

March 17, 2006

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

Attention: Ms. Patricia Galvan  
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative measure regarding campaign financing (File No. SA2006RF0015, Amdt. #2-S).

## **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 makes significant changes to the financing of campaigns for elected state offices 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 officers and members of the Legislature and Board of Equalization.

### **Public Financing of 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 \$250,000 and a candidate for Governor could receive \$10 million. For a general election, a candidate running for the Assembly could receive an additional

\$400,000 and a candidate for Governor could receive an additional \$15 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		Number of Required \$5 Qualifying Contributions	Maximum Total Seed Money Contributions
	Primary	General		
Assembly	\$250,000	\$400,000	750	\$10,000
Senate	500,000	800,000	1,500	20,000
Board of Equalization	250,000	400,000	2,000	30,000
Statewide officials	2,000,000	2,000,000	7,500	75,000
Governor	10,000,000	15,000,000	25,000	250,000

**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 election, 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 750 to 25,000 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 and to disclose whether employees were paid to collect the qualifying contributions.

**Private Contributions.** Beginning up to 18 months prior to a primary election, the measure would allow candidates to collect and spend “seed money.” The measure restricts individual contributions towards this end to \$100 and total contributions to between \$10,000 and \$250,000 depending on the office (see Figure 1). These funds could only be spent up until 90 days prior to 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 ten times their base allocation under specified conditions).

***Minor Party and Independent Candidates.*** The amounts shown in Figure 1 are for candidates representing parties whose nominee for Governor or other office in the last election received at least 10 percent of the vote. The measure also establishes lower amounts of public financing for independent candidates and candidates from other parties under specified conditions.

***Funding for Campaign Financing.*** In order to pay for the public financing of campaigns, the measure increases taxes on corporations and financial institutions beginning in 2007-08. Specifically, the measure increases the income tax rates paid by these entities by 0.2 percent. For corporations, the rate would rise from 8.84 percent to 9.04 percent. For financial institutions, the rate would rise from 10.84 percent to 11.04 percent. These taxes are administered by the Franchise Tax Board (FTB).

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 provides that a minimum of \$3 million (grown for inflation every two years) of the new funds would be appropriated annually to FPPC to pay for the administration of the measure. The Secretary of State would also be required to use some of the funds collected for a voter education campaign. The total amount of funds that could be held by the state for public campaign financing would be limited to 24 times the state's population (currently about \$900 million). This limit would be grown for inflation. Any amount over this limit would be transferred to the General Fund.

***Insufficient Funds.*** If sufficient dollars are not available to fully fund the measure's provisions, the measure authorizes FPPC to proportionately reduce the amount of funds available to each candidate.

### **Campaign Contribution Limits**

***Lower Campaign Contributions.*** 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 \$3,300 per election to a candidate for the Legislature. This measure would restrict contributions to \$500 for legislative candidates. These new limits on contributions to candidates are summarized in Figure 2. In addition, the measure reduces the amount that can be contributed to political committees (reduced from \$5,600 to \$1,000 for most types of committees and from \$27,900 to \$7,500 for political party committees).

<b>Figure 2</b>		
<b>Campaign Contribution Limits to Candidates<sup>a</sup></b>		
<b>Contributor</b>	<b>Current Law</b>	<b>Proposed Measure</b>
Individual	\$3,300-\$22,300	\$500-\$1000
Small contributor committee	\$6,700-\$22,300	\$2,500
Political party	No limit	\$12,500-\$750,000
<sup>a</sup> Limits vary by the office that the candidate is seeking.		

**Other Restrictions on Campaign Contributions.** The measure also adds other types of restrictions on campaign contributions. For example, the measure adds new limits on the overall level of political contributions that a person can make to candidates and committees in a calendar year. In addition, under existing law, lobbyists are prohibited from making contributions to candidates. The measure forbids lobbyists from making contributions to political parties and independent committees as well.

**Limits on Corporations.** Under current law, corporations generally are subject to the same contribution limits as individuals. The measure imposes additional restrictions on corporations related to political contributions. For example, in addition to being subject to the lower contribution limits described above, corporations would also be prohibited from making contributions or spending more than \$10,000 to support or oppose a ballot measure.

**Other Major Provisions**

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 prior to a primary election. The measure 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. Finally, the measure expands the definition of a political expenditure to include various types of media communications prior to an election.

**FISCAL EFFECT**

**New Tax Revenues.** Under the measure, the state would impose increased taxes on corporations and financial institutions. We estimate that the measure would raise over

\$200 million annually in new tax revenues. (Based on the specific language in the measure, however, the tax could raise roughly twice this annual amount in the initial year of its application.)

*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 would probably total less than \$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 increased taxes and other sources. Expenditures, therefore, could total more than \$200 million on an annualized basis.

*Administrative Costs.* The measure provides a minimum of \$3 million annually to FPPC to implement its new responsibilities under the measure. The measure also allows FTB to recover its tax collection administrative costs from the new tax revenues. In addition, the state (beyond 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 (primarily from increased taxes on corporations and financial institutions) totaling more than \$200 million annually to pay for the public financing of political campaigns for state elected offices.

Sincerely,

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Elizabeth G. Hill  
Legislative Analyst

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Michael C. Genest  
Director of Finance