

AMENDED IN SENATE AUGUST 4, 2008

AMENDED IN SENATE JUNE 26, 2008

AMENDED IN SENATE JUNE 11, 2008

AMENDED IN ASSEMBLY JUNE 4, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 583

Introduced by Assembly Member Hancock

(Coauthors: Assembly Members Beall, Berg, Brownley, DeSaulnier, Eng, Evans, Hayashi, Huffman, Jones, Laird, Leno, Lieu, Ma, Mullin, Price, Saldana, Swanson, Torrico, and Wolk)

(Coauthors: Senators Corbett, Kuehl, Migden, Oropeza, and Perata)

February 21, 2007

An act to add and repeal Chapter 12 (commencing with Section 91015) of Title 9 of, and to repeal Section 85300 of, the Government Code, *and to add and repeal Article 8.6 (commencing with Section 18798) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code*, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 583, as amended, Hancock. Political Reform Act of 1974: California Clean Money and Fair Elections Act of 2008.

(1) Under the Political Reform Act of 1974 a public officer is prohibited from expending or accepting any public moneys for the purpose of seeking elective office.

This bill would repeal that prohibition and would enact the California Clean Money and Fair Elections Act of 2008, which would authorize eligible candidates for Secretary of State to obtain public funds

according to specified procedures and requirements, provided that certain thresholds are attained. The bill would impose primary responsibility for the administration of the provisions of the bill on the Fair Political Practices Commission. This bill would create the Clean Money Fund and, commencing January 1, 2011, would transfer an annual amount, ~~subject to appropriation by the Legislature, from the General Fund to~~ from the Clean Money Fund. ~~It would to be continuously appropriate those moneys in the Clean Money Fund appropriated to the Fair Political Practices Commission for the purpose of the public financing provisions of the act. The bill would also establish a nonrefundable fee to be imposed on lobbyists and lobbyist employers who are required to file a registration statement and those fees are to be deposited, in part, in the Clean Money Fund.~~ The bill would make funding for the administrative and enforcement costs of the act subject to appropriation by the Legislature. It would repeal its operative provisions on January 1, 2015.

(2) *Existing law, relating to the administration of personal income taxes, authorizes individual taxpayers to contribute amounts in excess of their tax liability for the support of specified funds or accounts.*

This bill would additionally allow taxpayers to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the Voters Clean and Fair Elections Fund, which would be created by this bill. The bill would provide that all moneys contributed to the fund pursuant to these provisions, upon appropriation by the Legislature, be allocated to the Franchise Tax Board and the Controller for reimbursement of costs and to the Fair Political Practices Commission, as specified.

The bill would provide that these voluntary contribution provisions are repealed on either January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return, or on January 1 of an earlier calendar year, if the Franchise Tax Board estimates that the annual contribution amount will be less than \$250,000, or an adjusted amount for subsequent taxable years.

(2)

(3) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act by a statute that becomes effective only when approved by the voters.

This bill would require the Secretary of State to submit those provisions of the act that amend the Political Reform Act of 1974 to the voters for approval at the June 8, 2010, statewide primary election.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 85300 of the Government Code is
2 repealed.

3 SEC. 2. Chapter 12 (commencing with Section 91015) is added
4 to Title 9 of the Government Code, to read:

5
6 CHAPTER 12. CALIFORNIA CLEAN MONEY AND FAIR ELECTIONS
7 ACT OF 2008

8
9 Article 1. General

10
11 91015. This chapter shall be known and may be cited as the
12 California Clean Money and Fair Elections Act of 2008.

13 91017. The people find and declare all of the following:

14 (a) The current campaign finance system burdens candidates
15 with the incessant rigors of fundraising and thus decreases the time
16 available to carry out their public responsibilities.

17 (b) The current campaign finance system diminishes the free
18 speech rights of nonwealthy voters and candidates whose voices
19 are drowned out by those who can afford to monopolize the arena
20 of paid political communications.

21 (c) The current campaign finance system fuels the public
22 perception of corruption at worst and conflict of interest at best
23 and undermines public confidence in the democratic process and
24 democratic institutions.

25 (d) Existing term limits place a greater demand on fundraising
26 for the next election even for elected officials in safe seats.

27 (e) The current campaign finance system undermines the First
28 Amendment right of voters and candidates to be heard in the
29 political process, undermines the First Amendment right of voters
30 to hear all candidates' speech, and undermines the core First
31 Amendment value of open and robust debate in the political
32 process.

33 (f) In states where the clean money and clean election laws have
34 been enacted and used, election results show that more individuals,

1 especially women and minorities, run as candidates and overall
2 campaign costs decrease.

3 91019. The people enact this chapter to establish a Clean
4 Money pilot program in campaigns for the office of Secretary of
5 State to accomplish the following purposes:

6 (a) To reduce the perception of influence of large contributions
7 on the decisions made by state government.

8 (b) To remove wealth as a major factor affecting whether an
9 individual chooses to become a candidate.

10 (c) To provide a greater diversity of candidates to participate
11 in the electoral process.

12 (d) To permit candidates to pursue policy issues instead of being
13 preoccupied with fundraising and allow officeholders more time
14 to carry out their official duties.

15 (e) To diminish the danger of actual corruption or the public
16 perception of corruption and strengthen public confidence in the
17 governmental and election processes.

18 (f) To ensure that independent expenditures are not used to
19 evade contribution limits.

20 91021. The people enact this chapter to further accomplish the
21 following purposes:

22 (a) To foster more equal and meaningful participation in the
23 political process.

24 (b) To provide candidates who participated in the program with
25 sufficient resources with which to communicate with voters.

26 (c) To increase the accountability of the Secretary of State to
27 the constituents who elect him or her.

28 (d) To provide voters with timely information regarding the
29 sources of campaign contributions, expenditures, and political
30 advertising.

31

32 Article 2. Applicability to the Political Reform Act of 1974

33

34 91023. Unless specifically superseded by this act, the
35 definitions and provisions of the Political Reform Act of 1974
36 shall govern the interpretation of this chapter.

Article 3. Definitions

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

91024. “Address” means the mailing address as provided on the voter registration form.

