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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, Perata, and
Yee)

February 21, 2007

An act to add Chapter 7 (commencing with Section 20600) to Division 20 of the Elections Code, to add and repeal Chapter 12 (commencing with Section 91015) of Title 9 of, and to repeal Sections 85300 and 86102 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 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 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 Fair Elections Fund and, commencing January 1, 2011, would transfer funds from the Fair Elections Fund to the Fair Political Practices Commission for the purpose of the public financing provisions of the act. The bill would also establish nonrefundable fees to be imposed on lobbyists, lobbying firms, and lobbyist employers. The fees collected are to be deposited, in part, in the Fair Elections Fund. The bill would make funding for the administrative and enforcement costs of the act available from the Fair Elections Fund. The bill would require that the available funds, for each 4-year election cycle, would be no more than 10% of the total amount deposited in the Fair Elections Fund during the 4-year election cycle. The bill would repeal specified provisions on January 1, 2019.

(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 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.

(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. Chapter 7 (commencing with Section 20600) is
2 added to Division 20 of the Elections Code, to read:

3

4

CHAPTER 7. FAIR ELECTIONS FUND

5

6

20600. (a) Each lobbying firm, as defined by Section 82038.5
7 of the Government Code, each lobbyist, as defined by Section
8 82039 of the Government Code, and each lobbyist employer, as
9 defined by Section 82039.5 of the Government Code, shall pay
10 the Secretary of State a nonrefundable fee of seven hundred dollars
11 (\$700) every two years. Twenty-five dollars (\$25) of each fee *from*
12 *each lobbyist* shall be deposited in the General Fund and used,
13 when appropriated, for the purposes of Article 1 (commencing
14 with Section 86100) of Chapter 6 of Title 9 of the Government
15 Code. The remaining amount of each fee shall be deposited in the
16 Fair Elections Fund established pursuant to Section 91133 of the
17 Government Code. The fees in this section may be paid in
18 even-numbered years when registrations are renewed pursuant to
19 Section 86106 of the Government Code.

20 (b) The Secretary of State shall biennially adjust the amount of
21 the fees collected pursuant to this section to reflect any increase
22 or decrease in the Consumer Price Index.

23 SEC. 2. Section 85300 of the Government Code is repealed.

24 SEC. 3. Section 86102 of the Government Code is repealed.

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

1 CHAPTER 12. CALIFORNIA FAIR ELECTIONS ACT OF 2008

2
3 Article 1. General
4

5 91015. This chapter shall be known and may be cited as the
6 California Fair Elections Act of 2008.

7 91017. The people find and declare all of the following:

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

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

15 (c) The current campaign finance system fuels the public
16 perception of corruption at worst and conflict of interest at best
17 and undermines public confidence in the democratic process and
18 democratic institutions.

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

21 (e) The current campaign finance system undermines the First
22 Amendment right of voters and candidates to be heard in the
23 political process, undermines the First Amendment right of voters
24 to hear all candidates' speech, and undermines the core First
25 Amendment value of open and robust debate in the political
26 process.

27 (f) Citizens want to ensure the integrity of California's system
28 of electronically reporting lobbyist contributions and the integrity
29 of future Secretaries of State to administer lobbyist disclosure
30 programs. Voters would like the opportunity to elect a Secretary
31 of State who has not accepted any contributions from entities or
32 individuals that employ lobbyists.

33 (f)

34 (g) In states where the ~~clean money and clean election~~ *fair*
35 *elections full public financing* laws have been enacted and used,
36 election results show that more individuals, especially women and
37 minorities, run as candidates and ~~overall campaign costs decrease~~
38 *growth in overall campaign costs diminish.*

1 91019. The people enact this chapter to establish a Fair
2 Elections pilot program in campaigns for the office of Secretary
3 of State to accomplish the following purposes:

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

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

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

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

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

16 ~~(g)~~

17 (f) To reduce the perception of influence of lobbyist employers
18 upon future Secretaries of State and their administration of the
19 lobbyist disclosure program.

