

## **INQUIRY INTO PUBLIC FUNDING OF ELECTION CAMPAIGNS**

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Joint Standing Committee on Electoral Matters  
 Parliament House  
 Macquarie St  
 Sydney NSW 2000

## Inquiry into Public Funding of Election Campaigns

I make this submission as an Independent who has contested many State and Local elections. There is a broad expectation that this inquiry will achieve much-needed reform for election funding and restore public confidence and fairness in the political system.

My State Election funding has been by small declared donations, public funding based on my share of the Electorate primary vote, and with shortfalls paid personally and all available expenditures claimed on taxation.

The Inquiry should take as a core principle that all citizens, regardless of wealth, affiliation or party membership, should be able to put themselves forward on an equal basis as a candidate for public office. It is the basis of a healthy democracy. Political funding as part of the democratic process must be fair, transparent and not encourage undue influence on election outcomes and government decision making.

The Terms of Reference of the current inquiry have regard to the recommendation of the 2008 Legislative Council Select Committee on Electoral Political Party Funding that all but small donations from individuals be banned and the Government's announced support for the introduction of a comprehensive public funding model.

Before addressing the Terms of Reference, I wish to state my position on election campaign funding.

### 1. MY POSITION ON CAMPAIGN FUNDING

#### Retention of public and private funding mix

In making this submission, I wish to **reiterate my support for retaining a mix of public and private funding** for NSW Parliamentary election campaigns, **with private sources of campaign funding restricted to capped donations from individuals.**

Such a system should focus on transparency and accountability, reduce risks and suspicions of conflict of interest and provide fairness for all candidates.

Political campaign donations from individuals are a valuable part of democracy, providing an opportunity for people to participate in the political process and express their support for particular candidates, policies or groups.

Appropriately managed and targeted public funding of individual parliamentary candidates can also provide democratic benefits, helping individuals who have community support, but limited financial resources, to contest elections. The current model for allocating public funding according to the number of primary votes should be retained

There is significant dissatisfaction including from major party supporters about the increasing disconnection between politicians and the communities they are meant to represent. Grass roots involvement and participation is giving way to remote career parliamentarians often imposed and funded by head office.

### **No complete ban on political donations**

***A complete ban on political donations would necessitate election campaigns to be entirely publicly funded*** and would not be possible without either significantly increasing in the level of taxpayer funding or presenting insurmountable boundaries to first time Independents and new political groups, particularly given election expenditure is increasing and private donations accounting for over 70 per cent of funding.

## **2. CONDITIONS FOR ACCEPTABLE DONATIONS**

I support a complete ***ban on campaign donations from corporations, other business entities and organisations such as trade unions*** to address the growing community concern about large political donations from vested interests having undue influence on election outcomes and governments with serious consequences for skewed and damaging decisions.

It is undemocratic that political donations made by corporations and organisations may be made without the knowledge or majority support of their members or shareholders.

It should be up to individual shareholders and members to support if they wish, parties and candidates of their own choice and within the limits prescribed.

All donors should be restricted to individuals who are enrolled to vote in NSW Parliamentary elections and all donations should be capped.

This cap should include all direct donations to candidates and parties and any other campaign contributions such as the purchase of raffle tickets, merchandise, and tickets to functions such as dinners.

Setting the cap amount requires balance. If it is set too small, party and Independent candidates may not be able to raise sufficient funds to conduct effective campaigns. If the cap is set too high, there is a risk that donors could have undue influence. I believe a \$5,000 cap would achieve the right balance.

A cap of \$5,000 is sufficiently high to allow political parties and candidates to raise adequate funds, but sufficiently low to encourage broadening their funding base, which would dilute the influence of any individual donor.

## **4. THE NEED FOR A WORKABLE AND ENFORCEABLE DISCLOSURE REGIME**

While disclosure rules have been tightened, compliance seems to be optional especially for government and major party members. Members' involvement in significant private but undeclared enterprises and interests have been publicised but no penalties have been

imposed. In some instances Members of Parliament just need to add pecuniary items that should have been initially declared.

I believe disclosure requirements should be enforceable.

