



## Political financing: regimes and reforms in Australian states and territories

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## Introduction

The funding of elections and other formally structured political activity is a crucial consideration for modern democracies. It is not simply a question of how to manage the logistics of an election—maintaining electoral rolls, printing and distributing ballot papers, preparing polling booths, and so on—but also how best to support the work of political parties as key players in the democratic process.

There has been a plethora of attempts at electoral and political party funding reform in recent years, both in Australia and overseas. This Background Note seeks to describe how Australian states and territories regulate party political financing and fund election campaigns, and to give an account of the various reforms being contemplated or implemented by governments. Generally speaking, regulation both prescribes the mechanisms for the public funding of election campaigns and sets down rules for the monitoring and public disclosure of parties' receipts and expenditures and political donations by individuals and others.

In this Background Note, each state or territory political financing regime is addressed on its own terms. Each jurisdiction section begins with an overview of the current arrangements that apply to the public funding of election campaigns. This is followed by an account of the monitoring and disclosure provisions for political expenditure and donations. (These are summarised briefly in Appendix 1). An overview of each jurisdiction's reforms—attempted or effected—completes the account. A separate companion Background Note details the political financing regime and reforms at the Commonwealth level.

## Context

Australian democratic political processes are funded from both private and public sources. The former typically involves donations to political parties and candidates, party fundraising events and income from investments. Donors may be individuals, independent or third party organisations, corporations, or the associated entities of political parties themselves. The regulatory challenge is to enable and encourage financial forms of political participation while mitigating the unfairness that can arise if there are large disparities in the private resources available to parties and candidates. The risks of undue influence and corruption must also be managed.

Where states or territories have made taxpayer-sourced funding available directly to parties and candidates it has typically been applied to a partial underwriting of their election campaign costs. In some jurisdictions public funds have been made available also for non-election focussed activities such as policy development and party administration. A convenient recent discussion of election funding options and the various arguments that surround them can be found in the March 2010

report by the New South Wales Parliamentary Joint Standing Committee on Electoral Matters entitled [Public funding of election campaigns](#).<sup>1</sup>

For considerations of political financing at a federal level, see the 2011 report by the Joint Standing Committee on Electoral Matters titled [Report on the funding of political parties and election campaigns](#).<sup>2</sup>

The public funding of political parties—whether within or beyond an election campaign context—is a highly contested issue. Many voters dislike the idea of taxpayers’ money going to support the operations of political parties, even in an election context. As far as private political donations are concerned, many citizens express disquiet about the extent to which money buys influence or tends to corrupt democratic ideals. They are concerned that certain individuals or organisations can apply substantial resources to lobbying governments or influencing public opinion, thereby skewing the political discourse. This issue is further muddied by the question of the claimed ‘right to free speech’ in a democracy, and whether political advertising by those with very deep pockets is simply part of the exercise of that right.<sup>3</sup>

Arguments tend to fall between two poles. The libertarian view is that people or organisations have the right to speak as loudly and spend as freely as they wish to achieve their political ends. The more collectivist view seeks to curtail those rights in certain respects in the interests of limiting inequalities of influence and thereby ensuring a ‘fairer’ democratic process.

This Background Note conveys something of the challenges involved in regulating political financing. As well it describes the regulatory regimes that are either in place, or proposed as reforms, by Australian state and territory governments of different political persuasions.

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1. NSW Parliament, Joint Standing Committee on Electoral Matters, *Public funding of election campaigns*, Report no. 2/54, Sydney, NSW, March 2010, viewed 21 July 2011, [http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/82f12c9fc8e2dbdcca2576f200213db6/\\$FILE/Final%20Report%202-54.pdf](http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/82f12c9fc8e2dbdcca2576f200213db6/$FILE/Final%20Report%202-54.pdf)
  2. Joint Standing Committee on Electoral Matters, *Report on the funding of political parties and election campaigns*, House of Representatives, Canberra, 2011.
  3. For a comprehensive account see J-C Tham, *Money and politics: the democracy we can't afford*, UNSW Press, 2010

## New South Wales

### Election funding arrangements

Public funding for election expenditure is derived from specific funds that are operated by the NSW [Election Funding Authority](#) (NSWEFA). NSWEFA is established under the *Election Funding, Expenditure and Disclosures Act 1981* and has three main purposes:

- to allocate public funds to parties and candidates for state election campaigns and, in the case of parties, to allocate public funds for administrative and policy development expenses
- to enforce the imposition of maximum amounts (or 'caps') on the value of political donations that might be lawfully accepted and the electoral communication expenditure that might lawfully be incurred, and to enforce the prohibition on donations from a limited class of intending donors, and
- to enforce the requirement to disclose the source and the amount of all political donations received and the amount of electoral expenditure for state parliamentary and local government election campaigns.

Political parties, groups, candidates and elected members may be entitled to apply to NSWEFA for payments from one of the following funds:

- the Election Campaigns Fund—in relation to electoral communication expenditure at state elections
- the Administration Fund—for administration costs of state parties who have members of parliament and for independent members of Parliament
- the Policy Development Fund—for all other state parties who are not entitled to the Administration Fund.<sup>4</sup>

### Election Campaigns Fund

For each state general election, or for a state by-election, the NSWEFA keeps an Election Campaigns Fund. The purpose of the Election Campaigns Fund is to reimburse eligible parties and candidates for electoral communication expenditure incurred during the capped expenditure period.

#### *Parties*

A party is entitled to funding if:

- it is a registered party on polling day for the State election

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4. NSW Election Funding Authority, *Fact Sheet: public funding*, NSWEFA website, viewed 20 December 2011, [http://www.efa.nsw.gov.au/\\_data/assets/pdf\\_file/0007/91159/EF11\\_35\\_Fact\\_Sheet\\_Fund\\_Ent.pdf](http://www.efa.nsw.gov.au/_data/assets/pdf_file/0007/91159/EF11_35_Fact_Sheet_Fund_Ent.pdf)

- it endorses candidates who are properly nominated for the State election, and
- it satisfies at least one of the party eligibility criteria:
  - in the case of an Assembly general election—the total number of first preference votes received by all those candidates endorsed by a party is at least four per cent of the total number of first preference votes in all electoral districts in which the candidates were nominated
  - in the case of a periodic Council election—the total number of first preference votes received by all those candidates endorsed by a party (and by all other candidates included in the same group) is at least four per cent of the total number of first preference votes in that election; and
  - at least one of the candidates endorsed by a party is elected at the state election.<sup>5</sup>

### *Candidates*

A Legislative Assembly candidate is entitled to funding if:

- the candidate is registered as such a candidate in the Register of Candidates for the election on polling day for the election
- in the case of a candidate for a periodic Council election, the candidate was not included in a group, or was included in a group none of whose members were endorsed by a party, and
- the candidate satisfies at least one of the candidate eligibility criteria:
  - in the case of an Assembly general election or by-election for the Assembly—the candidate is elected or the total number of first preference votes received by the candidate is at least four per cent of the total number of first preference votes in the electoral district in which the candidate was nominated;
  - in the case of a periodic Council election—the candidate is elected or the total number of first preference votes received by the candidate (and, if included in a group, by all other candidates included in the same group) is at least four per cent of the total number of first preference votes in the election.

To receive a payment from the Fund the official agent of the candidate must lodge the candidate's claim for payment together with the relevant disclosure of political donations received and electoral communication expenditure incurred.<sup>6</sup>

### *Election funding formula*

The amount to be paid to an eligible party or candidate from the Election Campaigns Fund is a reimbursement of actual election communication expenditure incurred. The amounts to be distributed are:

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5. Ibid.

6. Ibid.

Eligible Assembly party:	
Actual Expenditure	% Amount to be claimed
First 0-10% of expenditure cap	100%
Next 10-90% of expenditure cap	75%
Last 90-100% of expenditure cap	50%

  

Eligible Council party:	
Actual Expenditure	% Amount to be claimed
First one third of expenditure cap	100%
Next one third to two thirds of expenditure cap	75%
Last two thirds to 100% of expenditure cap	50%

  

Eligible Assembly party candidate:	
Actual Expenditure	% Amount to be claimed
First 0-10% of expenditure cap	100%
Next 10-50% of expenditure cap	50%

  

Eligible Assembly independent candidate:	
Actual Expenditure	% Amount to be claimed
First 0-10% of expenditure cap	100%
Next 10-80% of expenditure cap	50%

  

Eligible Council candidate:	
Actual Expenditure	% Amount to be claimed
First one third of expenditure cap	100%
Next one third to two thirds of expenditure cap	75%
Last two thirds to 100% of expenditure cap	50%

Source: NSWFA website [Fact Sheet: Public Funding](#)

### *Electoral Communication Expenditure*

The NSWFA specifies a sub-category of electoral expenditure called ‘electoral communication expenditure’.

- Electoral expenditure is money spent on promoting or opposing a party, or the election of a candidate or candidates. It is also money spent on influencing the voting at an election.
- Electoral communication expenditure is electoral expenditure incurred during the capped expenditure period of an election—the period from and including 1 October in the year before which the election is to be held to the end of election day for the election.

There are caps on the level of electoral communication that can be incurred, as follows:

### 2015 State Election caps on electoral communication expenditure

The adjusted caps amounts for State elections (including by-elections) up to and including polling day for the 2015 State election are as follows:

Electoral communication expenditure incurred by:	General cap
a party that endorses a group for the Legislative Council and between 0 and 10 candidates for the Legislative Assembly.	\$1,166,600
all other parties	\$111,200 x number of Legislative Assembly electoral districts in which a candidate is endorsed by the party
a group of unendorsed candidates for the Legislative Council	\$1,166,600
an endorsed candidate for the Legislative Assembly	\$111,200
an unendorsed candidate for the Legislative Assembly	\$166,700
an ungrouped candidate for the Legislative Council	\$166,700
a candidate for a Legislative Assembly by-election	\$222,300
a third-party campaigner	\$1,166,600 (if registered with the EFA before the capped expenditure period for an election); or \$583,300 (in any other case)
Electoral communication expenditure incurred for the election of a candidate in a particular district by:	Additional cap (within the general cap)
a party	\$55,600 per district
a third-party campaigner	\$22,300 per district

Source: NSWFEA, Factsheet 'Electoral Expenditure' <sup>7</sup>

## Administration Fund

The purpose of the Administration Fund is to reimburse administration and operating expenses to independent members of Parliament and parties with members of Parliament.

### Parties

A party is eligible for annual payments on a calendar year basis from the Administration Fund if it was a registered party at the previous state election, it endorsed candidates who were elected at that election and the party continued to be a registered party. The annual amount payable to an eligible party is the amount of administrative expenditure incurred during the calendar year up to a maximum amount. The maximum amount is either \$80 000 for each elected member endorsed by the party, or \$2 million whichever is less.

7. NSWFEA, Factsheet, 'Electoral expenditure', NSWFEA website, [http://www.efa.nsw.gov.au/\\_data/assets/pdf\\_file/0006/91536/Fact\\_Sheet\\_Electoral\\_Expenditure\\_v2.pdf](http://www.efa.nsw.gov.au/_data/assets/pdf_file/0006/91536/Fact_Sheet_Electoral_Expenditure_v2.pdf)

### Independent MPs

An elected member is eligible for annual payments on a calendar year basis from the Administration Fund if the elected member was not an endorsed candidate of any party at the State election at which the member was elected. The annual amount payable to an eligible elected member is the amount of administration and operating expenditure incurred during the calendar year, but not exceeding \$80 000.<sup>8</sup>

### Policy Development Fund

Parties that are not eligible for payments from the Administration Fund may be eligible for annual payments from the Policy Development Fund. The purpose of the fund is to reimburse parties for policy development expenditure incurred by the party in a calendar year.

A party is eligible for payments from the Policy Development Fund if it has been a registered party for the full calendar year in which the policy development expenditure was incurred. The relevant maximum amount payable is 25 cents for each first preference vote received by any candidate at the previous state election who was endorsed by the party, either for the Legislative Assembly or the Legislative Council (in this case, the first preference votes are those received by a candidate or any candidate included in the same group).<sup>9</sup>

### Disclosure and donations rules

Major reforms to funding and disclosure legislation (*Election Funding, Expenditure and Disclosures Act 1981*) commenced on 1 January 2011. In particular the reforms imposed caps on political donations and electoral communication expenditure.

