal to or greater than 2,500; and
- (2) A total dollar amount of qualifying contributions equal to or greater than \$75,000.

*Comment: The 2,500 qualifying contribution requirement is significantly less than what is required for statewide candidates and slightly more than what is required for state Senate candidates. CGS chooses this number because candidates for State Board of Equalization are typically less visible than candidates for statewide office and represent fewer Californians. Similarly, State Board of Equalization candidates are required to gather more qualifying contributions than state Senate candidates because they represent many more Californians.*

#### **Section 85908. Requirements Relating to Receipt of Qualifying Contribution**

Each qualifying contribution:

Shall be made by means of a personal check, money order, debit card, credit card, or electronic payment account;

*Comment: CGS believes that allowing online qualifying contributions will facilitate citizen participation in the public campaign financing system.*

(a) Shall be accompanied by a signed statement containing:

- (1) The contributor's name and the contributor's address;
- (2) An oath declaring that the contributor:
  - (a) Understands that the purpose of the qualifying contribution is to show support for the candidate so that the candidate may qualify for campaign reform financing;

- (b) Is making the contribution in his or her own name and from his or her own funds;
  - (c) Has made the contribution willingly; and
  - (d) Has not received anything of value in return for the contribution.
- (3) Shall be acknowledged by a receipt that is sent to the contributor with a copy kept by the candidate for the Commission.

#### **Section 85909. Verification of Qualifying Contributions**

The Commission shall establish procedures for the auditing and verification of qualifying contributions to ensure that the contributions meet the requirements of this section.

#### **Section 85910. Contribution and Expenditure Requirements**

A candidate for statewide office, legislative office, or State Board of Equalization meets the requirements of this section if, during the election cycle of the candidate, the candidate:

- (a) Accepts no contributions in any amounts other than:
  - (1) Qualifying contributions;
  - (2) Matchable small dollar contributions;
  - (3) Lump sum allocations from the fund; and
  - (4) Matching contributions from the fund.
- (b) Makes no expenditures from personal funds in excess of the matchable small dollar contribution limit.
- (c) For purposes of this subsection, a payment made by a political party in coordination with a participating candidate shall not be treated as a contribution to or as an expenditure made by the participating candidate as long as the political party does not accept contributions of more than \$5,000.

*Comment: CGS recognizes that allowing political party contributions may result in an influx of private money into public campaigns. However, we believe this provision serves two interests: (1) encouraging participation in the public campaign financing program; and (2) providing an alternative to trigger-fund provisions. In place of trigger-funds, political parties would be able to rescue participating candidates facing well- or self-financed opposition by distributing money to candidates whose lump sum grant and matching funds have been stretched thin by their opponent's spending.*

*Capping contributions to political parties at \$5,000 will ensure that the public campaign financing system is not overrun by corporate, union, or individual contributions. If time proves this hypothesis inaccurate, CGS would support a reduction in the allowable contribution limits to political parties.*

#### **Section 85911. Debate Requirement**

A candidate for statewide office, legislative office, or State Board of Equalization meets the requirements of this section if the candidate participates in at least:

- (a) One public debate before the primary election with other participating candidates and other willing candidates seeking the same nomination; and
- (b) Two public debates before the general election with the other top qualifying candidate seeking the same office.

*Comment: CGS believes this is a simple and efficient way to encourage civic participation and awareness of political campaigns and the consequences of elections.*

#### **Section 85912. Certification**

Not later than five business days after a candidate files an affidavit, the Commission shall:

- (a) Certify whether or not the candidate is a participating candidate; and
- (b) Notify the candidate of the Commission's determination.

#### **Section 85913. Revocation of Certification**

The Commission may revoke a certification if:

- (a) A candidate fails to qualify to appear on the ballot at any time after the date of certification; or
- (b) A candidate otherwise fails to comply with the requirements of this title, including any requirements prescribed by the Commission.

#### **Section 85914. Repayment of Benefits**

If certification is revoked, the candidate shall repay to the fund an amount equal to the value of benefits received under this title plus interest (at a rate determined by the Commission) on any such amount received.

**Section 85915. Expenditures of Contributions and Payments for Official or Political Duties**

- (a) The contributions and payments described in Section 89510.5 of this Act may be expended only for activities that relate to official or political duties.
- (b) The Commission shall issue regulations for the filing and review of the disclosure reports required by this section, including both routine and field audits, and shall be authorized to enforce the provisions of this Act.