91024.5. “Adequately funded candidate” means a candidate who is either a qualified candidate, a performance-qualified candidate, a nonparticipating candidate who has received contributions equaling at least 10 percent of the base funding amounts of performance-qualified candidates for that primary or general election, or a nonparticipating candidate in the general election who was an adequately funded candidate in the primary election.

91025. For purposes of this chapter, “candidate” means, unless otherwise stated, a candidate for Secretary of State.

91027. A “coordinated expenditure” means a payment made for the purpose of influencing the outcome of an election for Secretary of State that is made by any of the following methods:

(a) By a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to a particular understanding with a candidate, a candidate’s controlled committee, or an agent acting on behalf of a candidate or a controlled committee.

(b) By a person for the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate’s controlled committee, or an agent of a candidate or a controlled committee.

(c) Based on specific information about the candidate’s plans, projects, or needs provided to the person making the payment by the candidate or the candidate’s agent who provides the information with a view toward having the payment made.

(d) By a person if, in the same primary and general election in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate’s controlled committee in an executive or policymaking position.

(e) By a person if the person making the payment has served in any formal policy or advisory position with the candidate’s campaign or has participated in strategic or policymaking discussions with the candidate’s campaign relating to the

1 candidate's pursuit of nomination for election, or election, to the
2 office of Secretary of State in the same primary and general election
3 as the primary and general election in which the payment is made.

4 (f) By a person if the person making the payment retains the
5 professional services of an individual or person who, in a
6 nonministerial capacity, has provided or is providing
7 campaign-related services in the same election to a candidate who
8 is pursuing the same nomination or election as any of the
9 candidates to whom the communication refers.

10 91028. "Effective expenditures" for a nonparticipating
11 candidate means the amount spent plus any independent
12 electioneering expenditures treated as expenditures for that
13 candidate pursuant to Section 91095.5. For a participating
14 candidate, it means the amount of Clean Money funding the
15 candidate has received plus any independent electioneering
16 expenditures treated as expenditures for that candidate pursuant
17 to Section 91095.5.

18 91029. "Entity" means any person other than an individual.

19 91031. "Excess expenditure amount" means the amount of
20 funds spent or obligated to be spent by a nonparticipating candidate
21 in excess of the Clean Money amount available to a participating
22 candidate running for the same office.

23 91033. "Exploratory period" means the period beginning 18
24 months before the primary election and ending on the last day of
25 the qualifying period. The exploratory period begins before, but
26 extends to the end of, the qualifying period.

27 91035. "General election campaign period" means the period
28 beginning the day after the primary election and ending on the day
29 of the general election.

30 91037. "Independent candidate" means a candidate who does
31 not represent a political party that has been granted ballot status
32 for the general election and who has qualified, or is seeking to
33 qualify, to be on the general election ballot.

34 91039. "Independent electioneering expenditure" means any
35 expenditure of two thousand five hundred dollars (\$2,500) or more
36 made by a person, party committee, political committee or political
37 action committee, or any entity required to file reports pursuant
38 to Section 84605, during the 45 calendar days before a primary or
39 the 60 calendar days before a general election, which expressly

1 advocates the election or defeat of a clearly identified candidate
2 or names or depicts clearly identified candidates.

3 91043. “Nonparticipating candidate” means a candidate who
4 is on the ballot but has chosen not to apply for Clean Money
5 campaign funding or a candidate who is on the ballot and has
6 applied but has not satisfied the requirements for receiving Clean
7 Money funding.

8 91045. “Office-qualified party” means a political party whose
9 gubernatorial or Secretary of State nominee has received 10 percent
10 or more of the votes at the last election.

11 91046. “Office-qualified candidate” is a candidate seeking
12 nomination from an office-qualified party.

13 91049. “Participating candidate” means a candidate who
14 qualifies for Clean Money campaign funding. These candidates
15 are eligible to receive Clean Money funding during primary and
16 general election campaign periods.

17 91051. “Party candidate” means a candidate who represents a
18 political party that has been granted ballot status and holds a
19 primary election to choose its nominee for the general election.

20 91053. “Performance-qualified candidate” means either an
21 office-qualified candidate or a candidate who has shown a broad
22 base of support by gathering twice the number of qualifying
23 contributions as is required for an office-qualified candidate.
24 Independent candidates may qualify for funding as
25 performance-qualified candidates.

26 91055. “Petty cash” means cash amounts of one hundred dollars
27 (\$100) or less per day that are drawn on the Clean Money Debit
28 Card and used to pay expenses of no more than twenty-five dollars
29 (\$25) each.

30 91059. “Primary election campaign period” means the period
31 beginning 120 days before the primary election and ending on the
32 day of the primary election.

33 91061. “Qualified candidate” means a candidate seeking
34 nomination from a party that is not an office-qualified party.

35 91063. “Qualifying contribution” means a contribution of five
36 dollars (\$5) that is received during the designated qualifying period
37 by a candidate seeking to become eligible for Clean Money
38 campaign funding from a registered voter of the district in which
39 the candidate is running for office.

1 91065. “Qualifying period” means the period during which
2 candidates are permitted to collect qualifying contributions in order
3 to qualify for Clean Money funding. It begins 270 days before the
4 primary election and ends 90 days before the day of the primary
5 election for party candidates and begins any time after January 1
6 of the election year and lasts 180 days, but in no event ending later
7 than 90 days, before the general election for performance-qualified
8 candidates who are running as independent candidates.

9 91067. “Seed money contribution” means a contribution of no
10 more than one hundred dollars (\$100) made by a California
11 registered voter during the exploratory period.
12

13 Article 4. Clean Money 14

15 91071. (a) An office-qualified candidate qualifies as a
16 participating candidate for the primary election campaign period
17 if the following requirements are met:

18 (1) The candidate files a declaration with the commission that
19 the candidate has complied and will comply with all of the
20 requirements of this act, including the requirement that during the
21 exploratory period and the qualifying period the candidate not
22 accept or spend private contributions from any source other than
23 seed money contributions, qualifying contributions, Clean Money
24 funds, and political party funds as specified in Section 91123.

25 (2) The candidate meets the following qualifying contribution
26 requirements before the close of the qualifying period:

27 (A) The office-qualified candidate shall collect at least 7,500
28 qualifying contributions.