For the purposes of the Act, 'disclosure' refers to information lodged with the NSWFEA about

- political donations received or made and electoral expenditure incurred by a candidate, group of candidates, elected member or third-party campaigner, and
- political donations made by a major political donor.

NSWEFA website contains a [searchable database of disclosures](#) lodged by candidates, groups, elected councillors, Members of Parliament, registered political parties and political donors since 2008.<sup>10</sup>

Further reforms were implemented by the O'Farrell Government in February 2012 (these are discussed in more detail below). The most controversial of these changes was a prohibition on

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8. Ibid.

9. Ibid.

10. NSWFEA, Disclosures website, viewed 12 December 2011, <http://searchdecs.efa.nsw.gov.au/>

political donations from corporations, trade unions and other lobby groups. Under the new rules only individuals on the NSW electoral roll can make political donations.

### **Disclosure of Political donations**

Parties and candidates must disclose all political donations received following the end of the financial year in which the donation was received.<sup>11</sup> Donations of \$1000 or less are ‘small political donations’ and disclosure of all details is not required—although the *aggregate* of all small political donations, including the number of donors, must be disclosed. If small donations by one donor to one person or entity in total reaches or exceeds \$1000 in the financial year, then details must be disclosed.<sup>12</sup> If no donations were received, a ‘nil’ disclosure must be lodged.

Disclosures on behalf of a party, elected member, candidate, group or third-party campaigner are to be made before 22 September for the period ending on 30 June in that year.

Donors are also required to disclose the details of political donations made to parties or candidates if the donation had a value of or exceeding \$1000. A disclosure is required to be made before 20 October for the period ending on 30 June in that year in which a reportable political donation of \$1000 or more was made.<sup>13</sup>

When legislation passed by the NSW Parliament in February 2012 is enacted, only individuals will be permitted to make political donations, with a cap of \$5000 a year. Donations from trade unions, corporations and lobby groups will be banned, as will affiliation fees to parties—but such groups will be able to incur expenditure on ‘issues-based campaigns’.

### **Disclosure of electoral expenditure**

Disclosure is required of all electoral expenditure incurred, by or on behalf of a party (whether a registered party or not), an elected member, a group, a candidate or a third-party campaigner. Disclosure reports cover each 12-month period ending on 30 June. If no expenditure was incurred, a ‘nil’ disclosure must be lodged.

### **Disclosure of electoral communication expenditure**

Electoral communication expenditure is expenditure incurred during the capped expenditure period of an election to promote or oppose, directly or indirectly, a party or candidates, or for the purpose of influencing, directly or indirectly, the voting at an election.<sup>14</sup>

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11. NSWFEA, *Fact Sheet: Disclosure of political donations and electoral expenditure*, NSWFEA website, viewed 12 December 2011, [http://www.efa.nsw.gov.au/\\_data/assets/pdf\\_file/0017/93122/Fact\\_Sheet\\_Disclosure\\_v2.pdf](http://www.efa.nsw.gov.au/_data/assets/pdf_file/0017/93122/Fact_Sheet_Disclosure_v2.pdf)

12. Ibid.

13. Ibid.

14. NSWFEA, *Fact Sheet: electoral expenditure*, NSWFEA website, viewed 12 December 2011, [http://www.efa.nsw.gov.au/\\_data/assets/pdf\\_file/0006/91536/Fact\\_Sheet\\_Electoral\\_Expenditure\\_v2.pdf](http://www.efa.nsw.gov.au/_data/assets/pdf_file/0006/91536/Fact_Sheet_Electoral_Expenditure_v2.pdf)

Disclosure is required of all electoral expenditure incurred by a party, an elected member, a group, a candidate or a third-party campaigner during the relevant disclosure period, being each 12-month period ending on 30 June. Unless otherwise prescribed, disclosures are to be made before 22 September.<sup>15</sup> Electoral expenditure is capped (see details above). If no expenditure was incurred, a 'nil' disclosure must be lodged.

## NSW reforms to political financing arrangements

From around mid-2005, NSW had experienced a series of controversies related to political donations, especially from property developers.<sup>16</sup> A Select Committee on Electoral and Political Party Funding was established by the NSW Legislative Council on 27 June 2007 to inquire into and report on electoral and political party funding.<sup>17</sup> The [Select Committee made 47 recommendations](#), including:

- a ban on all but small political donations by individuals, to be capped at \$1000
- caps on election campaign expenditure by political parties and associated entities
- identification of donors by name or business number
- a \$500 disclosure threshold for all donations
- online and real-time disclosure of expenditure and donations.<sup>18</sup>

On 28 February 2008, Premier Morris lemma told the NSW Parliament

... donations laws need to change, and for the better. We will make that happen. The Government does support the upper House inquiry into donation reform and the Australian Labor Party has already made a submission. The Government has been doing further work on this issue. .... These will be a carefully considered series of measures to improve the donations laws and accountability and transparency... The first of the measures, requiring disclosure on a more regular basis rather than the current system of every four years, will make our system more transparent. Annual disclosure would be equal to best practice in Australia....

In the interests of having the best system in the country, New South Wales will move to a system of twice-yearly disclosures with full reports in June and December. The Government has also given consideration to the issue of lowering the level of disclosure. .... But rather than undertake

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15. Ibid.

16. Select Committee on Electoral and Political Party Funding, *Electoral and political party funding in New South Wales*, NSW Legislative Council, Sydney, June 2008, pp. 7–10, viewed 19 December 2011, [http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/1ca6d5a89fabd975ca25746d00063640/\\$FILE/Final%20report%20080619.pdf](http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/1ca6d5a89fabd975ca25746d00063640/$FILE/Final%20report%20080619.pdf)

17. NSW Legislative Council, *Minutes*, 27 June 2007, Item 8, viewed 10 December 2011, [http://www.parliament.nsw.gov.au/prod/lc/lcpaper.nsf/0/B87E2A555C7184E3CA25730700483BBD/\\$file/Minutes%2014%20-%2027%20June%202007.pdf](http://www.parliament.nsw.gov.au/prod/lc/lcpaper.nsf/0/B87E2A555C7184E3CA25730700483BBD/$file/Minutes%2014%20-%2027%20June%202007.pdf)

18. NSW Select Committee on Electoral and Political Party Funding, *op.cit.*, pp. xii–xvii.

unilateral change, the New South Wales Government will give a commitment that if the Commonwealth Government adopts a disclosure limit below \$1,500, the New South Wales Government will apply the same lower limit. ICAC has made a number of recommendations.<sup>19</sup>

The Lemma Government's submission to the Select Committee inquiry reiterated the Premier's statement to Parliament, and added that the proposed reforms were just 'the first step'. The submission also expressed the Government's view that 'there is considerable merit in the option of a ban on private donations, along with increased public funding of elections'.<sup>20</sup>

On 5 June 2008 Attorney-General Hatzistergos gave notice that two bills would be introduced into the Legislative Council on 17 June: the Election Funding Amendment (Political Donations and Expenditure) Bill, and the Local Government and Planning Legislation Amendment (Political Donations) Bill.<sup>21</sup> The bills were introduced the day before the Legislative Council Select Committee [report was tabled](#).

The Election Funding Amendment (Political Donations and Expenditure) Bill provided for, among other things, biannual disclosures of political donations and electoral expenditure and an obligation to disclose the details of all political donations of, or above, \$1000. It also prohibited entities from making reportable political donations unless they have an Australian Business Number (ABN).<sup>22</sup> The Select Committee's recommendations to ban political donations by corporations and organisations and to ban intra-party transfers were not included in the bill, which passed both Houses on 25 June 2008.

In November 2009, then Opposition Leader O'Farrell introduced into the Legislative Assembly his Independent Commission Against Corruption Amendment (Political Donations) Bill 2009 to confer on the Independent Commission Against Corruption (ICAC) the function of investigating and reporting on connections between political donations and decisions of elected public officials. The bill was not debated and lapsed when the parliament was prorogued in December 2010.

In November 2009, [the press reported](#) that, at the NSW State ALP Conference, Premier Rees had announced a ban on political donations from developers:

"From today, the NSW Labor Party will ban donations from developers," he said. "Not another cent. In fact, we will put the ban into law; it will cover all members of the NSW Parliament. All local councillors. And all party units and organisations." Mr Rees said the development ban was only part of a broader series of reforms and that he would commission a quick parliamentary inquiry into the issue and pass legislation "by June" ending all big political donations. "One way

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19. M Lemma, 'Campaign finance laws', Answer to question without notice, [Questioner: A McDonald], Legislative Assembly, *Debates*, 28 February 2008, pp. 5679–80, viewed 10 December 2011, [http://www.parliament.nsw.gov.au/prod/parliament/hansart.nsf/V3Key/LA20080228015?open&refNavID=LA6\\_4](http://www.parliament.nsw.gov.au/prod/parliament/hansart.nsf/V3Key/LA20080228015?open&refNavID=LA6_4)
  20. NSW Department of Premier and Cabinet, Submission No. 182, NSW Select Committee on Electoral and Political Party Funding, 3 April 2008, p. 6.
  21. NSW Select Committee on Electoral and Political Party Funding, *op. cit.*, p. 9.
  22. Election Funding Amendment (Political Donations and Expenditure) Bill 2008 (NSW) Explanatory note, pp. 1–2.

or another, the next state elections will be conducted under a public funding model," he said. "The era of big donations is over."<sup>23</sup>

Both the Greens and the Coalition parties said that the bans did not go far enough:

NSW Greens MP Lee Rhiannon said the ban ... included no commitment on banning corporate donations, limiting individual donations or capping election expenditure.... Ms Rhiannon called for the immediate disclosure of all corporate donations to the Government and Opposition in the lead up to the 2011 state election. ...

Opposition Leader Barry O'Farrell said the Rees Government had failed to cap spending, ban corporate donations and ban lobbyist success fees.<sup>24</sup>

Relevant legislation subsequently passed through both Houses on 3 December 2009 in the form of the [\*Election Funding and Disclosures Amendment \(Property Developers Prohibition\) Act 2009\*](#) (NSW).<sup>25</sup>

In December 2009 Premier Rees referred an inquiry into the public funding of election campaigns in NSW to the NSW Parliament Joint Standing Committee on Electoral Matters. The terms of reference for the inquiry noted that 'the Government has announced its support for the introduction of a comprehensive public funding model'.<sup>26</sup>

On 4 December 2009, the newly sworn-in Premier, Kristina Keneally, 'publicly reaffirmed her Government's commitment to maintaining the ban on donations by property developers, as well as indicating the Government's support for the full public funding of election campaigns'.<sup>27</sup> In January 2010 it was reported that Premier Keneally continued to favour a public funding model.<sup>28</sup>

In submissions to the Electoral Matters Committee's inquiry the major political parties indicated their views regarding public funding. The NSW Liberal Party advocated capped expenditure and

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23. M Moore, 'Developers cry foul over Labor's ban on donations', *Sydney Morning Herald*, 16 November 2009, viewed 6 December 2011, <http://www.smh.com.au/national/developers-cry-foul-over-labors-ban-on-donations-20091115-igdd.html>
  24. A Dorizas, 'Rees falls short on donation reform', *GovernmentNews.com.au*, 19 November 2009, viewed 6 December 2011, <http://www.governmentnews.com.au/2009/11/19/article/Rees-falls-short-on-donation-reform/PUZUHTNHVY>
  25. J Arditi, *Political donations and electoral finance*, NSW Parliamentary Library Research Service, *E-Brief* No. 01/10, p 1, viewed 6 December 2011, [http://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/key/PoliticalDonationsandElectoralFinance/\\$File/Political+Donations+and+Electoral+Finance+E-Brief.pdf](http://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/key/PoliticalDonationsandElectoralFinance/$File/Political+Donations+and+Electoral+Finance+E-Brief.pdf)
  26. Joint Standing Committee on Electoral Matters, *Public funding of election campaigns*, Report 2/54, March 2010, p. v., NSW Parliament, Sydney, viewed 12 December 2011, [http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/82f12c9fc8e2dbdcca2576f200213db6/\\$FILE/Final%20Report%202-54.pdf](http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/82f12c9fc8e2dbdcca2576f200213db6/$FILE/Final%20Report%202-54.pdf)
  27. J Arditi, op.cit.
  28. B Robbins, 'Election campaign funding hits hurdle', *Sydney Morning Herald*, 2 January 2010, viewed 20 December 2011, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FRRJV6%22>

donations with independent oversight; supported the reimbursement model of election public funding with a four per cent threshold; and favoured a Party Administration Fund.<sup>29</sup> The NSW National Party supported banning all donations other than those from individuals; capping donations along with an increase in public funding for campaign expenditure; and caps on election campaign spending.<sup>30</sup> The NSW ALP supported limits on donations and campaign expenditure and the introduction of an expanded public funding scheme.<sup>31</sup>