20 ~~(h)~~

21 (g) To protect the public's fiscal interest by providing sufficient
22 resources to make the public financing program a viable option
23 for qualified candidates, while not wasting resources by providing
24 candidates with an unnecessarily large initial grant of public funds.

25 91021. The people enact this chapter to further accomplish the
26 following purposes:

27 (a) To foster more equal and meaningful participation in the
28 political process.

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

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

33 (d) To provide voters with timely information regarding the
34 sources of campaign contributions, expenditures, and political
35 advertising.

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

2
3 91023. Unless specifically superseded by this act, the
4 definitions and provisions of the Political Reform Act of 1974
5 shall govern the interpretation of this chapter.

6
7 Article 3. Definitions

8
9 91024. “Address” means the mailing address as provided on
10 the voter registration form.

11 91025. For purposes of this chapter, “candidate” means, unless
12 otherwise stated, a candidate for Secretary of State.

13 91027. A “coordinated expenditure” means a payment made
14 for the purpose of influencing the outcome of an election for
15 Secretary of State that is made by any of the following methods:

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

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

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

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

35 (e) By a person if the person making the payment has served in
36 any formal policy or advisory position with the candidate’s
37 campaign or has participated in strategic or policymaking
38 discussions with the candidate’s campaign relating to the
39 candidate’s pursuit of nomination for election, or election, to the

1 office of Secretary of State in the same primary and general election
2 as the primary and general election in which the payment is made.

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

9 91028. “Effective expenditures” for a nonparticipating
10 candidate means the amount spent plus any independent
11 electioneering expenditures intended to help elect the candidate
12 minus any expenditure treated as an independent electioneering
13 expenditure intended to defeat the candidate. For a participating
14 candidate, it means the amount of Fair Elections funding the
15 candidate has received plus any independent electioneering
16 expenditures intended to help elect the candidate minus any
17 expenditure treated as an independent electioneering expenditure
18 intended to defeat the candidate.

19 91029. “Entity” means any person other than an individual.

20 91031. “Excess expenditure amount” means the amount of
21 funds spent or obligated to be spent by a nonparticipating candidate
22 in excess of the Fair Elections funding amount available to a
23 participating candidate running for the same office.

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

28 91035. “General election campaign period” means the period
29 beginning the day after the primary election and ending on the day
30 of the general election.

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

35 91039. “Independent electioneering expenditure” means any
36 expenditure of two thousand five hundred dollars (\$2,500) or more
37 made by a person, party committee, political committee or political
38 action committee, or any entity required to file reports pursuant
39 to Section 84605, during the 45 calendar days before a primary or
40 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 Fair Elections
5 campaign funding or a candidate who is on the ballot and has
6 applied but has not satisfied the requirements for receiving Fair
7 Elections 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 Fair Elections campaign funding. These candidates
15 are eligible to receive Fair Elections 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 Fair Elections 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 Fair Elections
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 Fair Elections 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. Fair Elections Eligibility
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, Fair Elections
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 Fair
38 Elections 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 Fair Elections 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 Fair
28 Elections 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, Fair Elections 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 Fair Elections 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 "Fair Elections 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 Fair
37 Elections funds only for direct campaign purposes.

38 (b) A participating candidate shall not use Fair Elections 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 Fair Elections 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 Fair Elections 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 Fair Elections Fund.

5 (e) Within 72 hours after the close of the qualifying period,
6 candidates seeking to become eligible for Fair Elections 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 Fair Elections
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 Fair Elections 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 Fair Elections funds
24 shall 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. Fair Elections Benefits

32

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

35 (1) Receive Fair Elections 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.

1 (2) Receive, if a performance-qualified candidate, additional
2 Fair Elections funding to match the effective expenditures of any
3 candidates in the election that exceed the effective expenditures
4 of the performance-qualified candidate.