In creating an enforceable framework, it must be taken into account that it is not always practical for candidates to have sufficient details about every donor to make a timely assessment about risks of conflict of interest. The legislation should place the onus on the donor to declare their interests and candidates need a formal mechanism to enable the reporting and subsequent recording of returned campaign donations.

## **5. INCREASING PUBLIC FUNDING**

The NSW Election Funding Authority contributed \$11.17 million in public campaign funding for the 2007 NSW State Election. Of this, \$7.58 million was paid directly to political parties. Political parties that received public funding expended a total of \$25.41 million dollars, and thus approximately \$17.58 million (70.4 per cent) was provided from private sources.

Current campaign expenditures are excessive, fuelled by corporate donations, but public funding should not be substantially increased to compensate for a loss of corporate donations. I do not believe there is community support for open-ended taxpayer funding or the diversion of funds from much needed services or infrastructure to support accelerating election costs. Political parties should be encouraged, not given disincentives, to broaden their funding base through reconnecting with communities and voters.

Governments, oppositions and members of Parliament should be judged on what they achieve in their terms of office. Elections should not be a public relations exercise funded by vested interest with power being awarded to those who spend the most.

However I do not support capping election expenditure, which I believe will be reduced by adopting the capped individual donor model.

I do believe that the proportions of political party funding and electoral funding should be reviewed with electoral funding marginally increased to \$5,000 per 10 per cent of the primary vote. Part of this increased amount should be from the Political Educational Fund, which should be abolished.

The Political Education Fund is a political rort on taxpayers: there is no evidence that funds are used for or have any effect on the education of voters.

## **4. RESPONSE TO THE TERMS OF REFERENCE**

### **(a) Criteria and thresholds**

The current system limits the payment of public funding to candidates and groups who receive a minimum level of primary votes. In the Commonwealth and all states that provide public funding for election campaigns, this threshold is set at four per cent.

In NSW, candidates are entitled to have their deposits refunded if they receive four per cent or more of the primary vote.

Any revised threshold should not unduly disadvantage Independent candidates, including first time Independents. Of the 70 Independent candidates who contested the 2007 Legislative Assembly electorates, 32 received four per cent or more of the primary vote, and were thus entitled to receive public funding. Most of these were first time candidates. This

suggests that the four percent threshold does not present a disincentive or barrier to Independent or first time candidates.

### **(b) Allocation of public funding**

As argued above, the Political Education Fund should be reallocated to the Central and Constituency Funds.

At the 2007 state election, two thirds of total public funding available for election campaigns was allocated to the Central Fund and one third for the Constituency Fund. These proportions should be adjusted with 60 percent of the total public campaign fund being allocated to the Central Fund and 40 percent being allocated to the Constituency Fund.

This would recognise the increasing importance of locally based campaigns.

The existing system of allocating public funds in proportion to the primary votes received is appropriate.

### **(c) Caps on public funding**

As stated above, public funding should be marginally increased supplemented by absorption of the Educational Fund and adjusted over time for inflation.

### **(d) Recipients of public funding**

In 2008 the State Government banned candidates from having their own personal campaign accounts, requiring Independents to appoint an official agent to manage their campaign account and central party offices to manage party candidates' accounts.

This system has proved to be onerous for many Independent candidates, some of whom have had great difficulties in finding persons willing to act as official agents. Persons who, otherwise would be willing and capable to take on the responsibility for managing campaign accounts and preparing candidates' financial returns, have not been prepared to inadvertently risk exposing themselves to prosecution.

While it is vital that campaign accounts are kept separate from personal or business accounts, candidates should have the option to either appoint an official agent to manage that account or manage the campaign account themselves, provided they meet all reporting and other responsibilities imposed by the *Election Funding and Disclosures Act*.

### **(e) Mechanisms of paying public funding**

While it is onerous for individual candidates, the existing reimbursement model of public funding ensures that parties and candidates are only reimbursed for expenditure they incur and that candidates cannot profit from the system.

The reimbursement system has not proved to be a significant obstacle preventing independent candidates, first time candidates or new political groups from contesting elections.

### **(f) Restrictions on expenditure of public funding**

### **(g) Restrictions on expenditure by political parties and candidates**

There are widespread concerns about the high levels of corporate donations and the escalation of campaign expenditure in recent years.

This trend increasingly disadvantages non major party candidates who rarely receive large corporate donations because they are rarely offered and rarely accepted.

I believe the introduction of an effective ban on corporate donations and capping the amount of individual donations with a marginal increase to public funding would help reduce the growth in campaign expenditure.

It is vital for the health of our democracy that campaign expenditure is controlled and that there is reasonable competition beyond just the major parties. Currently extensive and expensive media campaigns are being used to whitewash government deficiencies and obscure the messages of non-party candidates.

#### **(h) Public funding where political donations are banned or capped**

As stated above, I believe that public funding ought to be marginally increased each election and that the Political Educational Fund should be transferred to the general campaign fund.

Public funding should continue to be administered as it is at present.

#### **(i) Regulation of expenditure by third parties**

“Third party” organisations such as trade unions and resident, business, environmental, community and other organisations play a vital role in our democracy by representing the interests of their members, informing the public about important issues and contributing to public debate and policy development.

While there is need to protect freedom of expression, any participation by organisations in election campaigns should be open and transparent. They should not be permitted to skew the electoral process or be used to circumvent restrictions on campaign donations.

Any organisation that directly or indirectly advocates support or opposition for a particular party or candidate should first be required by law to obtain the consent of its membership. Any organisation that commits resources to supporting or opposing a particular party or candidate (eg paid advertising, using its database for mail outs) should be subject to the same rules and regulations as parties and candidates. This would include being required to make declarations to the Election Funding Authority and being subject to any restrictions on donations.

In line with my proposal to limit donations to small individual donors, organisations should be banned from making campaign donations. It is up to the individual to decide whether they want to financially support a party or candidate and this option would be open to members and shareholders of an organisation.

#### **(j) Regulation of government advertising**

Government advertising during the election period should be restricted to providing factual information about government services and programs that is essential and timely.

#### **(k) Intra-party transfers of funds**

If donations are capped and restricted to individuals in NSW, there are relative safeguards that donations transferred within parties in NSW do not come from potential sources of undue influence. However, intra-party transfers from outside NSW can create loopholes and are inconsistent with the principle that all donations should be from NSW voters.

**(l) Circumvention of limits**

See above comments on “third parties” and intra-party transfer of funds.

**(m) Commonwealth constitutional issues – freedom of political communication**

See above comments on third parties’ right to retain freedom of expression.

**(n) Impact on new candidates, independents and political groupings**

Independents have been an established feature of NSW politics, at both the State Parliamentary and Local Government level, for more than a century.

Since 1901, 57 members of the NSW Legislative Assembly have been elected as Independents. Independents have been elected to every Parliament since 1956 and two or more persons elected as Independents have simultaneously been Members of Parliament since 1981. Since 1988, the number of Independents has never been less than three, and since 1999 the number has never been less than five. There are currently six Independent members.

In 2007, 70 Independent candidates contested 53 Legislative Assembly electorates, receiving 8.89 per cent of the total vote. In 17 electorates, the two-candidate preferred count was between Independents and major party candidates. Six Independents were elected.

As stated above, 32 candidates were eligible to receive public funding. My submission identifies a number of concerns about potential negative impacts on Independent candidates and it is important that any changes do not undermine the Independents’ role in the democratic process.

**5. IN CONCLUSION**

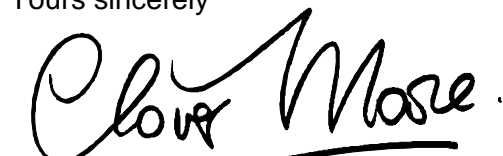
There need to be changes in the methods of election funding, particularly relating to undue influence of vested interests on governance.

Election funding should be by small, capped donations from individuals who are eligible to vote in NSW and which are properly declared in a system that has legal force. This would have the effect of limiting growing election expenditures without imposing a cap.

Third party donations should be banned and restricted to individual shareholder or member support. Third entity involvement should be subject to shareholder or member majority agreement and comply with election laws governing parties and candidates.

Public funding should only be marginally increased at each election and should only be available for election campaigning by abolishing the Political Educational Fund.

Yours sincerely



Clover Moore  
Member for Sydney