**Section 85916. Expenditures for Political Communications**

- (a) Any person or entity, except a candidate or candidate committee making an expenditure for a political communication related to his or her own campaign for elected office, who makes expenditures of \$1,000 or more for any political communication capable of dissemination to 500 or more persons of a general public audience, shall identify within the political communication the three largest contributors to such expenditure, including the name and complete address of each contributor. If a political committee is one of the three largest contributors to such expenditure then the communication shall in addition contain identification information including the name and complete address of the three largest contributors to the political committee during the election cycle in which the communication is made. If such committee is a controlled committee the name of the elected official or candidate, in addition to the other required disclosure, shall be disclosed in the communication. This provision shall not apply to bumper stickers, pins, buttons, pens and similar small items.
- (b) In the case of an audio or video communication, such information as is required by subsection (a) shall be clearly spoken either at the beginning or at the end of the communication and for not less than three seconds per contributor being identified, or shall be written and displayed for not less than four seconds; in the case of a written communication, such information shall be contained in a printed or drawn box apart from any other graphic material in at least 10-point type. In the case of larger formats such as a billboard, poster or other public display, such information shall be contained in a printed or drawn box in type at least 10% of the largest typeface otherwise used in the communication.
- (c) Communications covered by this section shall include any audio or video communications via broadcast, cable, satellite, telephonic, or electronic or other means and any written communication via advertisements, pamphlets, brochures, flyers, letterheads, or other printed materials. Communications exempted from the requirements of this section shall include editorials, commentary and news stories

by any broadcasting station (including a cable television operator, programmer or producer), web site, newspaper, magazine, or other periodical publication (including any electronic publication).

#### **Section 85917. Prohibition on Evasion of Limits or Disclosure of Funding Source**

(a) It shall be unlawful for a person or entity who makes contributions, payments, or expenditures for a political purpose to create or use any committee or other legal entity to evade the limits contained in this Act or to avoid disclosure of any person, committee, political party, industry, or business entity as the donor of a contribution or payment or the funding source of a political communication.

(b) Two or more entities shall be treated as a single entity if the entities:

- (1) Share the majority of members on their boards of directors;
- (2) Share two or more officers;
- (3) Are owned or controlled by the same majority shareholder or shareholders or persons;
- (4) Are in a parent-subsidary relationship; or
- (5) Have by-laws so stating.

#### **Section 85918. Penalty for Receipt of Illegal Contributions**

Candidates and elected officials who receive any illegal contribution(s), as determined by the Commission, shall forfeit the amount of such contribution or contributions to the Campaign Reform Fund in addition to other fines or penalties that might result from administrative or criminal proceedings relating to such contribution(s).

#### **Section 85919. Duration of Political Campaigns**

(a) All campaign activity is presumed to cease no later than December 31 after the general election. If a candidate is defeated in a primary election or otherwise permanently suspends his or her campaign, then all campaign activity with respect to that campaign is presumed to cease no later than 45 days following the date of the primary election or the date the candidate leaves the race.

(b) The presumption in subsection (a) may be rebutted by application to and a ruling by the Commission. Such application is timely made if received by the Commission no later than 60 days following the date of the general election or the primary election or such date as the candidate leaves the race.

(c) Campaign funds remaining at the end of the 180-day period shall be deposited in the general fund of the state.

### **Section 85920. Lump Sum Allocations**

(a) Primary Election Allocation: Except in non-competitive elections, the Commission shall make an allocation from the Fund for a primary election to a participating candidate in an amount equal to 50 percent of the base amount with respect to such participating candidate.

(b) General Election Allocation: Except in non-competitive elections, the Commission shall make an allocation from the Fund for a general election to a participating candidate in an amount equal to 50 percent of the base amount with respect to such participating candidate.

(c) Non-competitive Election: In the case of a primary or general election that is a non-competitive election, the Commission shall make an allocation from the Fund to a participating candidate for such election in an amount equal to 10 percent of the allocation for that election with respect to such candidate.

*Comment: CGS believes this allocation scheme will benefit from simplicity. However, experience may prove these allocations to be too much or too little financing as part of an initial lump sum allocation. Determining appropriate allocation amounts is presently a difficult task as Proposition 11 and Proposition 14 will change the traditionally accepted dynamics of electoral campaigns in California.*

### **Section 85921. Allocations from the Fund**

The Commission shall make lump sum allocations from the Fund to a participating candidate:

(a) In the case of a primary election, not later than 2 business days after the date on which such candidate is certified as a participating candidate; and

(b) In the case of a general election, not later than 2 business days after the date of the certification of the results of the primary election.