5 (b) The maximum aggregate amount of funding a participating
6 performance-qualified candidate shall receive to match independent
7 electioneering expenditures and excess expenditures of
8 nonparticipating candidates shall not exceed four times the base
9 funding amount pursuant to Section 91099 for a particular primary
10 or general election campaign period.

11 91095.5. (a) An expenditure by a candidate in a primary
12 election against a candidate running for that office in another
13 party's primary shall be treated as an independent electioneering
14 expenditure against that candidate when that candidate's effective
15 expenditures are less than those of the candidate making the
16 expenditure for the purposes of Section 91095.

17 (b) The commission shall promulgate regulations allocating the
18 share of expenditures that reference or depict more than one
19 candidate for the purposes of Section 91095.

20 (c) Expenditures made before the general election period that
21 consist of a contract, promise, or agreement to make an expenditure
22 during the general election period resulting in an extension of
23 credit shall be treated as though made at the beginning of the
24 general election period.

25 91097. (a) An eligible qualified or performance-qualified
26 candidate running in a primary election shall receive the candidate's
27 Fair Elections funding for the primary election campaign period
28 on the date on which the county registrar of voters certifies the
29 candidate as a participating candidate or at the beginning of the
30 primary election period, whichever is later.

31 (b) An eligible qualified or performance-qualified candidate
32 shall receive the candidate's Fair Elections funding for the general
33 election campaign period within two business days after
34 certification of the primary election results.

35 91099. (a) For eligible candidates in a primary election:

36 (1) The base amount of Fair Elections funding for an eligible
37 office-qualified candidate in a primary election is one million
38 dollars (\$1,000,000).

1 (2) The amount of Fair Elections funding for an eligible qualified
 2 candidate in a primary election is 20 percent of the base amount
 3 that an office-qualified candidate would receive.

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

5 (1) The base amount of Fair Elections funding for a
 6 performance-qualified candidate in a general, special, or special
 7 runoff election is one million three hundred thousand dollars
 8 (\$1,300,000).

9 (2) The amount of Fair Elections funding for an eligible qualified
 10 candidate in a contested general election is 25 percent of the base
 11 amount a performance-qualified candidate would receive.

12

13 Article 6. Disclosure Requirements

14

15 91107. (a) If a nonparticipating candidate’s total expenditures
 16 or promises to make campaign expenditures exceed the amount
 17 of Fair Elections funding allocated to the candidate’s Fair Elections
 18 opponent or opponents, the candidate shall declare every excess
 19 expenditure amount which, in the aggregate, is more than five
 20 thousand dollars (\$5,000) to the commission online or
 21 electronically within 24 hours of the time the expenditure or
 22 promise is made, whichever occurs first.

23 (b) The commission may make its own determination as to
 24 whether excess expenditures have been made by nonparticipating
 25 candidates.

26 (c) Upon receiving an excess expenditure declaration or
 27 determining that an excess expenditure has been made, the
 28 commission shall immediately release additional Fair Elections
 29 funding to the opposing performance-qualified candidates pursuant
 30 to Section 91095.

31 91111. (a) In addition to any other report required by this
 32 chapter, a committee, including a political party committee, that
 33 is required to file reports pursuant to Section 84605 and that makes
 34 independent electioneering expenditures of two thousand five
 35 hundred dollars (\$2,500) or more during a calendar year in
 36 connection with a candidate for Secretary of State, shall file online
 37 or electronically a report with the Secretary of State disclosing the
 38 making of the independent electioneering expenditure. This report
 39 shall disclose the same information required by subdivision (b) of

1 Section 84204 and shall be filed within 24 hours of the time the
2 independent electioneering expenditure is made.

3 (b) The report to the Secretary of State shall include a signed
4 statement under penalty of perjury by the person or persons making
5 the independent electioneering expenditure identifying the
6 candidate or candidates whom the independent electioneering
7 expenditure is intended to help elect or defeat and affirming that
8 the expenditure is independent and whether it is coordinated with
9 a candidate or a political party.