The Electoral Matters Committee reported in March 2010. In its own consideration of full public funding the Committee stated in its [inquiry report](#) that it 'was persuaded by the arguments that there is a legitimate role for well-regulated private contributions in the political finance system'.<sup>32</sup> The Committee recommended that, 'in legislating to reform public funding', the NSW Premier should consider the 'strong arguments against a system premised on full public funding of election campaigns'.<sup>33</sup>

In August 2010, [the press reported](#) that Premier Keneally was:

... about to embark on the biggest political donations reform in Australia's history, proposing a \$2000 limit on individuals donating to candidates and a \$5000 limit on individuals donating to parties.<sup>34</sup>

On 5 October 2010, Premier Keneally responded to the Committee report, saying that the report was 'under active consideration by the Government' and that the Government intended 'to bring

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29. Liberal Party of Australia, NSW Division, Submission to the Joint Standing Committee on Electoral Matters, *Inquiry into the public funding of election campaigns*, January 2010, pp. 13–14, 27, viewed 19 December 2011, [http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/cff83f3a179e0716ca2576bc0082283d/\\$FILE/%2317%20Liberal%20Party.pdf](http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/cff83f3a179e0716ca2576bc0082283d/$FILE/%2317%20Liberal%20Party.pdf)
  30. National Party of Australia, NSW Branch, Submission to the Joint Standing Committee on Electoral Matters, *Inquiry into the public funding of election campaigns*, January 2010, p. 4, viewed 19 December 2011, [http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/1bcf085406250291ca2576bc00823651/\\$FILE/%2318%20National%20Party.pdf](http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/1bcf085406250291ca2576bc00823651/$FILE/%2318%20National%20Party.pdf)
  31. Australian Labor Party, NSW Branch (NSW ALP), Submission to the Joint Standing Committee on Electoral Matters, *Inquiry into the public funding of election campaigns*, January 2010, p. 5, viewed 19 December 2011, [http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/a1b34b1072056f81ca2576bc008215b4/\\$FILE/%2315%20ALP%20NSW.pdf](http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/a1b34b1072056f81ca2576bc008215b4/$FILE/%2315%20ALP%20NSW.pdf). In 2008 the NSW ALP had explicitly advocated the abolition of political donations and the institution of full public funding in NSW: NSW ALP, Submission to the Legislative Council Select Committee on Electoral and Political Party Funding, *Inquiry into electoral and political party funding*, March 2008, p. 2, viewed 19 December 2011, [http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/5e44ee94d5799e04ca25741d00031357/\\$FILE/Submission%20107a.pdf](http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/5e44ee94d5799e04ca25741d00031357/$FILE/Submission%20107a.pdf)
  32. Joint Standing Committee on Electoral Matters, *Public funding of election campaigns*, op. cit., pp. xiv–xv.
  33. *Ibid.*, p. 28.
  34. A Clennell, 'Keneally's bid for donations reform', *The Daily Telegraph*, 11 August 2010, viewed 20 December 2011, [http://www.news.com.au/keneallys-bid-for-donations-reform/story-e6freuzi-1225903672278?from=public\\_rss](http://www.news.com.au/keneallys-bid-for-donations-reform/story-e6freuzi-1225903672278?from=public_rss)

forward legislation this session of Parliament to implement those recommendations in the report that are supported'.<sup>35</sup>

In November 2010, the Keneally Labor government substantially amended the NSW *Election Funding, Expenditure and Disclosures Act 1981* to establish a revised system of regulating both electoral expenditure and party political financing and donations. The system was in place for the March 2011 NSW state election. The various caps that were imposed are indexed for inflation according to the Consumer Price Index (CPI).

#### The Keneally reforms included:

- A candidate's campaign expenditure capped at \$100 000 per electorate during a regulated period if they were endorsed by a party, or \$150 000 if not endorsed by a party.
- Expenditure by political parties capped at a total of \$100 000 multiplied by the number of electorates they contested. Within this total cap, expenditure by political parties was capped at \$50 000 per electorate for material that relates to a particular electorate (in addition to each candidate's expenditure cap). Expenditure by political parties contesting only the Legislative Council was capped at \$1.05 million.
- Third parties may not spend more than \$1.05 million where registered by 31 December in the year before an election or \$525 000 where registered on or after 1 January in the year of the election, and may not spend more than \$20 000 per electorate.
- A new public funding model established to reimburse parties, groups and candidates for actual expenditure on a progressive basis up to their maximum entitlement.
- Political donations to registered political parties or groups capped at \$5000 and to candidates or elected members, \$2000 in a financial year. Donors limited to no more than three donations of up to \$2000 each to third parties in a financial year.<sup>36</sup>

During the 2011 NSW state election campaign the Liberal-Nationals Coalition promised further election funding reforms including:

- limits on election spending, to be set by an independent arbiter
- spending limits for groups other than political parties who seek to influence voters, whether union, business or community based
- an annual cap on how much a person is able to donate to the candidate or political party of their choice. Donation caps will be set by an independent arbiter.<sup>37</sup>

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35. K Keneally, letter to R Furolo MP, Chair, Joint Standing Committee on Electoral Matters, 5 October 2010, viewed 20 December 2011, [http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/82f12c9fc8e2dbdcca2576f200213db6/\\$FILE/101005%20letter%20from%20Premier.pdf](http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/82f12c9fc8e2dbdcca2576f200213db6/$FILE/101005%20letter%20from%20Premier.pdf)

36. NSW Labor, 'NSW Parliament passes historic campaign finance reforms', 11 November 2010, website, viewed 6 March 2012, <http://www.nswalp.com/media/news/nsw-parliament-passes-historic-campaign-finance-re/>

In May 2011, the newly-elected Coalition Government headed by Premier O'Farrell passed legislation to ban lobbyist success fees<sup>38</sup> and in September 2011, Premier O'Farrell introduced [a bill to amend](#) the *Election Funding, Expenditure and Disclosures Act* to:

... ban donations from other than individuals, including corporations, industrial organisations, peak industry groups, religious institutions and community organisations—in other words, third party interest groups. It will do this by making it unlawful for a political donation to be made or received if the donor is not an individual who is on an electoral roll for Commonwealth, State or local government elections.

The bill also will link the electoral communication expenditure of political parties with that of their affiliates to ensure that the effectiveness and fairness of campaign finance rules are not undermined. These reforms are a reasonable, measured and fair way to inject more transparency and accessibility into the State's political processes.<sup>39</sup>

Under our new laws the electoral communications expenditure of a political party and its affiliated organisations will be limited to \$100 000 for each seat it contests.<sup>40</sup>

The amendment bill was [reviewed by the Legislation Review Committee](#) on 11 October 2011 and [passed the Legislative Assembly on 12 October 2011](#) and received its first reading in the Legislative Council on the same day. The bill provides that the applicable election expenditure cap includes 'any other electoral communication expenditure incurred by an affiliated organisation' of a party:

An affiliated organisation of a party means a body or other organisation, whether incorporated or unincorporated, that is authorised under the rules of that party to appoint delegates to the governing body of that party or to participate in pre-selection of candidates for that party (or both).<sup>41</sup>

The bill also proposed to make it 'unlawful for a corporation or other entity (including an industrial organisation) to pay annual or other subscriptions to a party for affiliation with the party'.<sup>42</sup> Premier O'Farrell had previously said that the 2010 Keneally reforms 'contained loopholes to ensure that the Australian Labor Party could continue to receive millions of dollars in support from their union mates'.<sup>43</sup> Australian academic and specialist in electoral law, Dr Anne Twomey, has said that 'if one

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<sup>37</sup>. NSW Liberal Party Statement, 'Reforming election campaign finance laws', viewed 15 April 2011, <http://www.nsw.liberal.org.au/policies/accountability-and-government-reform/reforming-election-campaign-finance-laws.html>

<sup>38</sup>. B O'Farrell, 'NSW Parliament passes ban on success fees', media release, 11 May 2011, viewed 16 May 2011, <http://www.premier.nsw.gov.au/sites/default/files/110511-BanonSuccessFees.pdf>

<sup>39</sup>. B O'Farrell (Premier), Speech, 'Agreement in Principle', Election Funding, Expenditure and Disclosures Amendment Bill 2011, NSW Legislative Assembly, *Debates*, 12 September 2011, p. 5432.

<sup>40</sup>. B O'Farrell (Premier), 'Answer to question without notice: Political donations', [Questioner: R Stokes], NSW Legislative Assembly, *Debates*, 12 September 2011, p. 5416.

<sup>41</sup>. This definition appears in Schedule 1 [1] of the Election Funding, Expenditure and Disclosures Amendment Bill 2011

<sup>42</sup>. This provision appears in Schedule 1 [2] of the Election Funding, Expenditure and Disclosures Amendment Bill 2011

<sup>43</sup>. B O'Farrell (Premier), 'Answer to question without notice: Political donations', op.cit., p. 5415.

was advising the New South Wales government, I think you'd put it into the category of "courageous legislation".<sup>44</sup> Dr Twomey considered that the legislation may be vulnerable to a court challenge in that it may be considered to impede free speech and political participation.<sup>45</sup>

The Legislation Review Committee that examined the bill in October 2011 had earlier noted:

As the nature of contemporary campaigning requires candidates and their advocates to spend significant sums on producing campaign literature and advertising, it necessarily follows that any restriction on campaign expenditure could affect the ability of political parties (or their advocates) to advertise their credentials, promote their policies, and generally engage with voters.<sup>46</sup>

The Committee also mentioned the High Court's *Lange* judgement that 'Laws that ban or impose limits upon political donations or election campaign expenditure are likely to be regarded as burdening the constitutionally implied freedom of political communication'.<sup>47</sup> The Committee reiterated 'the concerns it has previously made that laws which restrict campaign expenditure may affect the freedom of political communication' and noted 'that this Bill may further impact on freedom of political communication in New South Wales'.<sup>48</sup>

On 23 November 2011 the Legislative Council [established an inquiry](#) into the bill's provisions, and [public hearings commenced in January 2012](#) with a view to a report being completed by 15 February 2012. The bill had reportedly 'stalled in the upper house, where the Coalition does not have sufficient support due to opposition from Labor, the Greens and the Shooters and Fishers Party'.<sup>49</sup> That opposition stemmed largely from concerns that the proposed new regime would inhibit political advertising and advocacy by non-government organisations, industry bodies and other advocacy groups. There were also arguments that moving to a system of individual donations 'clearly favours those at the wealthier end of the scale'.<sup>50</sup>

Press reports quoted Premier O'Farrell saying that genuinely independent third party organisations would still be able to mount issues-based and political campaigns under the reforms:

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44. A Twomey, ABC Radio National transcript, *National Interest*, 'Keep it personal: NSW's tough campaign laws', 16 September 2011, viewed 20 December 2011,

<http://www.abc.net.au/radionational/programs/nationalinterest/keep-it-personal-nsws-tough-campaign-laws/3586764>

45. Ibid.

46. NSW Legislation Review Committee, *Legislation Review Digest No. 5 of 2011*, p. 10, viewed 18 January 2012,

[http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/0b58a95400c19ff9ca257926001c91f1/\\$FILE/Digest%205.pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/0b58a95400c19ff9ca257926001c91f1/$FILE/Digest%205.pdf)

47. *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520

48. NSW Legislation Review Committee, *op. cit.*, p. 11.

49. J Tovey, 'Donations reforms favour rich, inquiry told', *Sydney Morning Herald*, 19 January 2012, p. 5, viewed 20 January 2012,

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2F1357188%22>

50. Ibid.

The government's bill doesn't prevent third party campaigners ... from accepting corporate donations that are used to run a genuine issues-based campaign unconnected to a state or local government election.. Donation caps only apply for third party campaigners who incur electoral expenditure, and electoral expenditure relates to opposing directly or indirectly a party or the election of a candidate or candidates for the purpose of influencing directly or indirectly a vote at an election.<sup>51</sup>

The inquiry [reported on 15 February 2012](#). The Committee had been especially concerned to address the most controversial aspects of the bill:

- Under the proposed amendments to section 95G, electoral communication expenditure incurred by a party would be aggregated with the electoral communication expenditure incurred by an affiliated organisation, within the applicable cap for the party.
- Under the proposed new section 96D, it would be unlawful for a party, elected member, group, candidate or third-party campaigner to accept a political donation unless the donor is an individual who is enrolled on the roll of electors for local government, state or federal elections.
- The proposed new section 96D expressly prohibits the payment of annual or other subscriptions to a party by an entity (including an industrial organisation) other than a citizen on the electoral roll for affiliation with the party.
- Under section 4(1) of the Act, a third-party campaigner is defined as being an entity or other person who incurs electoral communication expenditure during a capped expenditure period that exceeds \$2000 in total. This definition could potentially capture a range of organisations, including sporting associations, trade unions and community groups.

