

Submission
No 188

INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

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Supplementary Submission

to the

Legislative Council Select Committee

on

Electoral and Political Party Funding

from

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INTRODUCTION

This submission is supplementary to my verbal presentation and documented evidence presented at the Committee's public hearing on 4 April 2008.

1 QUALITIES OF A CORRUPTION-FREE SYSTEM

The public will only have confidence in a system of funding if people are able to scrutinise the finances of candidates. Each voter should have access to clearly understandable information about the candidates in their electorate. Each candidate should have the responsibility of providing this information. Electoral success should not depend on "out-spending" opponents.

An effective system should be achieved if the following conditions are met:

1.1 Equal Opportunity

Candidates should have equal opportunity to be judged on their quality, rather than their expenditure. Voters should be able to distinguish between candidates on the basis of performance and policies.

1.2 Applicability to Electorates

All expenditure by parties should be allocated or apportioned to individual electorates. This would require a report for each Legislative Assembly electorate and a State-wide report for the Legislative Council.

1.3 Full Declaration

Subject to a very low threshold, donors should declare all donations.

Candidates should declare all donations received and all expenditure specific to, or apportioned to, the electorate.

1.4 Transparency

All records for donations and expenditure for each electorate and each party as a whole, should be easily accessible and understandable.

Hypothetically, if all donations were banned and there was a system of public funding, transparency would not be important. However, if there is to be any system of donations and/or public funding the reporting system must be accessible, simple and complete.

1.5 Reporting

There should be a common reporting period for declarations of donations and expenditure.

1.6 Reconciliation of Funding and Expenditure

Declarations of donations and expenditure for each electorate should verify each other so that there is no opportunity for inaccurate or incomplete reporting of either.

1.7 Limit for Donors

Donations should be capped at a level where they are considered significant. A lower limit for donations will ensure a lower possibility of influence.

1.8 Reporting In-Kind donations

All in-kind donations other than unpaid labour should be declared at a realistic commercial rate and included within the cap on expenditure.

1.9 A Cap on Total Donations

There should be a cap on the total amount of donations to a campaign. The following point on capping expenditure may well subsume this point.

1.10 A Cap on Spending

Expenditure within each electorate should be clearly linked to a capped income, from all sources, declared for that electorate. Electoral success should depend on policies and performance, not on the size of the budget.

1.11 Reconciliation of Income and Expenditure

The funding and expenditure for each candidate in each electorate should be reconciled to provide a complete and accurate account.

1.12 Public Funding

Candidacy should not depend heavily on the ability to attract donations. Limited public funding based on the number of primary votes won should be available for each candidate. Prospective candidates could consider the probability of being awarded such funding.

1.13 Recognition of Potential Beneficiaries

The recent scrutiny placed on the property development and hotel industries could at times be just as relevant to other industries. All industries and corporations should be regarded equally.

1.14 Prohibition of Government Advertising

For the purposes of reporting the actions of government departments to the public, any advertising should be done in the name of the department, not of the elected government.

1.15 Consistency Across Three Tiers of Government

The broad principles on the propriety of funding should be developed into models suited to all three tiers of government.

2 PROBLEMS WITH THE CURRENT NSW SYSTEM

Influence of political donations

There is a common perception that political donations can result in unequal access to government and unduly influence government policy. This leads to the concern that money will buy influence.

Lack of Transparency

Transparency is compromised by the fact that donations and expenditure for each electorate are not fully reported and reconciled. There is no comprehensible reporting system for expenditure by parties on behalf of candidates on a “per electorate” basis.

Inconsistency

This inadequate transparency is exacerbated by the inconsistency of information displayed on the websites of the Election Funding Authority and the Australian Electoral Commission.

Industries as Potential Beneficiaries of Government Decisions

Any industry could be a beneficiary of government policy and decisions. Filtering out donors is problematic because of their involvement in particular industries such as the property or hotel industry.

Individuals may own companies in a variety of industries and companies may have intricate cross-ownerships that make it difficult to trace donors. This allows deliberate obfuscation of the sources and processing of donations.

While property developers, hotels and the coal industry are obvious examples, almost any industry or group can be a potential beneficiary of government decisions. Whilst it would be desirable to filter out industries that are currently perceived as over-involved in political influence it is also important that future conflicts of interest involving other industries are avoided.