10 (c) Any individual or organization that fails to file the required
11 report to the Secretary of State or provides materially false
12 information in a report filed pursuant to subdivision (a) or (b) may
13 be fined up to three times the amount of the independent
14 electioneering expenditure, in addition to any other remedies
15 provided by this act.

16 (d) The Secretary of State shall provide information received
17 pursuant to subdivision (a) to the commission simultaneously upon
18 receipt. Upon receiving a report that an independent electioneering
19 expenditure has been made or obligated to be made, the
20 commission shall immediately release additional Fair Elections
21 funding pursuant to Section 91095.

22 91113. All broadcast and print advertisements placed by
23 candidates or their committees shall include a clear written or
24 spoken statement indicating that the candidate has approved of the
25 contents of the advertisement.

26

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

28

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

39 (b) A Secretary of State may establish a separate account for
40 expenses associated with holding office that are reasonably related

1 to a legislative or governmental purpose as specified in this
2 subdivision and in regulations of the commission. The total amount
3 of funds that may be deposited in a calendar year into an account
4 established pursuant to this subdivision shall not exceed fifty
5 thousand dollars (\$50,000).

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

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

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

23

24 Article 8. Restrictions on Candidates

25

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

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

1 Article 9. Ballot Pamphlet Statements

2
3 91127. The Secretary of State shall designate in the state ballot
4 pamphlet and on any Internet Web site listing of candidates
5 maintained by any government agency including, but not limited,
6 to the Secretary of State those candidates who have voluntarily
7 agreed to be participating candidates.

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

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

31
32 Article 10. Appropriations for the Fair Elections Fund

33
34 91133. (a) A special, dedicated, nonlapsing Fair Elections
35 Fund is created in the State Treasury. Commencing January 1,
36 2011, the funds collected pursuant to Section 20600 of the
37 Elections Code shall, when appropriated by the Legislature, be
38 available from the Fair Elections Fund to the commission for
39 expenditure for the purpose of providing public financing for the

1 election campaigns of certified participating candidates during
2 primary and general campaign periods.

3 (b) Funding for the administrative and enforcement costs of the
4 commission related to this act shall be from the Fair Elections
5 Fund and shall be, for each four-year election cycle, no more than
6 10 percent of the total amount deposited in the Fair Elections Fund
7 during the four-year election cycle.

8 91135. Other sources of revenue to be deposited in the Fair
9 Elections Fund shall include all of the following:

10 (a) The qualifying contributions required of candidates seeking
11 to become certified as participating candidates and candidates'
12 excess qualifying contributions.

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

15 (c) Unspent funds distributed to any participating candidate who
16 does not remain a candidate until the primary or general election
17 for which they were distributed, or funds that remain unspent by
18 a participating candidate following the date of the primary or
19 general election for which they were distributed.

20 (d) Voluntary donations made directly to the Fair Elections
21 Fund.

22 (e) Other funds appropriated by the Legislature.

23 (f) Any interest generated by the Fair Elections Fund.

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

26

27

Article 11. Administration

28

29 91137. (a) Upon a determination that a candidate has met all
30 the requirements for becoming a participating candidate as provided
31 for in this act, the commission shall issue to the candidate a card,
32 known as the "Fair Elections Debit Card," and a "line of debit"
33 entitling the candidates and members of the candidate's staff to
34 draw Fair Elections funds from a commission account to pay for
35 all campaign costs and expenses up to the amount of Fair Elections
36 funding the candidate has received.

37 (b) Neither a participating candidate nor any other person on
38 behalf of a participating candidate shall pay campaign costs by
39 cash, check, money order, loan, or by any other financial means
40 other than the Fair Elections Debit Card.