### **Section 85922. Matching Payments for Matchable Small Dollar Contributions**

(a) The Commission shall pay to each participating candidate an amount equal to 400 percent of the amount of matchable small dollar contributions received by the candidate from residents of California.

(b) The maximum payment under this section shall be 100 percent of the base amount in both the primary and general elections.

(c) The Commission shall make payments under this section not later than two business days after the receipt of a report made under Section 85923.

*Comment: This matching funds provision mirrors the Federal Fair Elections Now proposal in Congress. CGS believes this represents the best approach to achieving the twin aims of constitutionality and efficiency. The Supreme Court's recent decision ruled that trigger-fund provisions are unconstitutional. Matching candidates' own qualified small donor contributions gets around this problem, while allowing candidates to respond to their opposition's expenditures with fundraising and expenditures of their own. At the same time, CGS considers limited matching funds to be preferable to larger lump sum allocations in terms of efficiency. Large lump sum allocations inevitably lead to overpayment in non-competitive elections, whereas limited matching funds present the possibility that they will be used only where increased financing is needed.*

### **Section 85923. Reporting of Matching Funds**

- (a) Each participating candidate shall file reports of receipts of matchable small dollar contributions at such times and in such manner as the Commission may by regulations prescribe.
- (b) Each report under this subsection shall disclose:
  - (1) The amount of each matchable small dollar contribution received by the candidate;
  - (2) The amount of each matchable small dollar contribution received by the candidate from individuals who are California residents; and
  - (3) The name, address, and occupation of each individual who made a matchable small dollar contribution to the candidate.
- (c) The Commission shall provide a written explanation with respect to any denial of any payment under this section and shall provide for the opportunity for review and reconsideration within five business days of such denial.

### **Section 85924. Method of Payment**

The Commission shall distribute funds available to participating candidates under this section through the use of an electronic funds exchange or a debit card.

### **Section 85925. Restriction on Uses of Allocations from the Fund**

Lump sum allocations and matching contributions from the Fund received by a participating candidate may only be used for campaign-related costs.

**Section 85926. Remitting Allocations from the Fund**

Not later than the date that is 45 days after an election in which the participating candidate appeared on the ballot, such participating candidate shall remit to the Commission for deposit in the Fund any unused money in the candidate's campaign account.

**Section 85927. Additional Duties of the Fair Political Practices Commission**

The Fair Political Practices Commission, in addition to its responsibilities set forth in Sections 83100 et seq., shall also:

- (a) Adjust the expenditure limitations, contribution limitations and public campaign financing provisions in January of every even-numbered year to reflect any increase or decrease in the Consumer Price Index. Such adjustments shall be rounded off to the nearest hundred for the limitations on contributions and the nearest thousand for the limitations on expenditures and the public campaign financing provisions;
- (b) Prescribe the necessary forms for filing the appropriate statements;
- (c) Verify the requests for payment for campaign reform funds; and
- (d) Prepare and release studies on the impact of this title. These studies shall include legislative recommendations which further the purposes of this title.

**Section 85928. Duties of the Franchise Tax Board**

The Franchise Tax Board shall audit each candidate who has received payments from the campaign reform fund in accordance with the procedures set forth in Sections 90000 et seq.

**SEC. 5. Chapter 9.5 (amended to include):**

**Section 89510.5. Contributions and Payments Presumed to have a Political Purpose**

- (a) It shall be presumed that any contribution or payment received by an elected official or candidate, including but not limited to anything of monetary value given to his or her relative, candidate committee, controlled committee, or any other committee or entity the actions of or decisions over which the elected official or candidate has significant influence, from any source, is for a political purpose, unless it can be shown by clear and convincing evidence that such contribution or payment is not for a political purpose.



(b) Items or payments received for a political purpose include those raised through:

- (1) Legal defense funds;
- (2) Ballot measure committees;
- (3) Political party fundraising;
- (4) Reimbursed travel;
- (5) Inaugural and swearing-in committees;
- (6) Convention and conference fundraising;
- (7) Officeholder accounts or booster funds;
- (8) Party administrative or housekeeping accounts;
- (9) Leadership political action committees;
- (10) Foundations;
- (11) Charities;
- (12) Behested contributions; and
- (13) Other non-campaign-related entities.

