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October 31, 2003

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Tricia Knight
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative measure entitled the "California Clean Money/Clean Elections Act of 2004" (File No. SA2003RF0044).

BACKGROUND

Under current law, individuals, "small contributor committees," and political parties can make political contributions to candidates for state office—subject to a variety of dollar amounts and other limitations. No public funds are given to candidates for use during their election campaigns. Candidates agreeing to abide by voluntary spending limits are entitled to receive free space in ballot materials for a campaign statement.

MEASURE'S MAJOR PROVISIONS

This statutory measure would result in significant changes to the financing of election campaigns by (1) establishing public financing for candidates meeting certain conditions, (2) reducing existing contribution limitations, and (3) making other changes to election procedures. The measure's provisions generally apply to primary and general elections for statewide Constitutional officers and members of the Legislature and Board of Equalization (BOE).

Public Financing of Campaigns

Dollars Available for Campaigns. The measure establishes a system for candidates to receive public funds to pay for the costs of campaigning for state offices. As shown in Figure 1, the amount of funding would vary based on (1) the office sought and (2) whether it was a primary or general election. For instance, for a primary election, a candidate running for the Assembly could receive $100,000 and a candidate for

Governor could receive $6 million. For a general election, a candidate running for the Assembly could receive an additional $150,000 and a candidate for Governor could receive an additional $10 million. The Fair Political Practices Commission (FPPC) would administer the funds and be required to make disbursements using a debit card system.

Figure 1

Measure's Public Financing Provisions For Major Party Candidates

Office	Public Financing Available		Required $5 Qualifying Contributions	Maximum Total Seed Money Contributions
	Primary	General		
Assembly	$100,000	$150,000	1,000	$10,000
Senate	200,000	300,000	2,000	20,000
Board of Equalization	250,000	500,000	3,000	30,000
Most statewide officials	1,000,000	2,000,000	15,000	150,000
Attorney General	1,500,000	3,000,000	15,000	150,000
Governor	6,000,000	10,000,000	30,000	300,000

Requirements for Eligibility. In order to receive public funding for a campaign, a candidate would be required to meet requirements set forth by the measure. Prior to a primary, a candidate would be required to collect a number of $5 donations ("qualifying contributions") from registered voters. As shown in Figure 1, the required number of donations would range from 1,000 to 30,000 depending on the office sought. The measure requires that these donations be paid to the state. In addition, candidates would be required to agree to participate in public debates.

Private Contributions. Beginning up to 18 months prior to a primary election (12 months for campaigns for the Legislature), the measure would allow candidates to collect and spend "seed money." The measure restricts contributions towards this end to $250 and total contributions to between $10,000 and $300,000 depending on the office (see Figure 1). These funds could only be spent until one month before a primary election.

Possibility for Supplemental Funding. In cases where a candidate's opponent chose not to participate in the public financing system, the measure establishes circumstances in which a participating candidate could receive supplemental allocations (to a maximum of three times their base allocation).

Minor Party and Independent Candidates. The amounts shown in Figure 1 are for candidates representing parties whose gubernatorial nominee in the last election received at least 20 percent of the vote. The measure also establishes lower amounts for independent candidates and candidates from parties receiving at least 5 percent of the vote in the last gubernatorial election. These independent and minor party candidates could also raise private funds under specified conditions to supplement the public funds.

Funding for Campaign Financing. In order to pay for the public financing of campaigns, the measure creates a new tax on the extraction of oil from California soil and water. The measure requires the BOE to administer this oil severance tax and set the rate annually at a level sufficient to raise $5 for each resident of the state. The tax would be effective January 1, 2005 and sunset December 31, 2010. The tax would be authorized to be amended or extended by the Legislature or another voter-approved measure. In addition, the measure authorizes a number of smaller sources of revenues, including the collection of candidates' qualifying contributions and fines on candidates violating election laws. (Under current law, fines for violating election laws are deposited into the state's General Fund.) The measure appropriates $3 million of the new funds annually to the FPPC to pay for the administration of the measure.

Insufficient Funds. If insufficient dollars are available to fully fund the measure's provisions, the measure authorizes the FPPC to proportionately reduce the amount of funds available to each candidate.

Other Major Provisions

Campaign Contribution Limits. For those candidates who choose not to participate in the public financing of campaigns, the measure imposes new limitations for campaign contributions. The measure's limitations generally are much more restrictive than current law. For instance, under current law, individuals can contribute $3,200 per election to a candidate for the Legislature, $5,300 to a candidate for most statewide offices, and $21,200 to a candidate for Governor. This measure would restrict contributions to $1,000 for legislative candidates and $2,000 for statewide offices (including Governor).

Changes to Election Procedures. The measure makes a number of additional changes to election procedures. For instance, the measure prohibits any candidate (whether receiving public financing or not) from collecting campaign contributions earlier than 18 months (12 months for legislative offices) prior to a primary election. The measure also deletes existing provisions related to voluntary spending limits. In addition, the measure provides free space in ballot materials for candidates receiving public financing. Candidates not participating in public campaign financing could choose to pay for equivalent space.

FISCAL EFFECT

New Tax Revenues. Under the measure, the state would impose a new oil severance tax for six calendar years beginning in 2005. The state will have roughly 36 million residents in that first year. As a result, at the required rate to raise $5 per resident, the new tax would generate about $180 million in its first year. As the population increased in future years, these revenues would grow modestly as well.

Other Sources of Revenues. The measure also authorizes the collection of smaller revenue sources—such as the collection of candidates' qualifying contributions, fines on candidates violating election laws, and payments by some candidates to include statements in ballot materials. The amount of these revenues would depend on the number of candidates in each election and the number of fines levied. Annual collections would vary depending on whether there was an election. On an average annual basis, these other revenue sources could total in the range of $5 million. Of this amount, a portion would include fines for violating election laws that are currently deposited into the state's General Fund (about $1 million annually). As a result, the measure would reduce General Fund revenues by about $1 million annually.

Costs of Public Financing of Campaigns. The amount of expenditures on the public financing of election campaigns would depend on a number of factors and vary from election to election. Most expenditures would occur during election years. Among the factors affecting expenditures would be the number of candidates and the amount of money spent by candidates not receiving public financing (thereby authorizing supplemental payments). The measure provides that total expenditures be limited to the amount of dollars available from the oil severance tax and other sources. Expenditures, therefore, would not exceed about $185 million on an annualized basis.

Administrative Costs. The measure provides $3 million annually to the FPPC to implement its new responsibilities under the measure. The measure, however, does not provide funding to the BOE to administer the new tax on oil. The costs to BOE to administer this tax could be up to $1 million annually. In addition, the state (beyond the FPPC's costs) and local governments may experience some costs to implement the measure's provisions. These costs would include implementing the new contribution limits and increased election (such as printing and postage) costs if the measure results in additional candidates. These costs would probably not be significant.

Summary

This measure would have the following major fiscal effect:

- Increased revenues from 2005 to 2010 (primarily from a tax on the extraction of oil) totaling about $185 million annually to pay for the public financing of political campaigns for state elected offices.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Steve Peace
Director of Finance