1 (c) Cash amounts of one hundred dollars (\$100) or less per day
2 may be drawn on the Fair Elections Debit Card and used to pay
3 expenses of no more than twenty-five dollars (\$25) each. Records
4 of all such expenditures shall be maintained and, upon request,
5 made available to the commission.

6 91139. If the commission determines that there are insufficient
7 funds in the program to fund adequately all candidates eligible for
8 Fair Elections funds, the commission shall reduce the grants
9 proportionately to all eligible candidates. If the commission notifies
10 a candidate that the Fair Elections funds will be reduced and the
11 candidate has not received any Fair Elections funds, the candidate
12 may decide to be a nonparticipating candidate. If a candidate has
13 already received Fair Elections funds or wishes to start receiving
14 such funds, a candidate who wishes to collect contributions may
15 do so in amounts up to the contribution limits provided for
16 nonparticipating candidates but shall not collect more than the
17 total of Fair Elections funds that the candidate was entitled to
18 receive had there been sufficient funds in the program less the
19 amount of Fair Elections funds that will be or have been provided.
20 If, at a later point, the commission determines that adequate funds
21 have become available, candidates, who have not raised private
22 funds, shall receive the funds owed to them.

23 91140. The commission shall adjust the seed money limitations
24 in subdivision (a) of Section 91085 and in subdivision (b) of
25 Section 91087 and the Fair Elections Fund funding amounts in
26 Section 91099 in January after the election of the Secretary of
27 State to reflect any increase or decrease in the Consumer Price
28 Index and the increase or decrease in the number of registered
29 voters in California. The adjustments made pursuant to this section
30 shall be rounded to the nearest ten dollars (\$10) for the seed money
31 limitations and one thousand dollars (\$1,000) for the Fair Elections
32 funding amounts.

33
34 Article 12. Enforcement
35

36 91141. (a) If a participating candidate spends or obligates to
37 spend more than the Fair Elections funding the candidate is given,
38 and if it is determined by the commission, subject to court review,
39 not to be an amount that had or could have been expected to have
40 a significant impact on the outcome of the election, then the

1 candidate shall repay to the Fair Elections Fund an amount equal
 2 to the excess.

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

10 91143. It is unlawful for candidates to knowingly accept more
 11 benefits than those to which they are entitled, spend more than the
 12 amount of Fair Elections funding they have received, or misuse
 13 such benefits or Fair Elections funding.

14 91145. Any person who knowingly or willfully violates any
 15 provision of this chapter is guilty of a misdemeanor. Any person
 16 who knowingly or willfully causes any other person to violate any
 17 provision of this chapter, or who aids and abets any other person
 18 in the violation of any provision of this chapter shall be liable
 19 under this section.

20 91147. Prosecution for a violation of any provision of this
 21 chapter shall be commenced within four years after the date on
 22 which the violation occurred.

23 91149. No person convicted of a misdemeanor under this
 24 chapter shall act as a lobbyist or state contractor, or run for elective
 25 state office, for a period of five years following the date of
 26 conviction unless the court at the time of sentencing specifically
 27 determines that this provision shall not be applicable.

28 91157. This chapter shall remain in effect only until January
 29 1, 2019, and as of that date is repealed, unless a later enacted
 30 statute, that is enacted before January 1, 2019, deletes or extends
 31 that date.

32 SEC. 5. Article 8.6 (commencing with Section 18798) is added
 33 to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation
 34 Code, to read:

35
 36 Article 8.6. Voters Fair Elections Fund
 37

38 18798. (a) An individual may designate on the tax return that
 39 a contribution in excess of the tax liability, if any, be made to the
 40 Voters Fair Elections Fund, pursuant to Section 18798.1.

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

3 (c) A designation under subdivision (a) shall be made for any
4 taxable year on the individual return for that taxable year and, once
5 made, shall be irrevocable. In the event that payments and credits
6 reported on the return, together with any other credits associated
7 with the individual's account, do not exceed the individual's
8 liability, the return shall be treated as if no designation were made.

