

**Submission
No 11**

**INQUIRY INTO PROVISIONS OF THE ELECTION
FUNDING, EXPENDITURE AND DISCLOSURES BILL
2011**

Organisation: Office of Premier
Name: Mr Barry O'Farrell MP
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Dr John Kaye MLC
Committee Chair
Select Committee on Election Funding Bill 2011
Parliament House
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Dear Dr Kaye

John,

Thank you for your invitation of 7 December 2011 for the Government to make a submission to the Committee's inquiry into the *Election Funding, Expenditure and Disclosures Amendment Bill 2011* (the "Bill").

In the lead up to the 2011 State Election, the NSW Liberals & Nationals made clear our commitment to restore honesty and integrity in New South Wales politics. A vital part of this commitment is to ban corporate political donations once and for all, which we campaigned consistently on before the election.

I note that in November 2010 during debate on the *Election Funding and Disclosures Amendment Bill 2010*, I gave a commitment to the NSW Parliament that a NSW Liberals & Nationals Government would introduce legislation to ensure that the right to make political donations is restricted to individuals. The Bill meets this commitment and its provisions are consistent with the amendments that were proposed by the NSW Liberals & Nationals during debate on the former Government's Bill, but did not gain the support of the former Government. However, I note that during debate on the former Government's Bill, The Greens expressed strong support for the NSW Liberals & Nationals' commitment to restrict donations to individuals stating:

"Mr O'Farrell has said that he would prefer it if only voters were allowed to make donations to political parties – there should be no donations from unions or corporations. That is terrific, bring it on. We will work with the Coalition to get that through".

The Bill I introduced into Parliament will achieve its purpose by providing that only enrolled electors can make political donations to parties, groups, candidates and third-party campaigners. All donations made by corporations and other entities, including

subscription fees and affiliation fees, will no longer be lawful in New South Wales. This new limit on political donations other than those made by individual electors will remove the public perception that corporate donors wield undue influence over decision-making in this State. The health of democracy in New South Wales depends upon voters being able to have confidence in the electoral process.

The Government recognises the importance of third parties in the democratic process and notes that the Bill will not prevent third-party campaigners from receiving donations from their individual members. It is also not designed to prevent peak bodies from levying their member bodies, provided those levies are not used to make a 'political donation' or to incur 'electoral expenditure' within the meaning of the *Election Funding, Expenditure and Disclosures Act 1981*. In this regard, peak bodies will still have the freedom to undertake issue-based campaigns as provided in the current legislation. The Bill may present third-party campaigners with some new issues to consider but the Government believes a ban on corporate political donations must be extended to them if it is to be effective. The ongoing risk of corruption and undue influence in political life in New South Wales will only be avoided by eliminating corporate donations, and this must include the elimination of 'third party' loopholes through which such donations may be directed.

The Bill also ensures that 'electoral communication expenditure' incurred by political parties and their affiliated organisations must be added together for the purposes of determining whether a party has exceeded the relevant statutory limits on its expenditure. This avoids organisations intimately involved in the governance of a political party – sometimes even with office-bearers in common – campaigning on behalf of a party, with no corresponding limits on the party's own ability to spend. The Government believes that this is an unfair loophole that undermines the integrity of the whole scheme.

As I have previously stated, I will also continue to urge the Commonwealth Government to extend these reforms into the Federal electoral context so that the same fundamental principles of accountability and transparency apply at every level of government in Australia. Such consistency will enhance the effectiveness of the reforms contained in the Bill.

The reforms in the Bill are a reasonable, measured and equitable way to put in place a system of political participation in New South Wales that is more transparent and more accessible. Restricting donations to individuals on the electoral roll balances any concerns there may be about freedom of communication with the NSW public's legitimate interest in the integrity of the political process. A ban on donations other than by individuals will rid this State of the risk, reality and perception of corruption and undue influence.

The people of New South Wales deserve a system of democracy that does not operate for the benefit of organisations that have no right to elect representatives to Parliament. It is critical for effective public administration in this State that the Government takes legislative steps to end the public perception that wealthy corporate donors can obtain disproportionate opportunities for political participation.

In recent years, the NSW Parliament has extensively examined and debated issues around the funding of election campaigns. In June 2008, the Select Committee on Electoral and Political Party Funding reported on its *Inquiry in Electoral and Political Party*

Funding. In March 2010, the Joint Standing Committee on Electoral Matters reported on its *Inquiry into Public Funding of Election Campaigns* and in December 2010 the same Committee reported on its *Inquiry into Public Funding of Local Government Election Campaigns*. Most recently the Parliament debated the *Election Funding and Disclosures Amendment Bill 2010*. The Government believes that such extensive examination and debate on this important issue has been warranted, however, the Parliament is now presented with a unique, generational opportunity to use this work as a foundation to make further changes to restore honesty and integrity in New South Wales politics. We should not tarry on these reforms but rather act now so that the changes can be implemented and processes settled before the next State election.

I look forward to considering the report of the Committee on the Bill.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Barry O'Farrell', written in a cursive style.

Barry O'Farrell MP
Premier