

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

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## **Australian Labor Party (NSW Branch)**

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**Submission:**

### **Reforms to public funding of election campaigns**

Prepared in response to the Joint Standing Committee on Electoral Matters Inquiry into public funding of election campaigns, 2010

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## **Introduction**

NSW Labor welcomes the opportunity to make a submission to the Joint Standing Committee on Electoral Matters Inquiry into public funding of election campaigns ('the Inquiry').

The Inquiry's terms of reference address a range of issues associated with public funding of political parties and candidates, donations and expenditure.

NSW Labor is concerned about the perception that political donations create undue influence in the Australian political system. We feel such a view undermines the integrity of our democracy and diminishes public confidence in our electoral system and elected representatives.

We are also concerned by the recent development of an 'arms race' in electoral expenditure, with political parties spending record amounts each election.

We submit that reform of electoral funding, donations, expenditure and disclosure is required to ensure any impression of undue influence is minimised and ideally removed, and all candidates and parties have an opportunity to put a fair case for election.

To achieve this, any reform of the current system must focus on improving transparency, accountability and fairness. In this submission, we recommend a number of reforms for the Committee to consider to meet these aims. These are:

1. Implementation of nationally consistent laws relating to electoral funding, donations, expenditure and disclosure;
2. Improved disclosure laws for political donations to parties and candidates; and
3. Reforms to public funding to reduce the reliance on private donations by parties and candidates.

This submission will advocate the implementation of an expanded public funding scheme, with caps on donations and expenditure that are consistent with the freedom of political communication implied under the Commonwealth Constitution.

These reforms would help to restore the public's faith in political decision-making, and ensure that all parties and candidates have an opportunity to put a fair case for election.

## **Fundamental reform is required**

In 1981, under Premier Neville Wran, the NSW Parliament became the first Australian jurisdiction to introduce a public funding scheme for election campaigns and require political parties and candidates to disclose donations.

By introducing partial public funding, the Wran Government aimed to reduce political parties' reliance on private funding sources. Although the legislation went some way

to achieving this important objective at the time, over the last 29 years, political parties' reliance on private donations has increased dramatically.

The rise of private donations to political parties has been well documented in the media. The movement away from traditional income sources, such as membership and affiliation fees, towards private or corporate funding, has accelerated in recent years.

The rise in private donations has fuelled a perception that donations create undue influence in the political system. This perception undermines the integrity of our democracy and diminishes public confidence in our electoral system and elected representatives.

At the same time, an 'arms race' has developed over electoral expenditure, with political parties spending record amounts at each election.

For these reasons, fundamental reform of the existing funding and disclosure system is required to improve accountability and integrity and ensure that all parties and candidates have an opportunity to put a fair case for election.

## **Recommendations**

### **1. Nationally consistent laws**

For an electoral funding and disclosure scheme to be robust and effective, it must minimise loopholes.

At present, there are major differences between Commonwealth, State and Territory legislation relating to funding and disclosure. For example:

#### **Funding:**

- At the Commonwealth level, political parties and candidates are entitled to an amount per primary vote received, regardless of what they spend.
- In NSW, political parties and candidates are reimbursed for actual expenditure, up to an amount per primary vote received.
- NSW also has an annual entitlement scheme for political parties – the 'Political Education Fund' – that no other Australian jurisdiction possesses.

#### **Disclosure:**

- Where disclosure of donations is required, the threshold at which the donor's details must be disclosed varies between jurisdictions. At the Commonwealth level, the threshold for the 2009-10 financial year is more than \$11,200, whereas in NSW, the threshold is \$1,000 or more.

- Disclosure periods also vary between jurisdictions. At the Commonwealth level, disclosure is required annually by political parties and after each election by candidates, whereas in NSW, disclosure is required every six months.

These inconsistencies between funding and disclosure systems in Australia reduce transparency and increase the compliance burden for political parties and candidates. They also make it possible for funds to be channelled through a jurisdiction with more lenient regulations to avoid disclosure. As many political parties operate at the Commonwealth level and in the States and Territories, the funding and disclosure system should capture activity at all of these levels.

Ideally, a single nationally consistent scheme should be introduced to address these issues. Such a scheme would establish one across-the-board process for applying for public funding and disclosing donations and expenditure. This would:

- Make it easier for the public to understand the disclosures lodged by political parties and candidates, thereby improving transparency;
- Make it easier for political parties and candidates to meet their obligations;
- Reduce administrative costs; and
- Enable the body administering the scheme to educate political parties, candidates and donors about their obligations, which is currently difficult due to the inconsistent provisions.

## **2. Improved disclosure**

In order to ensure that the public has confidence in the funding and disclosure system, they should be able to easily understand the information contained in the disclosures lodged by political parties and candidates.

The most obvious element in the existing NSW funding and disclosure system that could be changed to improve transparency and make it easier to comply is that the disclosure period is six monthly, whereas the threshold at which a donor's details must be disclosed is calculated annually.

NSW Labor recommends that the disclosure threshold for so-called 'reportable donations' be maintained at \$1,000, but be calculated six monthly.

## **3. Public funding**

In order to improve and maintain public confidence in the integrity of political decision-making, political parties' reliance on private donations should be reduced.

The first step towards reducing reliance on private donations is expanding the existing public funding scheme.

Public funding of political parties is an essential part of the democratic process. As the NSW Legislative Council Select Committee on Electoral and Political Party Funding Discussion Paper noted in 2007:

*“Public funding supports the democratic process by recognising that parties and candidates should have sufficient funds to be able to participate in elections. It is also a means of ensuring a level of equality between election participants, so that candidates are not simply elected because they have the most money to spend on their campaigns. A further rationale is to minimise the danger of electoral funds being obtained from inappropriate sources.” (Discussion Paper, p.2)*

The second step towards reducing reliance on private donations is to place some form of cap on these donations.

At the same time, expenditure caps may assist in reducing the ‘arms race’ that is developing in electoral spending.

Any cap on donations and expenditure must be designed so that it does not infringe upon the freedom of political communication implied under the Commonwealth Constitution.

Accordingly, NSW Labor supports the implementation of an expanded public funding scheme, with caps on donations and expenditure that are consistent with the right to freedom of political communication.

## **Conclusion**

The Joint Standing Committee has an opportunity during this Inquiry to reform the funding and disclosure system to make it more transparent and easier to comply with, reduce reliance on private donations, and curb the ‘arms race’ of electoral expenditure.

To this end, NSW Labor recommends that reforms be made to:

- Simplify disclosure;
- Expand public funding; and
- Cap donations and expenditure in a way that is consistent with the freedom of political communication implied under the Commonwealth Constitution.

We hope this opportunity will be met with support across the political spectrum, and we look forward to hearing the views of others and working with them to improve our funding and disclosure system.