29 (B) Each qualifying contribution shall be acknowledged by a
30 receipt to the contributor, with a copy submitted by the candidate
31 to the county registrar of voters in the county where the candidate
32 files his or her declaration of candidacy. The receipt shall include
33 the contributor’s signature, printed name, and address, the date,
34 and the name of the candidate on whose behalf the contribution is
35 made. In addition, the receipt shall indicate by the contributor’s
36 signature that the contributor understands that the purpose of the
37 qualifying contribution is to help the candidate qualify for Clean
38 Money campaign funding, that the contribution is the only
39 qualifying contribution the contributor has provided to a candidate

1 for this office, and that the contribution is made without coercion
2 or reimbursement.

3 (C) A contribution submitted as a qualifying contribution that
4 does not include a signed and fully completed receipt shall not be
5 counted as a qualifying contribution.

6 (D) All five-dollar (\$5) qualifying contributions, whether in the
7 form of cash, check, or money order made out to the candidate's
8 campaign account, shall be deposited by the candidate in the
9 candidate's campaign account.

10 (E) All qualifying contributions' signed receipts shall be sent
11 to the county registrar of voters in the county where the candidate
12 files his or her declaration of candidacy and shall be accompanied
13 by a check or other written instrument from the candidate's
14 campaign account for the total amount of qualifying contribution
15 funds received for deposit in the Clean Money Fund. This
16 submission shall be accompanied by a signed statement from the
17 candidate indicating that all of the information on the qualifying
18 contribution receipts is complete and accurate to the best of the
19 candidate's knowledge and that the amount of the enclosed check
20 or other written instrument is equal to the sum of all of the
21 five-dollar (\$5) qualifying contributions the candidate has received.
22 County registrars of voters shall forward these checks or other
23 written instruments to the commission.

24 (b) A candidate qualifies as a participating candidate for the
25 general election campaign period if both of the following
26 requirements are met:

27 (1) The candidate met all of the applicable requirements and
28 filed a declaration with the commission that the candidate has
29 fulfilled and will fulfill all of the requirements of a participating
30 candidate as stated in this act.

31 (2) As a participating party candidate during the primary election
32 campaign period, the candidate had the highest number of votes
33 of the candidates contesting the primary election from the
34 candidate's respective party and, therefore, won the party's
35 nomination.

36 91073. (a) A qualified candidate shall collect at least one-half
37 of the number of qualifying contributions as required for an
38 office-qualified candidate for the same office. A qualified candidate
39 may show a greater base of support by collecting double the
40 amount of qualifying contributions as required for an

1 office-qualified candidate to become a performance-qualified
2 candidate. The candidate shall also file a declaration with the
3 commission that the candidate has complied and will comply with
4 all of the requirements of this act.

5 (b) An independent candidate who does not run in a primary
6 may become a performance-qualified candidate by collecting twice
7 as many qualifying contributions as required of an office-qualified
8 candidate. The qualifying period for such candidates shall begin
9 any time after January 1 of the election year and shall last 180
10 days, except that it shall end no later than 90 days before the
11 general election. An independent candidate shall notify the
12 commission within 24 hours of the day when the candidate has
13 begun collecting qualifying contributions. The candidate shall also
14 file a declaration with the commission that he or she has complied
15 and will comply with all of the requirements of this chapter.

16 91075. During the first election that occurs after the effective
17 date of this act, a candidate may be certified as a participating
18 candidate, notwithstanding the acceptance of contributions or
19 making of expenditures from private funds before the date of
20 enactment that would, absent this section, disqualify the candidate
21 as a participating candidate, provided that any private funds
22 accepted but not expended before the effective date of this act meet
23 any of the following criteria:

24 (a) Are returned to the contributor.

25 (b) Are held in a segregated account and used only for retiring
26 a debt from a previous campaign.

27 (c) Are submitted to the commission for deposit in the Clean
28 Money Fund.

29 91077. A participating candidate who accepts any benefits
30 during the primary election campaign period shall comply with
31 all of the requirements of this act through the general election
32 campaign period whether the candidate continues to accept benefits
33 or not.

34 91079. (a) During the primary and general election campaign
35 periods, a participating candidate who has voluntarily agreed to
36 participate in, and has become eligible for, Clean Money benefits,
37 shall not accept private contributions from any source other than
38 the candidate's political party as specified in Section 91123.

39 (b) During the qualifying period and the primary and general
40 election campaign periods, a participating candidate who has

1 voluntarily agreed to participate in, and has become eligible for,
2 Clean Money benefits shall not solicit or receive contributions for
3 any other candidate or for any political party or other political
4 committee.

5 (c) No person shall make a contribution in the name of another
6 person. A participating candidate who receives a qualifying
7 contribution or a seed money contribution that is not from the
8 person listed on the receipt required by subparagraph (D) of
9 paragraph (2) of subdivision (a) of Section 91071 shall be liable
10 to pay the commission the entire amount of the inaccurately
11 identified contribution, in addition to any penalties.

12 (d) During the primary and general election campaign periods,
13 a participating candidate shall pay for all of the candidate's
14 campaign expenditures, except petty cash expenditures, by means
15 of a "Clean Money Debit Card" issued by the commission, as
16 authorized under Section 91137.

17 (e) Participating candidates shall furnish complete campaign
18 records to the commission upon request. Candidates shall cooperate
19 with any audit or examination by the commission, the Franchise
20 Tax Board, or any enforcement agency.

21 91081. (a) During the primary election period and the general
22 election period, each participating candidate shall conduct all
23 campaign financial activities through a single campaign account.

24 (b) Notwithstanding Section 85201, a participating candidate
25 may maintain a campaign account other than the campaign account
26 described in subdivision (a) if the other campaign account is for
27 the purpose of retiring a net debt outstanding that was incurred
28 during a previous election campaign in which the candidate was
29 not a participating candidate.

30 (c) Contributions for the purposes of retiring a previous
31 campaign debt that are deposited in the "other campaign account"
32 described in subdivision (b) shall not be considered "contributions"
33 to the candidate's current campaign. Those contributions shall
34 only be raised during the six-month period following the date of
35 the election.