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

17 (e) Notwithstanding any other provision of law, a voluntary
18 contribution designation for the Voters Fair Elections Fund shall
19 not be added to the tax return until another voluntary contribution
20 is removed.

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

24 18798.1. There is hereby established in the State Treasury the
25 Voters Fair Elections Fund to receive contributions made pursuant
26 to Section 18798. The Franchise Tax Board shall notify the
27 Controller of both the amount of moneys paid by taxpayers in
28 excess of their tax liability and the amount of refund moneys which
29 taxpayers have designated pursuant to Section 18798 to be
30 transferred to the Voters Fair Elections Fund. The Controller shall
31 transfer from the Personal Income Tax Fund to the Voters Fair
32 Elections Fund an amount not in excess of the sum of the amounts
33 designated by individuals pursuant to Section 18798 for payment
34 into that fund.

35 18798.2. All moneys transferred to the Voters Fair Elections
36 Fund, upon appropriation by the Legislature, shall be allocated as
37 follows:

38 (a) To the Franchise Tax Board and the Controller for
39 reimbursement of all costs incurred by the Franchise Tax Board
40 and the Controller in connection with their duties under this article.

1 (b) To the Fair Elections Fund established pursuant to Section
2 91133 of the Government Code.

3 18798.3. (a) Except as otherwise provided in subdivision (b),
4 this article shall remain in effect only until January 1 of the fifth
5 taxable year following the first appearance of the Voters Fair
6 Elections Fund on the personal income tax return, and as of that
7 date is repealed, unless a later enacted statute that is enacted before
8 the applicable date deletes or extends that date.

9 (b) (1) By September 1 of the second calendar year, and by
10 September 1 of each subsequent calendar year that the Voters Fair
11 Elections Fund appears on a tax return, the Franchise Tax Board
12 shall do all of the following:

13 (A) Determine the minimum contribution amount required to
14 be received during the next calendar year for the fund to appear
15 on the tax return for the taxable year that includes that next calendar
16 year.

17 (B) Provide written notification to the Fair Political Practices
18 Commission of the amount determined in subparagraph (A).

19 (C) Determine whether the amount of contributions estimated
20 to be received during the calendar year will equal or exceed the
21 minimum contribution amount determined by the Franchise Tax
22 Board for the calendar year pursuant to subparagraph (A). The
23 Franchise Tax Board shall estimate the amount of contributions
24 to be received by using the actual amounts received and an estimate
25 of the contributions that will be received by the end of that calendar
26 year.

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

32 (3) For purposes of this section, the minimum contribution
33 amount for a calendar year means two hundred fifty thousand
34 dollars (\$250,000) for the second calendar year after the first
35 appearance of the Voters Fair Elections Fund on the personal
36 income tax return or the adjusted minimum contribution amount
37 adjusted pursuant to subdivision (c).

38 (c) For each calendar year, beginning with the third calendar
39 year after the first appearance of the Voters Fair Elections Fund
40 on the personal income tax return, the Franchise Tax Board shall

1 adjust, on or before September 1, the minimum contribution
2 amount specified in subdivision (b) as follows:

3 (1) The minimum estimated contribution amount for the calendar
4 year shall be an amount equal to the product of the minimum
5 estimated contribution amount for the calendar year multiplied by
6 the inflation factor adjustment as specified in subparagraph (A) of
7 paragraph (2) of subdivision (h) of Section 17041, rounded off to
8 the nearest dollar.

9 (2) The inflation factor adjustment used for the calendar year
10 shall be based on the figures for the percentage change in the
11 California Consumer Price Index received on or before August 1
12 of the calendar year pursuant to paragraph (1) of subdivision (h)
13 of Section 17041.