(c) Items or payments received for other than political purposes include, among others, the following:

- (1) Anything for which fair market value is paid;
- (2) A gift from a relative;
- (3) Anything, including personal hospitality, provided on the basis of a personal friendship unless it is reasonable to believe under the circumstances that the basis of the gift is the political or official position of the recipient;
- (4) Wages, salary, dividends, or benefits received in the regular course of employment or business;
- (5) Bequests, inheritances, and other transfers at death;
- (6) A plaque, trophy, or other item of a value no greater than \$250 that is substantially commemorative in nature and which is intended solely for presentation;
- (7) An item of little intrinsic value, such as a greeting card, baseball cap, or t-shirt; or
- (8) Material such as reports, periodicals, pamphlets, and other publications or objects that serve an informational purpose and are provided in the ordinary course of business.

(d) No payment or reimbursement for travel or expenses shall be deemed for an informational purpose.

(e) The presumption in paragraph (a) of this section may be rebutted by application to and a ruling by the Commission. The Commission is authorized to receive informal inquiries as to the particular circumstances of a contribution or payment, as well as to issue public advisory opinions regarding the nature and scope of the presumption and/or its application in particular circumstances.

(f) Every contribution or payment of a value of \$5 or more per election received by a participating candidate, unless it shall have been determined to be for other than a political purpose, shall be disclosed according to Section 85916.

(g) All contributions or payments disclosed according to Section 85916 shall be electronically filed with the Secretary of State's office and immediately posted and accessible to the public.

**SEC 6. Sections 85301, 85302 and 85305 (repealed).**

**SEC 7. Section 85300 (amended to read):**

**Section 85300. ~~Public Funds; Prohibition.~~ Limitations on Contributions and Payments**

~~No public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office.~~

(a) No person, elected official, candidate, candidate committee, political committee, or entity as defined by this Act, including a political committee, controlled committee, or any other entity the actions of or decisions over which an elected official or candidate has significant influence, including those committees or entities which are identified using an elected official's or candidate's name or public office, shall make contributions or payments which in the aggregate exceed \$2,500 per election to any elected official or candidate, including payments to his or her, candidate committee, controlled committee, or any other committee or entity the actions of or decisions over which the elected official or candidate has significant influence.

(b) No person, elected official, candidate, candidate committee, political committee, or entity shall make contributions or payments to candidates or political committees which in the aggregate exceed \$25,000 per year.

(c) No person, elected official, candidate, candidate committee, controlled committee, political committee, or entity shall make contributions or payments which in the aggregate exceed \$5,000 per election to the totality of political party entities.

*Comment: The limits described in set forth in subsection (a) were designed to match the limits set forth in the federal public financing scheme and apply to all candidates, state and local.*

(d) No candidate for statewide office, legislative office, or State Board of Equalization, or any controlled committee of such a candidate, shall accept any contribution in any year other than the year in which such candidate is listed on the ballot.

(e) No political party, including all subdivisions of the party, shall make contributions or payments, including but not limited to transfers, reimbursements, or loans, which in the aggregate exceed \$50,000 per election to any elected official or candidate, including payments to his or her, candidate committee, controlled committee, or any other committee or entity the actions of or decisions over which the elected official or candidate has significant influence.

(f) Nothing in this section shall prohibit a person or persons from being a host or co-host of a fundraising event that has a political purpose and from collecting contributions or payments, within the limits established by this section, from persons in attendance at such event and presenting the contributions or payments to an elected official, candidate, or candidate committee. Such collections, however, shall be attributed in full to each host, and, in addition to being individually disclosed per individual donor, shall be fully disclosed as contributions or payments collected by a person, or persons, and identified by the name, address, occupation and employer of such person or persons, and the date of and the amount raised at the fundraising event. Such disclosure shall also include the names of and the total amounts raised for elected officials and candidates per election by such person or persons and any other information required by the Commission.

(g) The limits on contributions and payments contained in this section shall not apply to fundraising by an elected official or a candidate on behalf of a bona fide charity or a foundation provided that the elected official or candidate receives no benefit from or does not permit his or her name or his or her public office to be used by such charity or foundation.

(h) The limits established by subsections (a), (b), (c), and (e) of this section shall be adjusted to account for inflation in the same manner and on the same schedule as the limitations contained in 2 U.S.C. Section 441a(c).