The Committee also devoted Chapter 7 of its report to the constitutional issues arising from the bill regarding its potential restrictions on freedom of political communication.

The Committee's recommendations included that the bill's provisions 'to prohibit political donations other than by individuals on the electoral roll be agreed to'.<sup>52</sup> The Committee also recommended::

- amending the bill to permit fees to be paid by bodies to the party to which they are affiliated, provided the fees are capped to a very modest level, which is equal to or not greater than the administration costs imposed on the party by the affiliation, and the consent of their members to do so has been obtained
- amending the bill to allow not-for-profit membership-based organisations that are third-party campaigners to pool their money in another not-for-profit organisation for the purpose of

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51. B O'Farrell, quoted in 'O'Farrell defends donation law reforms', *SkyNEWS*, 20 January 2012, viewed 25 January 2012, <http://www.skynews.com.au/topstories/article.aspx?id=709380&vld=>

52. NSW Legislative Council Select Committee on the provisions of the Election Funding, Expenditure and Disclosures Amendment Bill 2011, *Inquiry into the provisions of the Election Funding, Expenditure and Disclosures Amendment Bill 2011*, February 2012, p. xvii, viewed 16 February 2012, [http://www.parliament.nsw.gov.au/prod/parliament/committee.nsf/0/17773b7f7d63d7deca2579a500029663/\\$FILE/120214%20Final%20report.pdf](http://www.parliament.nsw.gov.au/prod/parliament/committee.nsf/0/17773b7f7d63d7deca2579a500029663/$FILE/120214%20Final%20report.pdf)

undertaking issues-based campaigning during an election period, subject to the existing caps on donations to, and expenditure by, third-party campaigners.

- amending the *Election Funding, Expenditure and Disclosures Act 1981* to clarify the definition of electoral expenditure' by clearly defining what constitutes an issues-based campaign, and providing that an issues-based campaign does not constitute electoral expenditure.<sup>53</sup>

In the event, the Government moved an amendment dealing with 'electoral expenditure' and 'electoral communication expenditure':

Insert after section 87 (3) (before the note):

(4) Electoral expenditure (and electoral communication expenditure) does not include expenditure incurred by an entity or other person (not being a registered party, elected member, group or candidate) if the expenditure is not incurred for the dominant purpose of promoting or opposing a party or the election of a candidate or candidates or influencing the voting at an election.<sup>54</sup>

In moving the amendment, the Government stated:

The amendments make it clear that electoral expenditure and electoral communication expenditure do not include expenditure incurred by a third-party campaigner as the expenditure is not incurred for the dominant purpose of promoting or opposing a party, or the election of a candidate or candidates, or influencing the voting at an election. In other words, if the dominant purpose of a third-party campaign is simply to raise public awareness, contribute to public debate or advocate a particular position on a public issue, this bill will not affect those campaigns. This bill always has been about campaigns that in substance are directed towards supporting or opposing a particular party or candidate or advocate for a particular election outcome. This amendment will flow through to the definition of political donations in section 85 of the Act and will clarify that peak bodies are not prohibited from accepting donations from their member bodies to fund issues-based campaigns.<sup>55</sup>

While the Government amendment was agreed to, various amendments moved in committee by the ALP and the Christian Democratic Party were negatived, and the bill was passed essentially in its original form shortly after midnight on 16 February 2012.<sup>56</sup>

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53. Ibid.

54. M Gallacher MLC, Election funding, expenditure and disclosures Amendment Bill 2011, In Committee, NSW Legislative Council *Debates*, 15 February 2012, viewed 16 February 2012, [http://www.parliament.nsw.gov.au/prod/parlment/hansart.nsf/V3Key/LC20120215051?open&refNavID=HA3\\_1](http://www.parliament.nsw.gov.au/prod/parlment/hansart.nsf/V3Key/LC20120215051?open&refNavID=HA3_1)

55. Ibid.

56. Ibid.

As a result, only individuals will be permitted to make political donations, with a cap of \$5000 a year. Donations from trade unions, corporations and lobby groups will be banned, as will affiliation fees to parties—but such groups will be able to incur expenditure on ‘issues-based campaigns’.

The media coverage conveyed the level of controversy re-ignited by the event:

Trade unions are considering a High Court challenge to electoral funding laws passed by the New South Wales Parliament late last night... Premier Barry O'Farrell says the changes will help clean up state politics..."What I'm particularly pleased about is this has ended once and for all the donations for decisions culture that grew up under the former Labor government". But Unions New South Wales secretary Mark Lennon says the changes are unfair and unworkable. "This is a system that will now favour the wealthy and ensure that working people can't have an effective political voice." ...

Greens MP John Kaye has defended the party's decision to support the legislation.

"The rivers of cash from corporations, from unions, from other organisations that have flowed in the past into political parties came to an end at about 10 past 12 this morning in the New South Wales Upper House. This is a big step forward for politics in New South Wales," Dr Kaye said.<sup>57</sup>

It was also reported that:

... a section of the Greens in NSW had concerns about banning union affiliation fees, or banning small groups from aggregating their campaign resources by donating to peak bodies. However, these concerns were defeated by the more conservation-oriented section of the party...<sup>58</sup>

Constitutional law expert Dr Anne Twomey believed that ‘a High Court challenge to the laws was inevitable’.<sup>59</sup> A detailed [summary of the constitutional issues](#) surrounding the new laws has been prepared by the NSW Parliamentary Library Research Service.

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57. L Foschia, ‘Donations shake-up passes NSW Parliament’, 16 February 2012, *ABC News*, viewed 16 February 2012, <http://www.abc.net.au/news/2012-02-16/political-donations-shake-up-passes-nsw-parliament/3833144>

58. Ibid.

59. I Salusinszky, ‘O’Farrell locks out unions on campaign funds’, *The Australian*, 16 February 2012, p. 7, viewed 16 February 2012, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2F1423569%22>

## Victoria

### Election funding arrangements

Under the *Electoral Act 2002* (VIC) registered political parties and unendorsed candidates contesting state elections (including by-elections) for the Legislative Assembly who receive at least four per cent of the first preference vote are eligible for reimbursement of electoral expenditure up to a prescribed maximum.

Unendorsed candidates and candidates in groups contesting state elections (including by-elections) for the Legislative Council are also eligible for reimbursement of electoral expenditure if they receive at least four per cent of first preference votes.<sup>60</sup> To calculate the entitlement, the number of first preference votes obtained by the first-named candidate in a group is determined by adding the above-the-line votes for that group to the number of first preferences recorded below-the-line for the first-named candidate.<sup>61</sup>

The maximum funding entitlement is calculated by multiplying a CPI-indexed rate per first preference vote (\$1.4849 for the 2010 state election<sup>62</sup>) by the number of first preference votes received. The actual amount paid will either be the maximum entitlement if the electoral expenditure is equal to or more than the maximum entitlement or the actual electoral expenditure if this is less than the maximum entitlement. In the case of party-endorsed candidates, payment is made to the registered political party. In the case of unendorsed candidates payment is made to the candidate.<sup>63</sup>

The Victorian Electoral Commission [publishes](#) the funding amounts paid.

### Disclosure and donations rules

Rules relating to political donations and expenditure are provided for in [Section 206 of the \*Electoral Act 2002\*](#). The only provision of political donation disclosure in the Act requires those political parties registered in Victoria, and which are also federally registered, to lodge a copy of their annual return with the Victorian Electoral Commission.

There is no accurate record of all political donations received by political parties and candidates in Victoria.

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60. Victorian Electoral Commission (VEC), *Annual Report 2006–07*, VEC, Melbourne, 2007, p. 12, viewed 24 November 2011, <http://www.vec.vic.gov.au/files/AR-2007-Full.pdf>

61. Ibid.

62. VEC, *2010 State Election Plan*, VEC, Melbourne, 2010, p. 16, viewed 16 May 2011, <http://www.vec.vic.gov.au/files/2010StateElectionPlan.pdf>

63. VEC, *Annual Report 2006–07*, op. cit., p. 12.

Victoria “piggy-backs” on the Commonwealth disclosure scheme, which requires only federally registered political parties in Victoria to disclose all political donations received of more than \$10,900 [indexed]; independent candidates and political parties registered only in Victoria are not required to comply with any disclosure laws.<sup>64</sup>

Organisations that hold licenses related to gambling may not make donations to a political party that exceeds \$50 000 in a financial year.<sup>65</sup> Holders of casino and gaming licences may not make political donations of more than \$50 000 a financial year to each political party. (News reports have suggested that political donations from private sources account for 80 per cent of the income for major parties.<sup>66</sup>)

## Victorian reforms to political financing arrangements

On 7 May 2009, the Victorian Parliament’s Electoral Matters Committee tabled the report of its [Inquiry into political donations and disclosure](#). It contained three recommendations:

Recommendation 1: The Victorian and Commonwealth Governments consider how best to harmonise political finance laws to ensure a uniform and consistent approach.

Recommendation 2: The Victorian Government updates the caps on political donations contained in the Electoral Act 2002 (Vic) in light of forthcoming changes to the structure of licensing of electronic gaming machines.

Recommendation 3: The Victorian Government amend the *Electoral Act 2002 (Vic)* to ensure that the reporting and disclosure provisions that apply federally to registered political parties, also apply to independent candidates and political parties registered in Victoria.<sup>67</sup>

The report was debated briefly in June 2009, and in November 2009 the Victorian Government tabled [its response](#). In brief, the Government:

- agreed that a harmonised approach to political finance laws was desirable
- noted that further consultation with the Commonwealth Government was planned in response to its 2008 [Electoral Reform Green Paper](#)
- said that the Government would amend the *Electoral Act 2002* to apply the cap on donations to all holders of gaming machine entitlements, and

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64. Victoria, Legislative Assembly, Electoral Matters Committee, *Inquiry into political donations and disclosure*, April 2009, p. 21, viewed 29 November 2011, [http://www.parliament.vic.gov.au/images/stories/committees/emc/EMC\\_-\\_Political\\_donations.pdf](http://www.parliament.vic.gov.au/images/stories/committees/emc/EMC_-_Political_donations.pdf)

65. Victoria, *Electoral Act 2002*, Section 261(1).

66. M Grattan, ‘Tackling the political arms race’, *The Age*, 19 December 2008, viewed 6 December 2011, <http://www.theage.com.au/opinion/tackling-the-political-arms-race-20081218-71mp.html>

67. Electoral Matters Committee, *Inquiry into political donations and disclosure*, Victorian Parliament, Melbourne, April 2009, viewed 29 November 2011, [http://www.parliament.vic.gov.au/images/stories/committees/emc/EMC\\_-\\_Political\\_donations.pdf](http://www.parliament.vic.gov.au/images/stories/committees/emc/EMC_-_Political_donations.pdf)

- considered it 'preferable to await national developments in respect of harmonisation' before amending the Victorian disclosure regime.<sup>68</sup>

On the same day as the response was tabled, the Victorian Greens MP, Sue Pennicuik, moved in the Legislative Council:

That this house calls on the state and federal governments to reform laws relating to political donations, with the aim of banning donations from entities such as unions and corporations and limiting the size of donations from individuals.<sup>69</sup>

The motion was agreed to and the debate adjourned. In April 2010, Ms Pennicuik moved that the Legislative Council 'calls on the Australian Labor Party and Liberal-National party coalition to refrain from accepting political donations from property developers for the remainder of 2010'. The Council divided on the motion, which was negated (Ayes 4, Noes 35).<sup>70</sup>

A month earlier, the Victorian Government had introduced its [Members of Parliament \(Standards\) Bill 2010](#) whose purpose was 'to promote public trust and confidence in Members of the Parliament of Victoria by establishing a Statement of Values, setting out a Code of Conduct, and establishing a Register of Interests for Members of Parliament'.<sup>71</sup> The bill included mention of the receipt by parliamentarians of hospitality and gifts, and the responsible use of public resources, but did not specify disclosure requirements. In any event the bill lapsed at the conclusion of the 56<sup>th</sup> Parliament.