Expenditure is Unlimited

With no limit set on expenditure there can be disproportionate access to voters through letterbox distribution and media advertising. Personal wealth or access to donated funds becomes a *de facto* requirement of candidacy and election campaigns can become competitive spending sprees, placing some candidates at an extreme disadvantage.

Donations made to Parties, rather than Candidates

The purposes of disclosure are defeated where donations are not clearly identified with the candidate whom they assist.

3 MAJOR PARTY DONATIONS AS A CASE STUDY

The following points are illustrated with reference to one of the major parties, but this does not infer any particular knowledge or belief that there are significant differences between the two major parties in their processes of collecting and disbursing corporate donations.

I have been informed that during 2006-2007 the NSW Labor Party received over \$8 million in corporate donations. How this money is used is at the Party's discretion and not known to outsiders. Assuming equal amounts are accumulated over a four-year cycle and then used to fund State campaigns, the amount available would be over \$32 million, which is available to campaigns for 93 Legislative Assembly seats and 21 Legislative Council seats. The average available for each of these 114 candidates would be \$280,000.

To reiterate, it is not certain that this amount is used in this manner. However, according to EFA records of donations this amount would be available to each candidate in addition to the amounts separately declared by that candidate. If candidates' declarations do not show donations from NSW Labor the public will not get accurate information on individual electorates' spending. This will prevent valid comparisons of campaign expenditure of competing candidates, especially so where one of the candidates is an Independent.

If amounts of this scale are being spent in each electorate, the current reporting arrangements through the EFA do not provide adequate detail. It can therefore be interpreted that developer and other corporate donations are being spent in individual electorate campaigns without being clearly identified as such.

4 LAKE MACQUARIE ELECTORATE AS A CASE STUDY

The point just raised is clearly borne out by a comparison between my own 2007 campaign and that of my nearest rival, Labor's Jeff Hunter. The amount that I declared as donations was \$59,426 and this relates closely to my total campaign budget. The amount declared by Mr Hunter was \$73,549. This was comparable to my own budget yet there was obviously far greater expenditure on the Labor campaign than there was on mine. There were a number of differences in levels of expenditure, but the most significant was in letterbox distribution. My budget allowed for one leaflet distribution yet Mr Hunter had five. Quite clearly Mr Hunter's expenditure was many times greater than my own and obviously could not have been financed from any amount similar to the total of Mr Hunter's declared donations.

5 INCONSISTENT AND INCOMPLETE INFORMATION

The illustration in these two case studies is based on information held by the Election Funding Authority. A conflicting set of data on the Australian Electoral Commission's website shows that NSW Labor declared total receipts of over \$22 million for the 2006-2007 year. Discrepancies such as that between the EFA figure of \$8m and the AEC figure of \$22 million can undermine public understanding of and confidence in the systems of disclosure and fuel public cynicism.

The public cannot have confidence in a system that can't be understood. It is quite clear that current systems of reporting cannot provide this confidence.

6 RECENT MEDIA ITEMS

The electronic and print media have recently featured many stories on perceived faults in political funding, ranging from incomplete knowledge by candidates, non-declaration of donations, levels of donations, sources of donations, expectations of donors and actions of Ministers. It is within the Committee's terms of reference that information can be sourced from the media. I believe that it is essential to the purpose of the Committee that relevant information in metropolitan, regional and national media be identified and considered.

RECOMMENDATIONS

As I have previously informed the Committee, I regard the following changes as essential in establishing an election funding system which will have the public's confidence:

- Caps on donations
- Reporting of all monetary and in-kind donations other than unpaid labour
- Caps on expenditure
- Reconciliation of donor and candidate declarations
- Partial public funding
- A suitable independent body should vet all government advertising in the six months preceding an election.

Further detail on these points is in the verbal and documented evidence I presented at the public hearing.

Upon further consideration, I also regard the following points as essential:

- Every voter should have access to complete information on funding relevant to the particular electorate.
- Every candidate should be accountable for all campaign income and expenditure applicable to the electorate and this information should be available to the public from a cut-off date one week before polling day.
- A realistic limit, say \$200, should be set, below which donors are not required to lodge declarations. It would be the responsibility of the candidate to report and fully account for all such donations.

A handwritten signature in black ink, appearing to read 'Piper', with a stylized, cursive script.

Greg Piper
Member for Lake Macquarie