**SEC 8. Section 85304** (amended to read):

**Section 85304. Legal Defense Funds**

(a) A candidate for elective state office or an elected state officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.

~~(b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the commission.~~

(b) An elected official or candidate shall be prohibited from establishing a legal defense fund until the commencement of an investigation or formal dispute in a judicial, legislative, or administrative forum, that results from the official or political duties of the elected official or candidate.

(1) Only one such fund shall be established with respect to a particular formal dispute.

(2) Each legal defense fund shall at all times have a treasurer, designated by the elected official or candidate, who shall accept the appointment in a written statement. The treasurer shall be a resident of California.

(3) Funds constituting a legal defense fund shall be deposited in and expended from a bank account separate from any other bank account held by the elected official or candidate.

(4) A fund established under this section is presumed to cease ninety (90) days following a final judgment in the formal dispute, unless good cause is found by the Commission to extend the termination date.

(c) An elected official or candidate is permitted to receive contributions to be placed in a legal defense fund. For purposes of this section, contributions do not include:

(1) The provision of legal services to an elected officer by the state or any of its political subdivisions when those services are authorized or required by law;

(2) The provision of free or pro bono legal advice or legal services, provided that any costs incurred or expenses advanced for which clients are liable under other provisions of law shall be deemed contributions; or

(3) Payments made for legal advice or services made by the elected official or candidate, or his or her relative.

(d) Contributions may be received from any natural person but no individual shall make contributions to a legal defense fund that in the aggregate exceeds \$500 per calendar year. No individual shall be prohibited from making contributions to a legal defense fund that has made contributions or payments to an elected official or candidate that in the aggregate total the limitation established in Section 85300 of this Act.

(e) Contributions to a legal defense fund are subject to the personal use prohibitions and may be expended only for activities directly related to formal disputes.

(f) Every contribution of \$100 or more per calendar year made to a legal defense fund shall be disclosed to the public, including the name, address, occupation and employer of the donor, and the date and the amount of the contribution, according to regulations determined by the Commission. For each donor of \$100 or more, the required disclosure shall include his or her cumulative contributions for that year as of the date of the report. The reporting period for such contributions shall be no fewer than four times per year.

(g) All contributions disclosed according to subsection (e) of this paragraph shall be electronically filed with the Commission and immediately posted and accessible to the public. Where no electronic filing system is operable, such disclosure reports shall be made available to the public on the state website within 72 hours of their receipt by the Commission.

(h) The limit established by subsection (d) shall be adjusted to account for inflation in the same manner and on the same schedule as the limitations established in Section 85300(g) of this Act. No elected official or candidate shall transfer funds from a legal defense fund to any candidate, candidate committee, political committee, or political party entity. Surplus funds shall be deposited in the general fund.

(e) (i) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

**SEC 9. Section 89513(a)** (amended to read):

**Section 89513**

(a). Expenditures for travel incurred by an elected official or candidate may be reimbursed to the elected official or candidate for public office by a governmental, bona fide public or private educational, or charitable entity or from campaign funds if the expenditures are directly related to a political, legislative or governmental purpose.

(1) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose. For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if such expenses:

(a) Are the actual and necessary expenses of the cost of transportation, lodging, and meals while away from his or her residence or principal place of employment;

(b) Are incurred in travel within California or beyond the boundary of the state if notice of such travel, including a report itemizing the actual expenses incurred and the identifying by name and address the entity making the reimbursement, is submitted to the Commission for disclosure on its website;

(c) Are reasonably related to, as determined by the Commission, the performance of the official or political duties of the elected official or candidate and limited to the day immediately preceding, the day(s) of, and the day immediately following the performance of official or political duties.

- ~~(2) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.~~
- ~~(3) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.~~
- ~~(4) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, his or her representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by Section 84211.~~
- (2) Expenditures for travel incurred by an elected official or candidate must be fully and publicly disclosed as payments according to Section 85916 of this Act and regulations promulgated by the Commission, and that include:
- (a) A reasonable connection between a trip and official or political duties;
  - (b) The amount actually spent on the trip;
  - (c) The maximum per diem rates for government travel established by the state; and
  - (d) Disclosure by the educational or charitable entity of its donors or employees or representatives of the donor of \$1,000 or more during the previous calendar year who accompany the elected official or candidate on the trip, including the name, address, occupation and employer of any such donor as well as the date, amount of the donation, and cumulative amount for the donor in the previous calendar year.
- (3) The disclosure of reimbursable expenses for out-of-state travel required by paragraph (2) of this subsection must be made to the Commission within 30 days of the last day of such travel and made available to the public by the Commission on its website within 72 hours of receipt of the disclosure report.

(4) The presumption that all reimbursed travel is for a political purpose, and is thus a contribution or payment, can be rebutted by application to the Commission, which shall review and disclose on a publicly accessible website the travel, hospitality, or entertainment not paid for by the elected official or candidate out of his or her personal funds.

(5) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit that is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. Neither the earning or awarding of mileage credit, nor the redeeming of credit for actual travel, shall be subject to reporting pursuant to Section 84211.

**SEC 10. Section 91000 of the Government Code** (amended and renumbered to read):

**Section 91000. Violations; Criminal**

~~(a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.~~

(a) Any violation of Chapter 5 of this title commencing with Section 85100 is a felony punishable by imprisonment in a state prison or in a county jail for a period not exceeding one year;

(b) Any violation of any other section of this title is a misdemeanor;

~~(b)~~ (c) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction of each violation;

~~(c)~~ (d) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.



**SEC 11. Section 91005 of the Government Code** (amended to read):**Section 91005. Civil Liability for Violations**

(a) Any person who makes or receives a contribution, payment, gift or expenditure in violation of Section 84300, 84304, 85300, 85301, 85302, 85303, 85305, 85306, 85307, 85308, 85309, 85310, 85400, 85401, 85405, 85500, 85501, 85502, 85504, 85506, 85600, 85601, 85602, 85603, 85604, 86202, 86203 or 86204 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to one thousand dollars (\$1,000) or three times the amount of the unlawful contribution, gift or expenditure, whichever is greater.

(b) Any designated employee or public official specified in Section 87200, other than an elected state officer, who realizes an economic benefit as a result of a violation of Section 87100 or of a disqualification provision of a Conflict of Interest Code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit.

*Comment: Violators will also be subject to hearings and penalties set forth in Section 83116.*

**SEC 12. Section 84106** (amended to read):**Section 84106. ~~Sponsored Committee; Identification.~~ Identification of Committees**

(a) Whenever identification of a sponsored committee is required by this title, the identification shall include the full name of the committee as required in its statement of organization.

(b) A sponsored committee shall use only one name in its statement of organization.

(c) The name of any committee shall include or be accompanied by the name of any individual, entity or other person by which the committee is controlled. Any committee required to file a statement of organization shall amend its statement to comply with this section within thirty (30) days of the effective date of this Act.

**SEC 13. Section 84302.5** (added to the Government Code to read):

**Section 84302.5. Definition of Intermediary**

A person is an intermediary for transmittal of a contribution if he or she delivers to a candidate or committee a contribution from another person unless such contribution is from the person's employer, immediate family or an association to which the person belongs. No person who is the treasurer of the committee to which the contribution is made or is the candidate who controls the committee to which the contribution is made shall be an intermediary for such a contribution.

**SEC 14. Severability Clause**

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it was held invalid, shall not be affected thereby, and to this end, the provisions of this Act are severable.

**SEC 15. Legislative Amendments** (if Model Law is adopted as an initiative measure)

The provisions of Section 81012 of the Government Code which allow legislative amendments to the Political Reform Act of 1974 shall apply to the provisions of this Act.

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## Appendix B: TABLE OF AUTHORITIES

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### CGS Books and Reports\*

Ava Alexandar, Center for Governmental Studies, *Money and Power in the City of Angels* (2010).

California Commission on Campaign Financing, Center for Governmental Studies, *Money and Politics in the Golden State: Shaping California's Local Elections* (1989).

California Commission on Campaign Financing, Center for Governmental Studies, *Update: The New Gold Rush: Financing California's Legislative Campaigns* (1987).

California Commission on Campaign Financing, Center for Governmental Studies, *The New Gold Rush: Financing California's Legislative Campaigns* (1985).

Center for Governmental Studies, *Investing in Democracy: Creating Public Financing of Elections in Your Community* (2003).

Sasha Horwitz, Center for Governmental Studies, *Public Campaign Financing: Michigan – Driving Towards Collapse?* (2008).

Steven M. Levin, Center for Governmental Studies, *Public Campaign Financing: Wisconsin – Showing its Age* (2008).

Steven M. Levin, Center for Governmental Studies, *Keeping It Clean: Public Financing in American Elections* (2006).