In September 2011, press reports emerged that the Baillieu Coalition government was:

... considering sweeping reforms to campaign financing laws, including using more public money to ease its own funding crisis and a clampdown on large donations from unions and business. The Victorian government is investigating whether to sharply increase the amount of public

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68. Victorian Government, 'Response to report on the inquiry into political donations and disclosure', viewed 6 December 2011, [http://www.parliament.vic.gov.au/archive/emc/Inquiry%20into%20Political%20Donations%20and%20Disclosure/government\\_response.pdf](http://www.parliament.vic.gov.au/archive/emc/Inquiry%20into%20Political%20Donations%20and%20Disclosure/government_response.pdf)
69. S Pennicuik, 'Political donations: legislative reform', Victorian Legislative Council, *Debates*, 25 November 2009, p. 5623, viewed 8 March 2012, [http://tex.parliament.vic.gov.au/bin/texhtmlt?form=jVicHansard.dumpall&db=hansard91&dodraft=0&speech=7945&activity=NULL&title=POLITICAL+DONATIONS:+LEGISLATIVE+REFORM&date1=25&date2=November&date3=2009&query=true%0a%09and+%28+data+contains+'reform'%0a%09and+data+contains+'laws'%0a%09and+data+contains+'relating'%0a%09and+data+contains+'to'%0a%09and+data+contains+'political'%0a%09and+data+contains+'donations'+%29%0a%09and+%28+members+contains+'PENNICUIK'+%29%0a%09and+%28+hdate.hdate\\_3+=+2009+%29%0a%09and+%28+hdate.hdate\\_2+contains+'November'+%29%0a%09and+%28+house+contains+'COUNCIL'+%29%0a](http://tex.parliament.vic.gov.au/bin/texhtmlt?form=jVicHansard.dumpall&db=hansard91&dodraft=0&speech=7945&activity=NULL&title=POLITICAL+DONATIONS:+LEGISLATIVE+REFORM&date1=25&date2=November&date3=2009&query=true%0a%09and+%28+data+contains+'reform'%0a%09and+data+contains+'laws'%0a%09and+data+contains+'relating'%0a%09and+data+contains+'to'%0a%09and+data+contains+'political'%0a%09and+data+contains+'donations'+%29%0a%09and+%28+members+contains+'PENNICUIK'+%29%0a%09and+%28+hdate.hdate_3+=+2009+%29%0a%09and+%28+hdate.hdate_2+contains+'November'+%29%0a%09and+%28+house+contains+'COUNCIL'+%29%0a)
70. Victorian Legislative Council, *Debates*, 14 April 2010, p. 1343.
71. Victorian Legislative Assembly, Explanatory memorandum, Members of Parliament (Standards) Bill 2010, viewed 6 December 2011, [http://www.legislation.vic.gov.au/domino/Web\\_Notes/LDMS/PubPDocs\\_Arch.nsf/5da7442d8f61e92bca256de50013d008/CA2570CE0018AC6DCA2576EF0079C2D2/\\$FILE/561505exi1.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDocs_Arch.nsf/5da7442d8f61e92bca256de50013d008/CA2570CE0018AC6DCA2576EF0079C2D2/$FILE/561505exi1.pdf)

money used to fund future state elections as a trade-off for the biggest reforms in at least a decade. Central to the strategy will be limiting ministerial involvement in fundraising.<sup>72</sup>

It was not legislation, but rather a Code of Conduct that appeared shortly thereafter.

On 30 October 2011, Premier Baillieu [announced](#) a new [Code of Conduct](#) for Coalition MPs. Directed primarily at Liberal and National Parties, and especially ministers, it aimed at greater transparency and accountability in political financing, and regulating the activities of lobbyists and former politicians or senior staff employed in government affairs or related roles. The new Code requires public disclosure by the Coalition parties to the Australian Electoral Commission (AEC) within one month of receipt of any donation of more than \$100 000 or when aggregate total receipts from a donor equal or exceed \$100 000 in any one financial year.<sup>73</sup>

Premier Baillieu said the new Fundraising Code of Conduct ‘was available to the Opposition and other parties and it would be up to those parties whether they would also adopt the new standards of the code and apply them to all fundraising activities’.<sup>74</sup>

The prominent analyst of political financing reforms, Dr Joo-Cheong Tham, described the reforms as ‘admirable’ but insufficient.<sup>75</sup> Tham continued:

Yet these are not ... “landmark reforms.” The move to centralise party fundraising is largely internal Liberal Party housekeeping; in New South Wales and Queensland, by contrast, political donations must not only be disclosed but are also capped... Most importantly, though, it is doubtful whether the code of conduct will stop the sale of access and influence by the Coalition parties. The ban on ministers’ attending party fundraisers has been replaced by a series of tepid measures: ministers and parliamentary secretaries are reminded to avoid conflicts of interest and not to accept funds conditional on supporting particular government decisions (this would be bribery); and fund-raising material “produced to invite attendance may identify the guest” – the MP, that is – “but should not represent the function or event in a way which claims privileged access to a decision maker.” Nowhere in the code is privileged access through payment explicitly prohibited. The upshot is that ministers can headline party fundraisers involving the sale of access and influence provided they are not promoted in too vulgar a manner. Rather than curtailing the sale of privileged access, the obvious risk is that the code will drive such practices underground.

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72. J Ferguson, ‘Campaign funds reform looms in Victoria’, *The Australian*, 28 September 2011, viewed 29 November 2011, <http://www.theaustralian.com.au/national-affairs/state-politics/campaign-funds-reform-looms-in-victoria/story-e6frgczx-1226148511641>

73. T Baillieu (Premier), ‘Premier delivers tough new Code of Conduct to reform political fundraising and lobbying in Victoria’, media release, 30 October 2011, viewed 29 November 2011, <http://www.premier.vic.gov.au/media-centre/media-releases/2367-premier-delivers-tough-new-code-of-conduct-to-reform-political-fundraising-and-lobbying-in-victoria.html>

74. Ibid.

75. J-C Tham, ‘Political integrity: Victoria goes part of the way’, *Inside Story*, 9 November 2011, viewed 29 November 2011, <http://inside.org.au/political-integrity-victoria-goes-part-of-the-way/>

The other question mark concerns enforcement. The code seems to rely solely on the normal processes of political accountability – a vital but inadequate discipline. An independent statutory agency is needed, with powers to investigate alleged breaches of the code and, at the very least, establish the facts in each case. Allegations will invariably be contested. Leaving them to be sorted out through political processes will inevitably result in unedifying political point-scoring, providing convenient cover for the guilty and tainting the innocent; both will be corrosive of public trust.<sup>76</sup>

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76. *Ibid.*

## South Australia

### Election funding arrangements

In South Australia (SA), unlike most other states, there is no public funding for state election campaigns.

### Disclosure and donations rules

The *Electoral Act 1985 (SA)* contains no provisions for funding and disclosure.

Political donation disclosure limits in SA apply to federally-registered political parties and candidates only. Independents and parties registered only at state level do not have to disclose any donations received.

### South Australian reforms to political financing arrangements

In 2008, Greens MLC Mark Parnell introduced into the Legislative Council the Development (Political Donations) Amendment Bill 2008. The bill proposed to require disclosure of donations made to political parties that accompany large development applications. The bill was [negated](#), with both major parties opposing it. Parnell has said that South Australia has '[the worst political donations laws in the nation](#)'.<sup>77</sup>

Parnell has persisted in his efforts to seek reform. The [Greens believe](#) SA should match other states and have its own disclosure scheme for political donations independent of Federal legislation:

Corporate donations have the potential to undermine the democratic principles of political equality, accountability, transparency and integrity. We propose that there should be a ban on all corporate and group donations (i.e. trade unions, lobby groups). Only individual citizens should be allowed to make political donations, up to a limit of \$1000. Donations should be disclosed on a quarterly basis and published on a public website within 7 days to enable public scrutiny of donations in a timely fashion, particularly at election time. This would enable voters to be fully informed of any potential conflict of interest caused by larger donations. Limits should also be adopted for third party activities during an election campaign as per the regime in Canada. Public funding for election campaigns would help to ensure a level playing field for all parties and candidates based on their level of support at previous elections. These measures would enhance transparency of the political process and increase public trust.<sup>78</sup>

In August 2009, following mooted Queensland changes to political donations rules, Premier Mike Rann [was reported as saying](#) that 'he will not follow Queensland's lead and ban fundraising dinners

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77. M Parnell MLC, *Political donations in SA—briefing note*, January 2010, viewed 6 December 2011, [http://www.markparnell.org.au/gupload/Political%20Donations%20Briefing%20Note\\_Jan2010.pdf](http://www.markparnell.org.au/gupload/Political%20Donations%20Briefing%20Note_Jan2010.pdf)

78. Ibid.

involving political parties and business', saying that 'there is a different corporate culture in Queensland and no need for such changes in South Australia'.<sup>79</sup> The President of the Liberal Party in South Australia, Sean Edwards, [was also reported](#) in the same article as saying that 'fundraising from business would not be necessary if taxpayers funded political parties'.<sup>80</sup>

A press report in *The Australian* on 7 August 2009 stated:

Debate has intensified in South Australia over the need to reform political donation laws, regulate the activities of lobbyists and establish a NSW-style independent commission against corruption. The Liberal opposition has ramped up the pressure on the Rann government to act on the politically sensitive policy area.

Opposition Leader Isobel Redmond, who replaced Martin Hamilton-Smith a month ago, yesterday fired the latest salvo by announcing the Liberal Party would go to the state election next March with a policy to adopt the Canadian model of regulating political donations. This includes limiting individual donations to parties or candidates to a maximum of \$1000; prohibiting all corporate, union, and organisation donations to political parties and candidates; and banning cash donations.<sup>81</sup>

In October 2011 Jay Weatherill replaced Mike Rann as Premier. He announced the creation of an Independent Commission Against Corruption that would apply would 'to all people in whom the public places their trust'.<sup>82</sup> There have been no indications that the SA Government will initiate changes to electoral laws around political financing and disclosure.

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79. 'No need for SA donor ban: Rann', *ABC News*, 3 August 2009, viewed 6 December 2011, <http://www.abc.net.au/news/2009-08-03/no-need-for-sa-donor-ban-rann/1377082>

80. Ibid.

81. M Owen, 'Rann under the pump over handling of political ethics', *The Australian*, 7 August 2009, viewed 1 December 2011, <http://www.theaustralian.com.au/news/rann-under-the-pump-over-handling-of-political-ethics/story-e6frg6p6-1225758781723>

82. G Kelton, 'Corruptio watchdog cases to remain secret, says Attorney-General John Raue', *AdelaideNow.com.au*, 25 October 2011, viewed 17 January 2012, <http://www.adelaidenow.com.au/news/south-australia/south-australia-premier-jay-weatherill-announces-full-icac/story-e6frea83-1226175307904>

## Queensland

### Election funding arrangements

Under the *Electoral Act 1992* (Qld) registered political parties and independent candidates are eligible for reimbursement (up to a prescribed maximum) of election campaign expenditure for state elections in respect of candidates who received at least four per cent of first preference votes. As well, administration funding is available to both parties and candidates to facilitate their formal political activity. The Electoral Commission Queensland [publishes](#) disclosure information and funding amounts paid.