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

18 SEC. 6. The provisions of Section 81012 of the Government
19 Code, which allow legislative amendments to the Political Reform
20 Act of 1974, shall apply to all of the provisions of this act that are
21 placed on the June 8, 2010, ballot, except that Section 91157 of
22 the Government Code, and Article 8.6 (commencing with Section
23 18798) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and
24 Taxation Code, may be amended or repealed by a statute passed
25 in each house of the Legislature, a majority of the membership
26 concurring, and signed by the Governor.

27 SEC. 7. (a) The Secretary of State shall, pursuant to
28 subdivision (b) of Section 81012 of the Government Code, submit
29 Sections 1, 2, 3, 4, 5, 6, and 8 of this act for approval by the voters
30 at the June 8, 2010, statewide primary election, notwithstanding
31 Section 9040 of the Elections Code.

32 (b) (1) Notwithstanding any other provision of law, all ballots
33 of the June 8, 2010, primary election shall have printed thereon
34 as the ballot label the following: "CALIFORNIA FAIR
35 ELECTIONS ACT. Creates a voluntary system for candidates for
36 Secretary of State to qualify for a public campaign grant if they
37 agree to strict spending limits and no private contributions. Each
38 candidate demonstrating enough public support would receive the
39 same amount. Participating candidates would be prohibited from
40 raising or spending money beyond the grant. There would be strict

1 enforcement and accountability. Funded by voluntary contributions
2 and by an annual fee on lobbyists, lobbying firms, and lobbyist
3 employers.” At the appropriate location on the ballot, in the manner
4 prescribed by law, there shall be provided the opportunity for
5 voters to indicate whether they vote for or against the measure.

6 (2) Notwithstanding Sections 13247 and 13281 of the Elections
7 Code, the language in paragraph (1) shall be the only language
8 included in the ballot label for the condensed statement of the
9 ballot title, and the Attorney General shall not supplement, subtract
10 from, or revise that language, except that the Attorney General
11 shall include the financial impact summary prepared pursuant to
12 Section 9087 of the Elections Code and Section 88003 of the
13 Government Code. The ballot label is the condensed statement of
14 the ballot title and summary and the financial impact summary.

15 (c) Where the voting in the election is done by means of voting
16 machines used pursuant to law in the manner that carries out the
17 intent of this section, the use of the voting machines and the
18 expression of the voters’ choice by means thereof are in compliance
19 with this section.

20 (d) (1) Notwithstanding any other provision of law, the
21 Secretary of State shall use the following as the ballot title and
22 summary for the act: “CALIFORNIA FAIR ELECTIONS ACT.
23 This act creates a voluntary system for candidates for Secretary
24 of State to qualify for a public campaign grant if they agree to
25 strict spending limits and take no private contributions. Candidates
26 would have to qualify before receiving the grant. Candidates who
27 demonstrate sufficient public support would receive the same
28 amount. Participating candidates would be prohibited from raising
29 or spending money beyond the grant. There would be strict
30 enforcement and accountability with published reports open to the
31 public. Funded by voluntary contributions and by a \$350 annual
32 registration fee on lobbyists, lobbying firms, and lobbyist
33 employers.”

34 (2) Notwithstanding any other provision of law, the language
35 in paragraph (1) shall be the only language included in the ballot
36 title and summary, and the Attorney General shall not supplement,
37 subtract from, or otherwise revise that language, except that the
38 Attorney General shall include the financial impact summary
39 prepared pursuant to Section 9087 of the Elections Code and
40 Section 88003 of the Government Code.

1 (e) The Secretary of State shall include, in the ballot pamphlets
2 mailed pursuant to Section 9094 of the Elections Code, the
3 information specified in Section 9084 of the Elections Code
4 regarding the act described in subdivision (a).

5 SEC. 8. The section of this act that adds Chapter 12
6 (commencing with Section 91015) to Title 9 of the Government
7 Code shall be deemed to amend the Political Reform Act of 1974
8 as amended and all of the provisions of the Political Reform Act
9 of 1974 as amended that do not conflict with Chapter 12 shall
10 apply to the provisions of that chapter.

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

O