36 91083. (a) Participating candidates shall use their Clean Money
37 funds only for direct campaign purposes.

38 (b) A participating candidate shall not use Clean Money funds
39 for any of the following:

- 1 (1) Costs of legal defense or fines resulting from any campaign
 2 law enforcement proceeding under this act.
- 3 (2) Indirect campaign purposes, including, but not limited to,
 4 the following:
- 5 (A) The candidate’s personal support or compensation to the
 6 candidate or the candidate’s family.
- 7 (B) The candidate’s personal appearance.
- 8 (C) A contribution or loan to the campaign committee of another
 9 candidate for any elective office or to a party committee or other
 10 political committee.
- 11 (D) An independent electioneering expenditure.
- 12 (E) A gift in excess of twenty-five dollars (\$25) per person.
- 13 (F) Any payment or transfer for which compensating value is
 14 not received.
- 15 91085. (a) Personal funds contributed as seed money by a
 16 candidate seeking to become eligible as a participating candidate
 17 or by adult members of the candidate’s family shall not exceed
 18 the maximum of one hundred dollars (\$100) per contributor.
- 19 (b) Personal funds shall not be used to meet the qualifying
 20 contribution requirement except for one five-dollar (\$5)
 21 contribution from the candidate and one five-dollar (\$5)
 22 contribution from the candidate’s spouse.
- 23 91087. (a) The only private contributions a candidate seeking
 24 to become eligible for Clean Money funding shall accept, other
 25 than qualifying contributions and limited contributions from the
 26 candidate’s political party as specified in Section 91123, are seed
 27 money contributions contributed by duly registered voters in the
 28 district in which the candidate is running for election prior to the
 29 end of the qualifying period.
- 30 (b) A seed money contribution shall not exceed one hundred
 31 dollars (\$100) per donor, and the aggregate amount of seed money
 32 contributions accepted by a candidate seeking to become eligible
 33 for Clean Money funding shall not exceed seventy-five thousand
 34 dollars (\$75,000).
- 35 (c) Receipts for seed money contributions shall include the
 36 contributor’s signature, printed name, address, and ZIP Code.
 37 Receipts described in this subdivision shall be made available to
 38 the commission upon request.
- 39 (d) Seed money shall be spent only during the exploratory and
 40 qualifying periods. Seed money shall not be spent during the

1 primary or general election campaign periods, except when they
2 overlap with the candidate's qualifying period. Any unspent seed
3 money shall be turned over to the commission for deposit in the
4 Clean Money Fund.

5 (e) Within 72 hours after the close of the qualifying period,
6 candidates seeking to become eligible for Clean Money funding
7 shall do both of the following:

8 (1) Fully disclose all seed money contributions and expenditures
9 to the commission.

10 (2) Turn over to the commission for deposit in the Clean Money
11 Fund any seed money the candidate has raised during the
12 exploratory period that exceeds the aggregate seed money limit.

13 91091. Participating candidates in contested races shall agree
14 to participate in at least one public debate during a contested
15 primary election and two public debates during a contested general
16 election, to be conducted pursuant to regulations promulgated by
17 the commission.

18 91093. (a) No more than five business days after a candidate
19 applies for Clean Money benefits, the county registrar of voters
20 in the county where the candidate files his or her declaration of
21 candidacy shall certify that the candidate is or is not eligible.
22 Eligibility may be revoked if the candidate violates the
23 requirements of this act, in which case all Clean Money funds shall
24 be repaid.

25 (b) The candidate's request for certification shall be signed by
26 the candidate and the candidate's campaign treasurer under penalty
27 of perjury.

28 (c) The certification determination of the county registrar of
29 voters is final except that it is subject to a prompt judicial review.

30

31

Article 5. Clean Money Benefits

32

33 91095. (a) Candidates who qualify for Clean Money funding
34 for primary and general elections shall:

35 (1) Receive Clean Money funding from the commission for
36 each election in an amount specified by Section 91099. This
37 funding may be used to finance campaign expenses during the
38 particular campaign period for which it was allocated consistent
39 with Section 91081. In any election in which there are initially no
40 adequately funded competing candidates, the participating

1 performance-qualified candidate shall receive 20 percent of the
2 base funding amount specified in Section 91099. If a competing
3 candidate in the same election later becomes an adequately funded
4 candidate, the performance-qualified candidate shall receive
5 additional Clean Money funds sufficient to bring his or her total
6 Clean Money funds received to the normal base amount of Clean
7 Money funding allocated pursuant to Section 91099.

8 (2) Receive, if a performance-qualified candidate, additional
9 Clean Money funding to match any excess expenditure by a
10 nonparticipating candidate in the election, as specified in Section
11 91107, provided that the nonparticipating candidate's aggregate
12 effective expenditures exceed the previous highest aggregate
13 effective expenditures of any candidate in the race. The excess is
14 defined as the amount the new expenditure causes the
15 nonparticipating candidate's aggregate effective expenditures to
16 exceed the previous highest effective expenditures of any candidate
17 in the election.

18 (3) Receive, if a performance-qualified candidate, additional
19 Clean Money funding to match any excess independent
20 electioneering expenditure made in support of opponents'
21 candidacies in their race, as specified in Section 91109, provided
22 that the expenditure makes the aggregate effective expenditures
23 of any opposing candidate who benefits from the independent
24 electioneering expenditure exceed the previous highest aggregate
25 effective expenditures of any candidate in the race. The excess is
26 defined as the amount the independent electioneering expenditure
27 causes the opposing candidate's aggregate effective expenditures
28 to exceed the previous highest effective expenditures of any
29 candidate in the election.

30 (4) Receive, if a performance-qualified candidate, additional
31 Clean Money funding to match any excess independent
32 electioneering expenditure made in opposition to their candidacy,
33 as specified in Section 91109, provided that the expenditure makes
34 the new aggregate effective expenditures of any candidate running
35 for that office exceed the highest aggregate effective expenditures
36 of any candidate running for that office. The excess is defined as
37 the amount the independent electioneering expenditure causes the
38 opposing candidate's aggregate effective expenditures to exceed
39 the previous highest effective expenditures of any candidate
40 running for that office.

1 (5) Receive, if a performance-qualified candidate running in a
2 primary election, additional Clean Money funding to match 50
3 percent of any excess effective expenditures by either
4 nonparticipating or participating candidates running for the same
5 office outside of their party's primary, as disclosed pursuant to
6 Section 91107, provided that the new aggregate effective
7 expenditures exceeds the highest aggregate effective expenditures
8 of any candidate running for that office. The excess is defined as
9 the amount the new effective expenditure causes the
10 nonparticipating candidate's aggregate effective expenditures to
11 exceed the previous highest effective expenditures of any candidate
12 running for that office. If no party has more than one adequately
13 funded candidate running for their primary, then the candidate
14 shall receive 100 percent of any excess effective expenditures
15 spent by either nonparticipating or participating candidates running
16 for the same office outside of their party's primary.

17 (b) The maximum aggregate amount of funding a participating
18 performance-qualified candidate shall receive to match independent
19 electioneering expenditures and excess expenditures of
20 nonparticipating candidates shall not exceed four times the full
21 base funding amount pursuant to Section 91099 for a particular
22 primary or general election campaign period.

23 91095.5. (a) Independent electioneering expenditures against
24 a participating candidate shall be treated as expenditures of every
25 other candidate running for that office for the purposes of Section
26 91095.

27 (b) Independent electioneering expenditures in favor of one or
28 more nonparticipating candidates running for an office shall be
29 treated as expenditures of those nonparticipating candidates for
30 the purpose of Section 91095.

31 (c) Independent electioneering expenditures in favor of a
32 participating candidate shall be treated, for every other participating
33 candidate running for that office, as though the independent
34 expenditures were an expenditure of a nonparticipating opponent,
35 for purposes of Section 91095.

36 (d) Expenditures by a nonparticipating candidate in a primary
37 election against a participating candidate running for that office
38 in another party's primary shall be treated as an independent
39 electioneering expenditure against that participating candidate.

1 (e) The commission shall promulgate regulations allocating the
2 share of expenditures that reference or depict more than one
3 candidate for the purposes of Section 91095.

4 (f) Expenditures made before the general election period that
5 consist of a contract, promise, or agreement to make an expenditure
6 during the general election period resulting in an extension of
7 credit shall be treated as though made at the beginning of the
8 general election period.

9 91097. (a) An eligible qualified or performance-qualified
10 candidate running in a primary election shall receive the candidate's
11 Clean Money funding for the primary election campaign period
12 on the date on which the county registrar of voters certifies the
13 candidate as a participating candidate or at the beginning of the
14 primary election period, whichever is later.

15 (b) An eligible qualified or performance-qualified candidate
16 shall receive the candidate's Clean Money funding for the general
17 election campaign period within two business days after
18 certification of the primary election results.

19 91099. (a) For eligible candidates in a primary election:

20 (1) The base amount of Clean Money funding for an eligible
21 performance-qualified candidate who is facing at least one
22 adequately funded opponent in a primary, special, or special runoff
23 election is one million dollars (\$1,000,000).

24 (2) The amount of Clean Money funding for an eligible qualified
25 candidate in a primary election is 20 percent of the base amount
26 that a performance-qualified candidate who is facing at least one
27 adequately funded opponent would receive.

28 (b) For eligible candidates in a general election:

29 (1) The base amount of Clean Money funding for ~~an~~ a
30 performance-qualified candidate who is facing at least one
31 adequately funded opponent in a general election is one million
32 five hundred thousand dollars (\$1,500,000).

33 (2) The amount of Clean Money funding for an eligible qualified
34 candidate in a contested general election is 25 percent of the base
35 amount a performance-qualified candidate who is facing at least
36 one adequately funded candidate running for the same office could
37 receive.

Article 6. Disclosure Requirements

1
2
3 91107. (a) If a nonparticipating candidate's total expenditures
4 or promises to make campaign expenditures exceed the amount
5 of Clean Money funding allocated to the candidate's Clean Money
6 opponent or opponents, the candidate shall declare every excess
7 expenditure amount which, in the aggregate, is more than five
8 thousand dollars (\$5,000) to the commission online or
9 electronically within 24 hours of the time the expenditure or
10 promise is made, whichever occurs first.

11 (b) The commission may make its own determination as to
12 whether excess expenditures have been made by nonparticipating
13 candidates.

14 (c) Upon receiving an excess expenditure declaration or
15 determining that an excess expenditure has been made, the
16 commission shall immediately release additional Clean Money
17 funding to the opposing performance-qualified candidates pursuant
18 to Section 91095.

19 91111. (a) In addition to any other report required by this
20 chapter, a committee, including a political party committee, that
21 is required to file reports pursuant to Section 84605 and that makes
22 independent electioneering expenditures of one thousand dollars
23 (\$1,000) or more during a calendar year in connection with a
24 candidate, shall file online or electronically a report with the
25 Secretary of State disclosing the making of the independent
26 electioneering expenditure. This report shall disclose the same
27 information required by subdivision (b) of Section 84204 and shall
28 be filed within 24 hours of the time the independent electioneering
29 expenditure is made.

30 (b) The report to the Secretary of State shall include a signed
31 statement under penalty of perjury by the person or persons making
32 the independent electioneering expenditure identifying the
33 candidate or candidates whom the independent electioneering
34 expenditure is intended to help elect or defeat and affirming that
35 the expenditure is independent and whether it is coordinated with
36 a candidate or a political party.

37 (c) Any individual or organization that fails to file the required
38 report to the Secretary of State or provides materially false
39 information in a report filed pursuant to subdivision (a) or (b) may
40 be fined up to three times the amount of the independent

1 electioneering expenditure, in addition to any other remedies
2 provided by this act.

3 (d) The Secretary of State shall provide information received
4 pursuant to subdivision (a) to the commission simultaneously upon
5 receipt. Upon receiving a report that an independent electioneering
6 expenditure has been made or obligated to be made, the
7 commission shall immediately release additional Clean Money
8 funding pursuant to Section 91095.

9 91112. If an inadequately funded candidate receives a
10 contribution which makes him or her an adequately funded
11 candidate, within 24 hours he or she shall electronically disclose
12 to the commission the cumulative amount of contributions received.
13 Within 24 hours of receipt of this disclosure, the commission shall
14 deposit into the Clean Money accounts of the participating
15 candidates in that election an amount sufficient to bring the total
16 Clean Money funds received by each *candidate* up to the base
17 amounts specified in Section 91099.

18 91113. All broadcast and print advertisements placed by
19 candidates or their committees shall include a clear written or
20 spoken statement indicating that the candidate has approved of the
21 contents of the advertisement.

22

23 Article 7. Legal Defense, Officeholder, and Inaugural Funds

24

25 91115. (a) Notwithstanding Section 85316, a Secretary of
26 State or candidate for the office of Secretary of State may establish
27 a separate account to defray attorney's fees and other related legal
28 costs incurred for the candidate's or elected state officer's legal
29 defense if the candidate or elected state officer is subject to one
30 or more civil or criminal proceedings or administrative proceedings
31 arising directly out of the conduct of an election campaign, the
32 electoral process, or the performance of the elected state officer's
33 governmental activities and duties. These funds may be used only
34 to defray those attorney's fees and other related legal costs.

35 (b) A Secretary of State may establish a separate account for
36 expenses associated with holding office that are reasonably related
37 to a legislative or governmental purpose as specified in this
38 subdivision and in regulations of the commission. The total amount
39 of funds that may be deposited in a calendar year into an account

1 established pursuant to this subdivision shall not exceed fifty
2 thousand dollars (\$50,000).

3 (c) A Secretary of State may establish an inaugural account to
4 cover the cost of events, celebrations, gatherings, and
5 communications that take place as part of, or in honor of, the
6 inauguration of the Secretary of State.

7 (d) The maximum amount of contributions a candidate or elected
8 state officer whose office is covered by these provisions may
9 receive from a contributor in a calendar year for all of the accounts
10 described in subdivisions (a), (b), and (c) combined is five hundred
11 dollars (\$500). All contributions, whether cash or in kind, shall be
12 reported in a manner prescribed by the commission. Contributions
13 to such funds shall not be considered campaign contributions.

14 (e) Once the legal dispute is resolved, the candidate shall dispose
15 of any funds remaining after all expenses associated with the
16 dispute are discharged or after the elected state officer whose office
17 is covered by these provisions leaves office, for one or more of
18 the purposes set forth in paragraphs (1) to (5), inclusive, of
19 subdivision (b) of Section 89519.

20

21

Article 8. Restrictions on Candidates

22

23 91121. A nonparticipating candidate may accept an otherwise
24 lawful contribution after the date of the election only to the extent
25 that the contribution does not exceed net debts outstanding from
26 the election.

27 91123. Participating candidates may accept monetary or in-kind
28 contributions from political parties provided that the aggregate
29 amount of such contributions from all political party committees
30 combined does not exceed the equivalent of 5 percent of the
31 original Clean Money financing allotment for that office for that
32 election. Such expenditures shall not count against the moneys
33 spent by Clean Money candidates.

34

35

Article 9. Ballot Pamphlet Statements

36

37 91127. The Secretary of State shall designate in the state ballot
38 pamphlet and on any Internet Web site listing of candidates
39 maintained by any government agency including, but not limited,

1 to the Secretary of State those candidates who have voluntarily
2 agreed to be participating candidates.

3 91131. (a) A candidate for Secretary of State who is a
4 participating candidate may place a statement in the state ballot
5 pamphlet that does not exceed 250 words. The statement shall not
6 make any reference to any opponent of the candidate. The candidate
7 may also provide a list of up to 10 endorsers for placement in the
8 state ballot pamphlet or sample ballot, as appropriate. This
9 statement and list of endorsers shall be submitted in accordance
10 with timeframes and procedures set forth by the Secretary of State
11 for the preparation of the state ballot pamphlets and by county
12 elections officials for the preparation of sample ballots.

13 (b) A nonparticipating candidate for Secretary of State may pay
14 to place a statement in the state ballot pamphlet that does not
15 exceed 250 words. A nonparticipating candidate may also pay to
16 place a list of up to 10 endorsers in the state ballot pamphlet or
17 sample ballot, as appropriate. The statement shall not make any
18 reference to any opponent of the candidate. This statement and list
19 of endorsers shall be submitted in accordance with timeframes and
20 procedures set forth by the Secretary of State for the preparation
21 of the state ballot pamphlets and by county elections officials for
22 the preparation of sample ballots. The nonparticipating candidate
23 shall be charged the pro rata cost of printing, handling, translating,
24 and mailing any ballot pamphlet statement and list of endorsers
25 provided pursuant to this subdivision.

26

27 Article 10. Appropriations for the Clean Money Fund

28

29 91133. (a) A special, dedicated, nonlapsing Clean Money Fund
30 is created in the State Treasury. Commencing January 1, 2011, ~~an~~
31 ~~amount, subject to appropriation by the Legislature, is hereby~~
32 ~~transferred annually from the General Fund to the Clean Money~~
33 ~~Fund and the funds collected pursuant to Section 91134 are,~~
34 notwithstanding Section 13340, continuously appropriated from
35 the Clean Money Fund to the commission for expenditure for the
36 purpose of providing public financing for the election campaigns
37 of certified participating candidates during primary and general
38 campaign periods.

1 (b) Funding for the administrative and enforcement costs of the
2 commission related to this act shall be subject to appropriation by
3 the Legislature.

4 91134. (a) *Notwithstanding Section 86102, and except as*
5 *described in subdivision (b), a nonrefundable fee of two hundred*
6 *dollars (\$200) per year shall be imposed on each lobbyist and*
7 *lobbying firm required to file a registration statement under Section*
8 *86100. Of the amount collected pursuant to this subdivision, an*
9 *amount not to exceed twenty-five dollars (\$25) shall be charged*
10 *for the purposes described in Section 86102. The remaining amount*
11 *collected shall be deposited in the Clean Money Fund established*
12 *pursuant to Section 91133.*

13 (b) *Subdivision (a) shall not apply to a tax-exempt organization*
14 *under Section 501(c)(3) of Title 26 of the United States Code and*
15 *that organization, if required to file a registration statement under*
16 *Section 86100, shall pay a nonrefundable fee of twenty-five dollars*
17 *(\$25) per year for the purposes described in Section 86102.*

18 91135. Other sources of revenue to be deposited in the Clean
19 Money Fund shall include all of the following:

20 (a) The qualifying contributions required of candidates seeking
21 to become certified as participating candidates and candidates'
22 excess qualifying contributions.

23 (b) The excess seed money contributions of candidates seeking
24 to become certified as participating candidates.

25 (c) Unspent funds distributed to any participating candidate who
26 does not remain a candidate until the primary or general election
27 for which they were distributed, or funds that remain unspent by
28 a participating candidate following the date of the primary or
29 general election for which they were distributed.

30 (d) Voluntary donations made directly to the Clean Money Fund.

31 (e) Other funds appropriated by the Legislature.

32 (f) Any interest generated by the Clean Money Fund.

33 (g) Any other sources of revenue from the General Fund or from
34 other sources as determined by the Legislature.

35 91136. ~~The amount of moneys in the Clean Money Fund shall~~
36 ~~not exceed four times the annual contribution specified in~~
37 ~~subdivision (a) of Section 91133. Any moneys that, if deposited~~
38 ~~in the Clean Money Fund, would cause the balance in that fund to~~
39 ~~exceed this limit shall be irrevocably transferred to the General~~
40 ~~Fund.~~

1 Article 11. Administration

2
3 91137. (a) Upon a determination that a candidate has met all
4 the requirements for becoming a participating candidate as provided
5 for in this act, the commission shall issue to the candidate a card,
6 known as the “Clean Money Debit Card,” and a “line of debit”
7 entitling the candidates and members of the candidate’s staff to
8 draw Clean Money funds from a commission account to pay for
9 all campaign costs and expenses up to the amount of Clean Money
10 funding the candidate has received.

11 (b) Neither a participating candidate nor any other person on
12 behalf of a participating candidate shall pay campaign costs by
13 cash, check, money order, loan, or by any other financial means
14 other than the Clean Money Debit Card.

15 (c) Cash amounts of one hundred dollars (\$100) or less per day
16 may be drawn on the Clean Money Debit Card and used to pay
17 expenses of no more than twenty-five dollars (\$25) each. Records
18 of all such expenditures shall be maintained and, upon request,
19 made available to the commission.

20 91139. If the commission determines that there are insufficient
21 funds in the program to fund adequately all candidates eligible for
22 Clean Money funds, the commission shall reduce the grants
23 proportionately to all eligible candidates. If the commission notifies
24 a candidate that the Clean Money funds will be reduced and the
25 candidate has not received any Clean Money funds, the candidate
26 may decide to be a nonparticipating candidate. If a candidate has
27 already received Clean Money funds or wishes to start receiving
28 such funds, a candidate who wishes to collect contributions may
29 do so in amounts up to the contribution limits provided for
30 nonparticipating candidates but shall not collect more than the
31 total of Clean Money funds that the candidate was entitled to
32 receive had there been sufficient funds in the program less the
33 amount of Clean Money funds that will be or have been provided.
34 If, at a later point, the commission determines that adequate funds
35 have become available, candidates, who have not raised private
36 funds, shall receive the funds owed to them.

37 Article 12. Enforcement
38
39

1 91141. (a) If a participating candidate spends or obligates to
2 spend more than the Clean Money funding the candidate is given,
3 and if it is determined by the commission, subject to court review,
4 not to be an amount that had or could have been expected to have
5 a significant impact on the outcome of the election, then the
6 candidate shall repay to the Clean Money Fund an amount equal
7 to the excess.

8 (b) If a participating candidate spends or obligates to spend
9 more than the Clean Money funding the candidate is given, and if
10 that excess amount is determined by the commission, subject to
11 court review, to be an amount that had or could have been expected
12 to have a significant impact on the outcome of the election, then
13 the candidate shall repay to the Clean Money Fund an amount up
14 to 10 times the value of the excess.

15 91143. It is unlawful for candidates to knowingly accept more
16 benefits than those to which they are entitled, spend more than the
17 amount of Clean Money funding they have received, or misuse
18 such benefits or Clean Money funding.

19 91145. Any person who knowingly or willfully violates any
20 provision of this chapter is guilty of a misdemeanor. Any person
21 who knowingly or willfully causes any other person to violate any
22 provision of this chapter, or who aids and abets any other person
23 in the violation of any provision of this chapter shall be liable
24 under this section.

25 91147. Prosecution for a violation of any provision of this
26 chapter shall be commenced within four years after the date on
27 which the violation occurred.

28 91149. No person convicted of a misdemeanor under this
29 chapter shall act as a lobbyist or state contractor, or run for elective
30 state office, for a period of five years following the date of
31 conviction unless the court at the time of sentencing specifically
32 determines that this provision shall not be applicable.

33 91157. This chapter shall remain in effect only until January
34 1, 2015, and as of that date is repealed, unless a later enacted
35 statute, that is enacted before January 1, 2015, deletes or extends
36 that date.

37 *SEC. 3. Article 8.6 (commencing with Section 18798) is added*
38 *to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation*
39 *Code, to read:*

1 Article 8.6. *Voters Clean and Fair Elections Fund*

2
3 18798. (a) *An individual may designate on the tax return that*
4 *a contribution in excess of the tax liability, if any, be made to the*
5 *Voters Clean and Fair Elections Fund, pursuant to Section*
6 *18798.1.*

7 (b) *Contributions shall be in full dollar amounts and may be*
8 *made individually by each signatory on a joint return.*

9 (c) *A designation under subdivision (a) shall be made for any*
10 *taxable year on the individual return for that taxable year and,*
11 *once made, shall be irrevocable. In the event that payments and*
12 *credits reported on the return, together with any other credits*
13 *associated with the individual's account, do not exceed the*
14 *individual's liability, the return shall be treated as if no designation*
15 *were made.*

16 (d) *The Franchise Tax Board shall revise the forms of the return*
17 *to include a space labeled "Voters Clean and Fair Elections Fund"*
18 *to allow for the designation permitted under subdivision (a). The*
19 *forms shall also include instructions that the contribution may be*
20 *in the amount of one dollar (\$1) or more and that the contribution*
21 *will be used to provide public funding for the campaigns of*
22 *qualified candidates for Secretary of State who agree to take no*
23 *private moneys for their campaigns.*

24 (e) *Notwithstanding any other provision of law, a voluntary*
25 *contribution designation for the Voters Clean and Fair Elections*
26 *Fund shall not be added to the tax return until another voluntary*
27 *contribution is removed.*

28 (f) *A deduction shall be allowed under Article 6 (commencing*
29 *with Section 17201) of Chapter 3 of Part 10 for any contribution*
30 *made pursuant to subdivision (a).*

31 18798.1. *There is hereby established in the State Treasury the*
32 *Voters Clean and Fair Elections Fund to receive contributions*
33 *made pursuant to Section 18798. The Franchise Tax Board shall*
34 *notify the Controller of both the amount of moneys paid by*
35 *taxpayers in excess of their tax liability and the amount of refund*
36 *moneys which taxpayers have designated pursuant to Section*
37 *18798 to be transferred to the Voters Clean and Fair Elections*
38 *Fund. The Controller shall transfer from the Personal Income Tax*
39 *Fund to the Voters Clean and Fair Elections Fund an amount not*

1 *in excess of the sum of the amounts designated by individuals*
2 *pursuant to Section 18798 for payment into that fund.*

3 *18798.2. All moneys transferred to the Voters Clean and Fair*
4 *Elections Fund, upon appropriation by the Legislature, shall be*
5 *allocated as follows:*

6 *(a) To the Franchise Tax Board and the Controller for*
7 *reimbursement of all costs incurred by the Franchise Tax Board*
8 *and the Controller in connection with their duties under this article.*

9 *(b) To the Clean Money Fund established pursuant to Section*
10 *91133 of the Government Code.*

11 *18798.3. (a) Except as otherwise provided in subdivision (b),*
12 *this article shall remain in effect only until January 1 of the fifth*
13 *taxable year following the first appearance of the Voters Clean*
14 *and Fair Elections Fund on the personal income tax return, and*
15 *as of that date is repealed, unless a later enacted statute that is*
16 *enacted before the applicable date deletes or extends that date.*

17 *(b) (1) By September 1 of the second calendar year, and by*
18 *September 1 of each subsequent calendar year that the Voters*
19 *Clean and Fair Elections Fund appears on a tax return, the*
20 *Franchise Tax Board shall do all of the following:*

21 *(A) Determine the minimum contribution amount required to*
22 *be received during the next calendar year for the fund to appear*
23 *on the tax return for the taxable year that includes that next*
24 *calendar year.*

25 *(B) Provide written notification to the Fair Political Practices*
26 *Commission of the amount determined in subparagraph (A).*

27 *(C) Determine whether the amount of contributions estimated*
28 *to be received during the calendar year will equal or exceed the*
29 *minimum contribution amount determined by the Franchise Tax*
30 *Board for the calendar year pursuant to subparagraph (A). The*
31 *Franchise Tax Board shall estimate the amount of contributions*
32 *to be received by using the actual amounts received and an*
33 *estimate of the contributions that will be received by the end of*
34 *that calendar year.*

35 *(2) If the Franchise Tax Board determines that the amount of*
36 *contributions estimated to be received during a calendar year will*
37 *not at least equal the minimum contribution amount for the*
38 *calendar year, this article is repealed with respect to taxable years*
39 *beginning on or after January 1 of that calendar year.*

1 (3) For purposes of this section, the minimum contribution
 2 amount for a calendar year means two hundred fifty thousand
 3 dollars (\$250,000) for the second calendar year after the first
 4 appearance of the Voters Clean and Fair Elections Fund on the
 5 personal income tax return or the adjusted minimum contribution
 6 amount adjusted pursuant to subdivision (c).

7 (c) For each calendar year, beginning with the third calendar
 8 year after the first appearance of the Voters Clean and Fair
 9 Elections Fund on the personal income tax return, the Franchise
 10 Tax Board shall adjust, on or before September 1, the minimum
 11 contribution amount specified in subdivision (b) as follows:

12 (1) The minimum estimated contribution amount for the calendar
 13 year shall be an amount equal to the product of the minimum
 14 estimated contribution amount for the calendar year multiplied
 15 by the inflation factor adjustment as specified in subparagraph
 16 (A) of paragraph (2) of subdivision (h) of Section 17041, rounded
 17 off to the nearest dollar.

18 (2) The inflation factor adjustment used for the calendar year
 19 shall be based on the figures for the percentage change in the
 20 California Consumer Price Index received on or before August 1
 21 of the calendar year pursuant to paragraph (1) of subdivision (h)
 22 of Section 17041.

23 (d) Notwithstanding the repeal of this article, any contribution
 24 amounts designated pursuant to this article prior to its repeal shall
 25 continue to be transferred and disbursed in accordance with this
 26 article as in effect immediately prior to that repeal.

27 ~~SEC. 3.~~

28 SEC. 4. The provisions of Section 81012 of the Government
 29 Code, which allow legislative amendments to the Political Reform
 30 Act of 1974, shall apply to all of the provisions of this act that are
 31 placed on the June 8, 2010, ballot.

32 ~~SEC. 4.~~

33 SEC. 5. The Secretary of State shall, pursuant to subdivision
 34 (b) of Section 81012 of the Government Code, submit Sections 1,
 35 2, 3, ~~and 4~~, and 6 of this act for approval by the voters at the
 36 June 8, 2010, statewide primary election, notwithstanding Section
 37 9040 of the Elections Code.

38 ~~SEC. 5.~~

39 SEC. 6. The section of this act that adds Chapter 12
 40 (commencing with Section 91015) to Title 9 of the Government

1 Code shall be deemed to amend the Political Reform Act of 1974
2 as amended and all of the provisions of the Political Reform Act
3 of 1974 as amended that do not conflict with Chapter 12 shall
4 apply to the provisions of that chapter.

5 ~~SEC. 6.~~

6 *SEC. 7.* The provisions of this act are severable. If any
7 provision of this act or its application is held invalid, that invalidity
8 shall not affect other provisions or applications that can be given
9 effect without the invalid provision or application.

O