Amendments to the *Electoral Act* in 2011 increased public funding to political parties to help offset the restrictions imposed by the donations cap (see below). The Act as it now stands provides for the amount of public funding for elections for political parties and candidates to be determined by reference to a sliding scale based on their expenditure. This ensures candidates do not receive funding in excess of expenditure and pocket the difference. Parties and candidates must still reach four per cent to receive funding, but the amount of funding will not be based on the number of votes received. As well, parties and Independent members will receive public funding for administrative expenses, in recognition of their lessening dependency on private donations.<sup>83</sup>

#### Election funding formulae

A registered political party, or an independent candidate, is entitled to election funding if the total number of formal first preference votes given for the candidate is at least four per cent of the total number of formal first preference votes made in the election. Moreover, a registered political party or a candidate in an election is entitled to be paid an amount of the election funding in advance of the election if the party or candidate was entitled to election funding at the previous election.<sup>84</sup>

Election funding entitlements are calculated against actual electoral expenditure within the capped expenditure amount for the election. There is a 'capped expenditure period' that starts on the earlier of (a) two years after the previous election or (b) the day of the issue of the writ for the coming election, and ends at 6pm on polling day.<sup>85</sup>

The amount of election funding that the registered political party is entitled to is:

- all of the first 10 per cent of electoral expenditure

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83. P Lucas (Deputy Premier), Second reading Speech, Electoral Reform and Accountability Amendment Bill 2011, Queensland Parliament, *Debates*, 7 April 2011, viewed 16 May 2011, <http://www.parliament.qld.gov.au/view/legislativeassembly/tableOffice/documents/HALnks/110407/Electoral.pdf>

84. Electoral Commission Queensland, website, 'Funding and Disclosure', viewed 29 November 2011, [http://www.ecq.qld.gov.au/political\\_parties.aspx?id=95&terms=donation%20caps](http://www.ecq.qld.gov.au/political_parties.aspx?id=95&terms=donation%20caps)

85. *Electoral Act 1992 (Qld)*, Part 11, Division 1, s 197 Definitions, viewed 16 February 2012, <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/ElectoralA92.pdf>

- three-quarters of the next 80 per cent of electoral expenditure
- one-half of the remaining 10 per cent of electoral expenditure.<sup>86</sup>

Election expenditure by political parties, candidates and third parties is capped as follows:

- Independent candidates: expenditure cap is \$75 000.
- Registered political party: expenditure cap is \$80 000 per district contested.
- Endorsed candidate: expenditure cap is \$50 000.
- Registered Third Party: expenditure cap is \$500 000 but no more than \$75 000 in relation to a particular electoral district, in the first financial year.
- Unregistered Third Party: expenditure cap is \$10 000 but no more than \$2000 in relation to a particular electoral district, in the first financial year.<sup>87</sup>

### Administration funding

A registered political party is eligible for administrative funding if the party was registered at the last general election continues to be registered and candidates endorsed by the party were elected at the election. Parties are entitled to administrative funding that is the lesser of \$40 000 (indexed) for each elected member, or a state wide amount of \$1 million (indexed).

An independent member is entitled to be paid funding for each six month period commencing 1 January 2011. The maximum payment for the initial funding period is \$20 000 (indexed).<sup>88</sup>

### **Disclosure and donations rules**

As well as capping election expenditure<sup>89</sup>, the *Electoral Reform and Accountability Amendment Act 2011* caps political donations that are intended for campaign purposes. It:

- limits political donations that a person can give to candidates in the same political party to \$2000
- limits political donations that a person can give to independent candidates as a group to \$2000
- limits political donations that a person can give to each registered political party to \$5000.

### **Disclosure of donations**

Registered political parties, associated entities and donors of \$1000 (or more) to a registered political party must submit disclosure returns to the Electoral Commission Queensland after each six

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86. Ibid.

87. Ibid.

88. Ibid.

89. All capped amounts are adjusted annually on 1 July in accordance with formulae contained in the *Electoral Act*.

months. Parties and associated entities must show the total amount of political donations received during the reporting period together with particulars of sums of \$1000 or more. Returns are available for public inspection on the Commission's website within six weeks of receipt.

Every candidate must submit a Return of Details of Gifts Received after each election. Broadcasters, publishers and persons who donate \$1000 or more to a candidate must also submit returns after each election.

### **Disclosure of electoral expenditure**

The agent of a registered political party must, within 15 weeks after polling day, give the electoral commission an audited return stating the details of all electoral expenditure for the capped expenditure period for the election. The 'capped expenditure period' starts on the earlier of (a) two years after the previous election or (b) the day of the issue of the writ for the coming election, and ends at 6pm on polling day.<sup>90</sup>

Additionally, within 8 weeks of the end of the first 6 months of the financial year (July–December) and the full financial year (January–June), the agent of each registered political party must give the electoral commission an audited return stating:

- the total amount paid by or for the party during the reporting period together with particulars of sums of \$1000 or more
- the total outstanding amount at the end of the reporting period of all debts incurred by or for the party together with particulars of sums of \$1000 or more.

'Third parties' (persons or organisations other than registered political parties, associated entities or candidates) who incur electoral expenditure of \$1000 or more must submit returns after each election. Associated entities must also submit returns twice yearly showing the total amount paid by or for the entity during the reporting period together with particulars of sums of \$1000 or more.

### **Large gifts**

Gifts in the amount of or accumulating to \$100 000 or more must be reported to the Commission within 14 days by the person, the registered political party to which the person made the gifts, or if the person made any part of the gifts to an associated entity of the registered political party, the associated entity. Note that such gifts cannot be made for the purpose of election expenditure.

## **Queensland reforms to political financing arrangements**

In April 2008, Premier Bligh announced that the Queensland Government would make the following amendments to the *Electoral Act 1992*:

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90. *Electoral Act 1992 (Qld)*, Part 11, Division 1, s 197 Definitions, viewed 16 February 2012, <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/ElectoralA92.pdf>

- reduce the electoral donation disclosure threshold from the current \$1500 to \$1000
- increase public scrutiny of donations by reducing disclosure timeframes for donations from 12 months to six months
- tie election funding to reported and verified electoral expenditure directly incurred by a candidate or a party, with evidence of that expenditure for an election, and
- ban donations from overseas or non-Australian companies, ensuring donations come from a jurisdiction where Queensland laws will apply and can be enforced.<sup>91</sup>

These amendments reflected similar amendments proposed at the federal level by the [Commonwealth Electoral Amendment \(Political Donations and Other Measures\) Bill 2008](#).

An additional Queensland measure proposed the immediate reporting of donations totalling \$100 000 or more, within a six month reporting period, from any single donor to a registered political party, by both the donor and the recipient political party, irrespective of other reporting periods. The amendments were passed on 9 September 2008. That same month, the Queensland Legal, Constitutional and Administrative Review Committee launched its [Inquiry into Certain Contemporary Electoral Matters](#) to examine 'the law and administrative procedures of the Queensland parliamentary electoral system in terms of providing free, honest and fair elections for Queensland's contemporary community'.<sup>92</sup> The inquiry lapsed upon the dissolution of the Parliament for the 2009 Queensland state election.

In December 2010 the Queensland Government released a [white paper](#) outlining proposed changes to the Queensland electoral system. Proposed changes in the area of election finance included caps on political donations and election expenditure, regulation of third party election campaigning, and increased public funding for parties and candidates in relation to elections together with regular administrative funding. Electoral public funding for parties and candidates would be capped and provided as reimbursement of electoral expenditure according to a sliding scale, while administrative funding would be provided biannually to parties and non-endorsed candidates.<sup>93</sup>

In the event, the Queensland Parliament amended the *Electoral Act 1992* via the [Electoral Reform and Accountability Amendment Bill 2011](#), which was passed ([on a division](#)) in May 2011, delivering a variety of reforms covering public funding of political parties and candidates, disclosure and

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91. A Bligh (Premier) and K Shine (Attorney-General), 'Premier announces tough new donation laws', Joint Statement, 25 August 2008, viewed 29 November 2011,

<http://www.cabinet.qld.gov.au/MMS/StatementDisplaySingle.aspx?id=59841>

92. Legal, Constitutional and Administrative Review Committee, media release, 24 November 2008, viewed 29 November 2011, <http://www.parliament.qld.gov.au/documents/committees/LJSC/2008/certain-contemp-elect-matters/mr-201108bne.pdf>

93. Queensland Government, *Reforming Queensland's electoral system*, Queensland Government, Brisbane, 2010, pp. 12–13 <http://www.premiers.qld.gov.au/community-issues/open-transparent-gov/assets/electoral-reform-whitepaper.pdf>

donation rules and election expenditure by political parties and others. The regime in place from 2011 is summarised in the relevant section above.

## Tasmania

### Election funding arrangements

In Tasmania there is no public funding support to parties or candidates for state election campaigns. Moreover, under [Tasmanian electoral law](#) there are no expenditure regulations or restrictions on candidates for House of Assembly elections.

However, for elections to the Tasmanian Legislative Council, [relatively strict regulations apply](#):

- Political parties may not incur expenditure in relation to Legislative Council elections, although individual candidates may do so.
- It is an offence for a candidate or his/her election agent to exceed the expenditure limit in their election campaign (\$13 000 in 2011).
- If an elected candidate exceeds the permitted maximum amount by more than \$1000, a court may declare their election void.
- It is an offence for a person, other than a candidate or his/her election agent, to incur any expenditure with a view to promoting or procuring the election of a candidate. This precludes payment for advertisements which promote a candidate by anyone other than the candidate or his/her authorised election agent. However, this does not preclude the payment or giving of any money, security or equivalent of money directly to a candidate or his/her election agent.
- All candidates must file an accurate return of their electoral expenditure with the Electoral Commission, within 60 days of the result of the election being declared. If a candidate does not file a return within the time specified, he/she is subject to a penalty. In addition, elected candidates who do not file their returns on time may have their election declared void.<sup>94</sup>

### Disclosure and donations rules

There are no Tasmanian state-legislated provisions concerning disclosure of gifts to political parties, but all parties registered under the *Commonwealth Electoral Act 1918* must lodge with the Australian Electoral Commission an annual return showing relevant receipts and expenditure.

As outlined above, candidates for the Legislative Council must file returns of their electoral expenditure.

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94. Tasmanian Electoral Commission, *Tasmanian Legislative Council Elections : Information for candidates*, viewed 9 March 2012, [http://tec.tas.gov.au/pages/LegislativeCouncil/LC\\_PDF/2011%20-%20LC%20Candidates%20Handbook.pdf](http://tec.tas.gov.au/pages/LegislativeCouncil/LC_PDF/2011%20-%20LC%20Candidates%20Handbook.pdf)

## Tasmanian reforms to political financing arrangements

In April 2008, Premier Paul Lennon—in response to a question without notice about political donations and reforms proposed by the Federal and NSW Labor governments—said that he would ‘be more than happy to have a reference to the Working Arrangements of Parliament Committee, if that is the appropriate place, to have the disclosure matter discussed and developed so that it can be put in place by the 2010 election’.<sup>95</sup> Premier Lennon subsequently observed that ‘I believe that the public of Tasmania would take a very dim view of the taxpayers funding election campaigns’.<sup>96</sup>

In the event, an amendment by the Attorney-general to a motion for political financing reforms put by the Tasmanian Greens was passed. The motion was:

... ‘that the House

Supports the enactment of Tasmanian law requiring the disclosure of political donations, and

Refers this matter to the Working Arrangements of Parliament Committee for their consideration and report thereon’.<sup>97</sup>

Two years later no further progress had been made, as the leader of the Tasmanian Greens noted in August 2010 during a debate on electoral law reform:

I also want to make it clear that almost two years ago the House of Assembly supported a Greens’ motion for a parliamentary committee to examine State-based political donations law and potential reform. Unfortunately, as it was a joint House committee to which it was referred, it needed the support of the upper House before that inquiry could be constituted. Of course, up until the election and prorogation of Parliament, Labor deliberately stalled in bringing that motion on in the upper House, with the effect that it languished on the Notice Paper for nearly two years and nothing has occurred in the context of the Tasmanian Parliament on that issue.<sup>98</sup>

The Tasmanian Greens had by this time launched ‘[Cleaning Up Tasmania’s Democracy](#)’, promising to:

- legislate to introduce state-based political donation disclosure laws
- utilise Information Communication Technology (ICT) to increase accountability and scrutiny of Tasmania’s system of governance by implementing a two-step plan to introduce state-based political donation reform:

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95. P Lennon (Premier), ‘Answer to question without notice, [Questioner: Ms Putt]’, ‘Political donations’, *Debates*, 1 April 2008, viewed 29 November 2011, <http://www.parliament.tas.gov.au/HansardHouse/isysquery/4325b427-2dd8-4bfa-964a-9c5a89d0870c/1/doc/h1april1.htm>

96. Ibid.

97. Tasmanian Legislative Assembly, ‘Political donations-disclosure’, *Debates*, 1 April 2008, viewed 29 November 2011, <http://www.parliament.tas.gov.au/HansardHouse/isysquery/79e98c52-1809-4f30-8f88-30318abe49d6/1/doc/h1april2.htm>

98. N McKim, ‘Electoral law reform’, Matter of public importance, Tasmanian Legislative Assembly, *Debates*, 26 August 2010, viewed 30 November 2011, <http://www.parliament.tas.gov.au/HansardHouse/isysquery/228b1606-68ff-4570-82b0-e154e29355a8/1/doc/h26august1.htm>

- establish a state-based political donations disclosure website to be maintained by the Tasmanian Electoral Commission.
- legislate for the immediate disclosure of all state political donations and for their timely electronic publication.
- Ask the Tasmanian Law Reform Institute to:
  - conduct a study into capping political donations and election expenditure
  - to investigate state public funding of election campaigns, and
  - to implement the Joint Select Committee on Ethical Conduct’s recommendation that the *Electoral Act 2004* be reviewed regarding the disclosure of third parties’ political advertising.<sup>99</sup>

On 5 April 2011, Attorney-General Bartlett responded to a question about state-based political donations reforms as follows:

I can confirm to the House, as I have said in here before, that before the next election is due I intend to introduce into Tasmania State-based donation disclosure laws. My intention is also to look seriously at expenditure caps for both political parties and candidates... I intend to release a discussion paper in coming weeks that will ask a lot of questions because I know there will be a lot of parties, both political and third parties, interested in providing answers at where caps should be set ... what the disclosure limits should be, what the frequency of disclosure should be et cetera and I will genuinely not be putting stakes in the ground on any of those things until that consultation has been completed.<sup>100</sup>

Bartlett resigned from politics a month later, and it remains indeterminate whether a discussion paper will be forthcoming.

In September 2011, a motion was introduced into the Tasmanian Assembly by Greens MP Paul O’Halloran calling for ‘an immediate commitment to the introduction of Tasmanian State-based political donations restrictions that will prohibit political donations by tobacco companies being accepted by either State parties or individuals’.<sup>101</sup> The Liberals voted against the motion, but it passed with the support of Labor.

On 8 February 2012, Attorney-General Wightman [called for submissions](#), to be submitted by 11 April 2012, addressing the reform of political donations and spending in Tasmanian parliamentary elections. The Attorney-General also stated that:

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99. N McKim, *Cleaning up Tasmania’s democracy*, The Greens, March 2010, viewed 30 November 2011, [http://mps.tas.greens.org.au/wp-content/uploads/2010/03/Mar12\\_Cleaning-Up-Tas-Democracy-Package\\_N-McKim\\_ATTACH.pdf](http://mps.tas.greens.org.au/wp-content/uploads/2010/03/Mar12_Cleaning-Up-Tas-Democracy-Package_N-McKim_ATTACH.pdf)
100. Attorney-General Bartlett, Answer to question without notice, [Questioner: Mr O’Halloran], ‘Parliament – political donations’, *Votes and proceedings*, 5 April 2011, viewed 29 November 2011, <http://www.parliament.tas.gov.au/HansardHouse/isysquery/e375506e-e05e-44c8-954c-c24d8323fbae/3/doc/>
101. P O’Halloran, ‘Tobacco companies-political donations’, Tasmanian Legislative Assembly, *Debates*, 28 September 2011, viewed 8 March 2012, <http://www.parliament.tas.gov.au/HansardHouse/isysquery/160b1776-2e9b-4f92-96f6-3857437b5379/1/doc/h28september2.htm>

...irrespective of the outcome of this consultation process on the issues surrounding political donations, the Government is committed to prohibiting political donations from tobacco companies. "I will be tabling a Bill in Parliament as early as possible this year to put that commitment into effect."<sup>102</sup>

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102. B Wightman, Attorney-General, 'Electoral donation reform', media release, 8 February 2012, viewed 9 February 2012, <http://www.media.tas.gov.au/release.php?id=34191>

## Western Australia

### Election funding arrangements

The [Electoral Reform \(Electoral Funding\) Act 2006](#) introduced amendments into Part VI of the [Electoral Act 1907](#), providing for electoral funding of political parties and candidates.

Any candidates at a state election or by-election can apply to be reimbursed for electoral expenditure incurred, subject to them receiving more than 4 per cent of first preference votes. A prescribed claim form must be submitted, along with an independently audited financial statement supported by receipts and other documentation.<sup>103</sup>

For each eligible candidate, the 'election funding reimbursement amount' is potentially available for each valid first preference vote received. This amount is \$1.70019 as at 1 July 2011, and is adjusted annually, in line with CPI.<sup>104</sup> If actual eligible electoral expenditure incurred by that candidate or group is less than the amount that would be paid using the above calculation, then this lesser amount is the amount to be reimbursed.<sup>105</sup>

Payments for all candidates endorsed by a registered political party can be made if candidates collectively poll over 4 per cent of the total number of eligible votes at the combined elections in each contested electorate. Candidates included in a Legislative Council group can receive payment if the group as a whole polls over four per cent.<sup>106</sup>

### Disclosure and donations rules

Political finance legislation came into force in Western Australia in November 1996 as Part VI of the [Electoral Act 1907](#). Political parties and associated entities must submit annual disclosure returns.

#### Disclosure of donations

All [political parties](#) and [associated entities](#) are required to submit an annual return to the Electoral Commissioner disclosing details of gifts received during the previous financial year.

Persons other than political parties, associated entities, candidates and groups who incur expenditure for political purposes, are required to disclose all gifts received during the disclosure period. This ends 30 days after polling day, and for previous candidates, commences 30 days after polling day in the previous election, or for new candidates from one year prior to the day of

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103. WA Electoral Commission, website, 'Electoral funding', viewed 30 November 2011, [http://www.waec.wa.gov.au/pp\\_candidate/financial\\_disclosure/electoral\\_funding.php](http://www.waec.wa.gov.au/pp_candidate/financial_disclosure/electoral_funding.php)

104. Ibid.

105. Ibid.

106. Ibid.

nomination in the present election. For Legislative Council groups it commences from the hour of nomination.

Candidates and Legislative Council groups are required to disclose all gifts received during the disclosure period for the election.

Acceptance of donations from unidentified persons or sources equal to or more than \$2100 is prohibited under the Act. Gifts of \$2100 or more must be detailed.<sup>107</sup> The WA Electoral Commission published [Funding and Disclosure Guidelines](#) outlining the essential requirements of the legislation in October 2009.

### **Disclosure of electoral expenditure**

[Political parties](#) are required to disclose expenditure incurred in an election. [Candidates](#) and [Legislative Council groups](#) are required to disclose all expenditure incurred during the disclosure period for the election.

[Persons other](#) than political parties, associated entities, candidates and groups who incur expenditure for political purposes, are required to disclose all expenditure incurred during the disclosure period. If the total amount of expenditure does not exceed \$500, a return is not required.<sup>108</sup> The WA Electoral Commission publishes disclosure information and funding amounts paid.

The WA Electoral Commission publishes a [Political Finance Report](#) each year that includes a summary of parties' expenditures in elections.

### **WA reforms to political financing arrangements**

In May 2008, the [Electoral Amendment Bill \(No.2\)](#) was introduced into the Legislative Assembly. It included a provision to 'improve transparency in political donations by reducing the current political finance disclosure threshold from \$1800 to \$1000'.<sup>109</sup> The bill lapsed with the prorogation of Parliament for the 2008 state election.

In November 2008, the [Electoral Amendment \(Miscellaneous\) Bill 2008](#) was introduced into the Legislative Council. It dealt with electoral administration for certain categories of electors, particularly people with no fixed address, overseas electors and prisoners serving a sentence of less

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107. WA Electoral Commission, website, 'Financial disclosure', viewed 30 November 2011, [http://www.waec.wa.gov.au/pp\\_candidate/financial\\_disclosure/#Background](http://www.waec.wa.gov.au/pp_candidate/financial_disclosure/#Background)

108. Ibid.

109. Explanatory Memorandum, Electoral Amendment Bill (No. 2) 2008, viewed 30 November 2011, <http://www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Bills--+All>

than one year, and provided for candidates to distribute how-to-vote-cards on election day. The bill did not include matters of political financing or disclosure.<sup>110</sup>

In December 2010, Alison Xamon MLC asked the Minister for Electoral Affairs whether, in the light of legislation passed in the NSW Parliament, the Minister would 'consider introducing similar legislation for Western Australia'. The Minister replied:

No. .... The New South Wales legislation is a partisan measure supported by the Australian Labor Party in alliance with the New South Wales Greens that caps spending by candidates and political parties without placing limits on the spending by such third parties as trade unions. I would not regard this as equitable. The limiting of political donations to \$5000 per annum per individual or corporation could also be regarded as a restriction on freedom of political expression.<sup>111</sup>

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110. Explanatory Memorandum, Electoral Amendment (Miscellaneous) Bill 2008, viewed 30 November 2011, <http://www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Bills+-+Current>

111. N Moore, Answer to Question on Notice No. 1043 [Questioner: A Xamon], *Legislative Council Debates*, 2 December 2010, p. 9779, viewed 30 November 2011, [http://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/b367a840249f797e482577f1001cfd2e/\\$FILE/C38%20S1%2020101202%20p9779c-9779c.pdf](http://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/b367a840249f797e482577f1001cfd2e/$FILE/C38%20S1%2020101202%20p9779c-9779c.pdf)

## Australian Capital Territory

### Election funding arrangements

Under the [Electoral Act 1992](#) (ACT) registered political parties are eligible to receive public funding regardless of electoral expenditure. Registered political parties are eligible to receive funding in respect of endorsed candidates who collectively receive at least four per cent of the first preference votes in the relevant electorates. Unendorsed candidates are also eligible to receive funding if they receive at least four per cent of the first preference votes in the relevant electorate.<sup>112</sup>

The total funding entitlement is calculated by multiplying a biannually CPI-indexed rate (for the period ending 31 December 2011: 163.388 cents per eligible vote) by the number of votes received. There is no claims process. In the case of party-endorsed candidates, payment is made to the registered political party. In the case of unendorsed candidates payment is made to the candidate.<sup>113</sup>

The ACT Electoral Commission [publishes](#) funding amounts paid.

### Disclosure and donations rules

Under the electoral financial disclosure provisions of the ACT *Electoral Act 1992*, registered political parties, Members of the ACT Legislative Assembly, associated entities and third parties are required to submit annual returns<sup>114</sup>—including nil returns. The ACT's electoral regulator is [Elections ACT](#).

#### Disclosure of donations

[Registered parties](#) and [MLAs](#) are required to disclose names and addresses of persons or organisations from whom \$1000 or more has been received. In calculating if the threshold amount of \$1000 has been reached, registered parties and MLAs need only take into account receipts of \$1000 or more. [Associated entities](#) are required to disclose the names and addresses of all persons or organisations from whom a payment of any value has been received, unless the payment is for membership fees where the fee is less than \$50 per year.<sup>115</sup>

Individuals or organisations who donate \$1000 or more in a year to a registered party, an MLA or an associated entity are required to lodge [annual returns](#) detailing donations. Individuals or organisations who receive donations of \$1000 or more in a year from a single donor, and who use that donation or donations to make a donation(s) of \$1000 or more to a registered party, an MLA or an associated entity, are required to lodge annual returns detailing the donations received.

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112. Elections ACT, 'Election Funding', website, viewed 24 November, 2011  
<http://www.elections.act.gov.au/parties/fadfunding.html>,

113. Ibid.

114. Elections ACT, 'Funding and disclosure handbook for annual returns', website, viewed 1 December 2011,  
[http://www.elections.act.gov.au/resources/uploads/pdfs/fadhandbooks/ConsolidatedFADManual\\_2010-2011.pdf](http://www.elections.act.gov.au/resources/uploads/pdfs/fadhandbooks/ConsolidatedFADManual_2010-2011.pdf)

115. Ibid.

Registered parties, MLAs and associated entities are required to advise donors that they are obliged to submit an annual return to the Electoral Commission.

Registered parties, MLAs and associated entities are required to disclose names and addresses of persons or organisations who are owed \$1000 or more. For debts, in calculating if the threshold amount of \$1000 has been reached, all amounts need to be taken into account.<sup>116</sup>

#### Disclosure of electoral expenditure

Registered parties, candidates, broadcasters, publishers and third parties are required to submit election returns setting out campaign-related expenditure. All returns become public documents and are [placed on the Commission's website](#).

### **ACT reforms to political financing arrangements**

The [Electoral Legislation Amendment Act 2008](#) was passed by the ACT Legislative Assembly on 8 May 2008. The Act came into effect on 21 May 2008.

The changes made by the Amendment Act included:

- removing the provision for non-party groups to be listed on ballot papers
- reducing all the thresholds for [disclosure of political donations](#) and expenditure to \$1000 from 1 July 2008, to bring the ACT disclosure scheme into line with proposed changes to the Commonwealth disclosure scheme
- allowing electors to apply for postal votes by phone, email, internet, fax or post, without the need for a signature or a witness
- providing that an elector is not eligible to apply for a postal vote if they are able to attend at a pre-poll voting centre in the ACT before polling day
- simplifying the requirements for authorisation of published electoral material
- extending the right to enrol and vote to all ACT prisoners otherwise entitled to enrol (before this change, prisoners under sentence for 3 years or more were not eligible to enrol or vote for ACT elections)
- providing that an application for registration of a political party that includes the name of a person in the party's name must include a statement signed by that person indicating the person's consent to the party name
- providing that it is an offence to take a photo of a person's marked ballot paper so as to violate the secrecy of the ballot, and
- a range of other more minor amendments.

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116. Ibid.

In October 2008, following the ACT election, the ACT Greens—holding the balance of power—signed a [Parliamentary Agreement](#) with the ALP, containing a parliamentary reform agenda as well as a policy program. Item 5.5 of that Agreement requires ‘passage of legislation which will require all political donations to be disclosed within one month of receipt and in an election period, on a weekly basis’.<sup>117</sup>

In [its report on the 2008 ACT general election](#), the ACT Electoral Commission noted:

There are currently 2 processes underway that could impact on the ACT’s disclosure provisions. The Parliamentary Agreement between the ACT Government and the ACT Greens includes a clause that commits the parties to pass legislation that will require all political donations to be disclosed within 1 month of receipt and, in an election period, on a weekly basis.

Secondly, the Commonwealth has issued an Electoral Reform Green Paper on Donations, Funding and Expenditure. The Green Paper may lead to reform of the Commonwealth disclosure scheme in the near future. One aspect of the Commonwealth’s reform agenda is to seek “harmonisation” of Commonwealth, State and Territory electoral laws, particularly disclosure laws.

The Commission went on to discuss the matter of disclosure in some detail:

As the ACT has now broken the nexus with the Commonwealth disclosure scheme, it is timely for the ACT to re-examine the disclosure deadlines in order to achieve more timely publication of disclosure returns. In particular, it would be desirable to bring forward the various disclosure deadlines in order to publish as much information as possible before the polling period for an election, to allow voters to be aware of donation details in the period leading up to polling day. There are two broad approaches that could be adopted to achieve earlier disclosure. One way would be to bring forward the deadlines for the current regime of annual returns and election returns. Another approach could be to provide for on-line lodgement and disclosure within a short period of time of transactions occurring, as suggested in the ACT Parliamentary Agreement.

With regard to the Parliamentary Agreement’s proposal to require all political donations to be disclosed within 1 month of receipt and, in an election period, on a weekly basis, the Commission has recommended above that this proposal be considered in the light of the Commonwealth’s Green Paper reform process. It would be desirable to maintain consistency with the Commonwealth disclosure scheme if possible to minimise the amount of duplicated effort that would be required, particularly for political parties active at both the Commonwealth and ACT levels.<sup>118</sup>

In March 2011, and largely in response to recommendations made by the ACT Electoral Commission in its report on the conduct of the 2008 ACT Legislative Assembly general election, the ACT

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117. J Stanhope and M Hunter, *Parliamentary Agreement for the 7th Legislative Assembly for the ACT*, viewed 1 December 2011, <http://acthra.anu.edu.au/resources/alp-greens-agreement.pdf>

118. Elections ACT, *Report on the ACT Legislative Assembly Election 2008*, pp. 64-5, viewed 1 December 2011, [http://www.elections.act.gov.au/resources/uploads/pdfs/election\\_08/2008ElectionReport.pdf](http://www.elections.act.gov.au/resources/uploads/pdfs/election_08/2008ElectionReport.pdf)

Attorney-General (Simon Corbell MLA) introduced into the Assembly the [Electoral Legislation Amendment Bill 2011](#). The changes focussed largely on provisions to improve the mechanics of electoral enrolment and voting. No provisions related to political donations or disclosure issues.

In April 2011, the ACT Assembly [directed its Standing Committee on Justice and Community Safety](#) to review and report on the ACT Electoral Commission's *Report on the ACT Legislative Assembly Election 2008*, the Electoral Legislation Amendment Bill 2011 and the Electoral (Casual Vacancies) Amendment Bill 2011.

The ACT Electoral Commission, in its *Report on the 2008 ACT election* and the amending bills of 2008, had recommended:

that the two disclosure issues (the proposal to require all political donations to be disclosed within 1 month of receipt and, in an election period, on a weekly basis; and proposals that may arise resulting from the Commonwealth Electoral Reform Green Paper on Donations, Funding and Expenditure) be considered, perhaps by a Legislative Assembly parliamentary committee, once the outcome of the Commonwealth review is known.<sup>119</sup>

In its submission to the Standing Committee's review, the ACT Electoral Commission noted that its Recommendation 13, regarding timelines for disclosure of political donations had not been included in the Electoral Legislation Amendment Bill 2011.

In the event, the Standing Committee addressed this matter in its *Review of Campaign Financing Laws in the ACT* and delivered three recommendations on the matter of timeliness of disclosure:

RECOMMENDATION 13: The Committee recommends that the Electoral Commission be empowered and required to establish an online reporting system, for parties and candidates to report donations and donors.

RECOMMENDATION 14: The Committee recommends that parties and candidates be required to report details of donations and donors, where they meet threshold requirements, on the online reporting system within one month of receipt and within one week during the capped expenditure period. Penalties for non-compliance should be created.

RECOMMENDATION 15: The Committee recommends that the Electoral Commission be required to publish details of donations to parties and candidates as soon as practicable after they are disclosed to the Commission.<sup>120</sup>

In June 2011, the Opposition's Brendan Smyth introduced a private member's bill, the [Electoral \(Donation Limit\) Amendment Bill 2011](#), which would limit donations to a party from a person to \$50 000 in a financial year. In presenting the bill, Smyth stated:

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119. Ibid.

120. ACT Standing Committee on Justice and Community Safety, *A Review of Campaign Financing Laws in the ACT*, September 2011, viewed 1 December 2011, <http://www.parliament.act.gov.au/downloads/reports/Campaign%20Financing%20Report%202011.pdf>

The basis for this bill arises from the concerns raised by members of the community with me about a certain organisation which, it is understood, could be considering arranging to make a substantial donation to a political party operating in the ACT. The manner of this donation is reputed to be of such a significant size, and to be contemplated in such a way, as to raise the concern that it is a deliberate attempt to circumvent the inquiry into campaign finance reform, which is being conducted by the justice and community safety committee of this Assembly.

In the lead-up to the prospect of long-term campaign finance reform following the report of the justice and community safety committee, this bill has a very simple objective. It is to ensure that donations which are made to political parties in the ACT do not exceed \$50 000.<sup>121</sup>

The bill was [agreed to in principle on 29 June 2011, and the debate adjourned](#).

In September 2011, the Standing Committee of Justice and Community Safety tabled [A Review of Campaign Financing Laws in the ACT](#). As well as the recommendations mentioned above, other recommendations included:

- that donations to political parties, candidates or third parties be limited to \$7000 per year
- that electoral expenditure by political parties, their candidates and their associated entities should be limited to \$60 000 per nominated candidate
- that there be an upper limit on electoral expenditure by parties or groups of \$60 000 times the number of seats in the Assembly
- that an entity with formal connections with a political party, which empower it to contribute to policy development and/or the selection of candidates, should be included under a single applicable expenditure cap along with the political party, its candidates, and associated entities
- that caps on electoral expenditure by parties, candidates and associated entities be indexed
- that electoral expenditure in the ACT by third parties be capped at \$30 000 and that this figure be indexed
- that parties and candidates shall be required to record the personal details of each donor, and the amount of the donation, but shall only be required to report donor details and amounts of donations to the Electoral Commission where donations meet or exceed \$1000 a year
- that parties and candidates be required to report donations from a single donor where multiple donations from the donor, when summed, meet or exceed the threshold
- that no political party or candidate be able to receive a total of \$25 000 or more in donations that are under the reporting threshold in a financial year

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121. B Smyth (MLA), 'Bill in principle speech: Electoral (Donation Limit) Amendment Bill 2011', ACT Legislative Assembly, *Debates*, 22 June 2011, p. 2204, viewed 2 December 2011, <http://www.hansard.act.gov.au/hansard/2011/week06/2204.htm>

- that the level of public funding provided to eligible candidates and parties per eligible vote be increased. The rate of funding should be pegged to the rate provided with respect to the per-eligible-vote amount for the Australian Senate, and should initially be 75 per cent of that amount, increasing to 85 per cent by 2016
- that Administrative Funding be provided to Members elected to the Legislative Assembly at a general election, based on the *Election Funding, Expenditure and Disclosures Act 1981* (NSW), Part 6A, and all Administrative Funding should be subject to acquittal and audit
- that an offence be created so that efforts to donate to other individuals or organisations on the understanding that they will donate to political parties and candidates, so as to evade caps on donations to parties or candidates, shall be unlawful
- that the reforms outlined in this report should be operational for the 2012 ACT election.

An [Electoral \(Election Finance Reform\) Amendment Bill](#) to give effect to the recommendations was introduced as a private member's bill by the chair of the Standing Committee on Justice and Community Safety on 16 November 2011. According to its Explanatory Statement, the bill will 'set in place a new regime for openness and accountability in election funding and donations'.<sup>122</sup>

The principal effects of the Bill are to:

set limits on donations ("gifts") to political entities

set limits on expenditure – by candidates, parties and third-party campaigners

strengthen disclosure provisions and

refine public-funding provisions, by linking public funding amounts to corresponding [provisions in [proposed Commonwealth legislation](#)], and providing funding for administrative expenditure incurred by political entities (subject to acquittal and audit).<sup>123</sup>

Whether further reforms will follow from this legislation is yet to be seen, but the combined influence of the ALP-Greens Parliamentary Agreement and the recommendations of the Assembly's Justice and Community Safety Committee augurs well for their ultimate implementation.

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122. V Dunne MLA, Explanatory Statement, