



Proposition 15

Publicly Funded Campaigns (Official Title: California Fair Elections Act of 2008)

Subject: Provides taxpayer funds to candidates seeking the office of the Secretary of State.

Sponsors: The measure was authored by former state Assemblywoman and current state Senator Loni Hancock (D-Oakland).

Cal-Tax Position. OPPOSE. This ballot measure would impose an illegal tax on people who advocate policy positions before the Legislature – including those who fight against tax increases on behalf of taxpayers – and would use tax dollars on political campaigns rather than on services supported by Californians.

History: California's "Purity of Elections" law, enacted in 1893, required candidates and their committees to file financial statements with the Secretary of State. Amendments were made in 1921 to include the campaign finances from the newly enacted Progressive-era reforms of the initiative, referendum and recall. In response to public and legislative discontent with Artie Samish, the Legislature passed legislation in 1949 to begin regulating lobbying activities. However, the 1949 law required lobbying practices to be monitored by the Legislature, rather than the Secretary of State, which reformers disliked. Seeking to change this, a detailed political reform act was proposed in 1974. With the Watergate events concluding and Nixon's resignation prior to the election, voters approved the act and, as a result, the Political Reform Division was established within the office of the Secretary of State and a new independent state agency was established – the Fair Political Practices Commission.

In California, public campaign financing has seen interest in the Legislature since at least 1987. In 1988, voters approved Proposition 68, which included public financing. That initiative did not take effect because another initiative also on the ballot, Proposition 73, which banned public financing, received more votes. Another initiative to impose public financing, Proposition 132, failed in 1990.

In 1991, Senator Bill Lockyer authored SB 588, which would have used a \$5-\$10 tax check off (similar to the ones on federal tax returns today and similar to part of the Arizona funding system) and would have gone into effect once the fund reached \$20 million. That measure, which passed both houses of the Legislature but was vetoed by Governor Pete Wilson, would have applied to legislative races only.

In 2008, former state Assemblywoman and current State Senator Loni Hancock (D-Oakland) authored AB 583, which was approved by the Legislature and Governor Arnold Schwarzenegger and placed on the June 2010 ballot. This measure requires voter approval because it amends the state Constitutional provisions of the 1974 Political Reform Act. In

December, lobbying groups appealed to the Sacramento Superior Court, saying that the initiative would limit their First Amendment rights. The court ruled that these groups must wait until voters decide the fate of the measure, and then determine if litigation is warranted.

Major Provisions:

- **Establishes Taxpayer-Funded Elections Account.** Revenues for the fund would be collected from legislative advocacy firms, individual legislative advocates and employers of legislative advocates. Each advocate would be required to pay a \$700 "fee." Also, individual taxpayers may choose to designate money from their tax refunds to a "Voters Fair Elections Fund."
- **Provides Public Funds for Secretary of State Candidates.** Provides tax dollars to candidates seeking the office of Secretary of State. Candidates must meet specific criteria to qualify for public financing.

Fiscal Impact: According to the Senate Appropriations Committee, the ballot measure would generate special fund revenue of approximately \$6 million to \$7 million during each four-year election cycle. The committee also estimated that it would cost approximately \$480,000 just to place this measure on the ballot.

Cal-Tax Analysis and Policy Considerations:

- **The Lobbyist "Fee" Is a Tax Imposed for General Public Benefit.** Although lobbyists are participants in the legislative process and their clients frequently contribute to political campaigns, for the tax proposed in this legislation to be considered a "fee" it must either confer a unique benefit to the payer that is not available to the public at large or it must be imposed to remedy a burden created by the fee payer. The lobbyist "fee" in this proposed legislation does not meet these criteria. If there is a benefit conferred on lobbyists by contributing to the "Fair Elections Fund," it is one that the public at large also would enjoy. The goal of public financing is to ensure a purported benefit that is not unique to lobbyists. Moreover, it would be impossible to single out a single profession as having created a burden on the political process that must be remedied by paying "fees" that are used to support public financing of political campaigns.

This "fee" is really a tax that requires a two-thirds vote of the Legislature for enactment. Since this measure did not receive that level of support, its legality is questionable.

- **Voters Do Not Support Using Tax Dollars for Political Campaigns.** Use of scarce tax dollars to fund political campaigns has not been well-received by the citizens of California. On the November 2006 statewide ballot, voters rejected a proposal to use taxpayer dollars to fund campaigns; Proposition 89 received a mere 25.7 percent of the vote. Moreover, given the budget deficit, Cal-Tax believes taxpayers would prefer that their hard-earned tax dollars be directed to priority projects such as education, law enforcement and transportation.