Jessica Levinson, Center for Governmental Studies, *Campaign Financing in North Carolina Judiciary: Balancing the Scales* (2009).

Jessica Levinson, Center for Governmental Studies, *Public Campaign Financing in Florida: A Program Sours* (2008).

Jessica Levinson, Center for Governmental Studies, *Public Campaign Financing: New Jersey Governor – Weeding Out Big Money in the Garden State* (2008).

Jessica Levinson, Center for Governmental Studies, *Public Campaign Financing: New Jersey Legislature – A Pilot Project Takes Off* (2008).

Anna N. Meyer, Center for Governmental Studies, *Public Campaign Financing: Minnesota – Damming Big Money in the Land of 10,000 Lakes* (2008).

Molly Milligan, Center for Governmental Studies, *Public Campaign Financing in Albuquerque: Citizens Win With Clean Money Elections* (2011).

\*All publications by the Center for Governmental Studies are available online at <http://publications.cgs.org>.

Molly Milligan, Center for Governmental Studies, *Loopholes, Tricks and End Runs: Evasions of Campaign Finance Laws and a Model Law to Block Them* (2009).

Hilary Rau, Center for Governmental Studies, *Public Campaign Financing Portland: Should "Voter-Owned Elections" Survive?* (2010).

Paul Ryan, Center for Governmental Studies, *Political Reform That Works: Public Campaign Financing Blooms in Tucson* (2003).

Paul Ryan, Center for Governmental Studies, *A Statute of Liberty: How New York City's Campaign Finance Law Is Changing the Face of Local Elections* (2003).

Paul Ryan, Center for Governmental Studies, *Dead on Arrival? Breathing Life into Suffolk County's New Campaign Finance Reforms* (2003).

Paul Ryan, Center for Governmental Studies, *On the Brink of Clean: Launching San Francisco's New Campaign Finance Reforms* (2002).

Paul Ryan, Center for Governmental Studies, *Eleven Years of Reform: Many Successes, More to be Done: Campaign Financing in the City of Los Angeles* (2001).

Tracy Westen, Center for Governmental Studies, *Public Financing of Elections: Where to Get the Money?* (2003).

## Cases

*Arizona Free Enterprise Club's Freedom Club PAC v. Bennett*, 564 U.S. \_\_\_\_ (2011).

*Buckley v. Valeo*, 424 U.S. 1 (1976).

*Caperton v. a.t. Massey Coal Co., Inc.*, 556 U.S. \_\_\_\_ , 129 S.Ct. 2252 (2009).

## Law Review Articles and Periodicals, Books and Other Reports

Michael Clyburn, *Public Campaign Financing: The Path From Plutocracy to Pluralism*, 7 Seattle J. for Soc. Just. 285 (2008).

Jason B. Frasco, *Full Public Funding: An Effective and Legally Viable Model for Campaign Finance Reform in the States*, 92 Cornell L. Rev. 733 (2007).

Theodore Lazarus, *The Maine Clean Election Act: Cleansing Public Institutions of Private Money*, 34 Colum. J.L. & Soc. Probs. 79 (2000).

Ciara Torres-Spelliscy and Ari Weisbard, *What Albany Could Learn From New York City: A Model of Meaningful Campaign Finance Reform in Action*, 1 Alb. Gov't L. Rev. 194 (2008).

Marc Breslow et al., *Money & Politics Implementation Project, Revitalizing Democracy: Clean Election Reform Shows the Way Forward* (2002).

Citizen Campaign Commission, *Second Biennial Report to the City Council and Citizens of Portland* (2009) [*Second Biennial Report*].

Citizen Campaign Commission, *First Report to the City Council and Citizens of Portland* (2007).

The Clean Elections Institute, *The Road to Victory: Clean Elections Shape 2002 Arizona Elections* (2002).

Maine Commission on Governmental Ethics and Election Practices, *2007 Study Report: Has Public Funding Improved Maine Elections?* (2007).

New York City Campaign Finance Board, *New Yorkers Make their Voice Heard – A Report on the 2009 Elections* (2009).

U.S. Government Accountability Office (GAO), *Campaign Finance Reform: Early Experiences of Two States that Offer Full Public Funding for Political Candidates* (2003).

Peter Woolley and Tim Vercellotti, Rutgers Eagleton Institute of Politics, *Public Attitudes Toward the Clean Elections Initiative: Monitoring Study of the 2007 New Jersey Clean Elections Pilot Project* (2007).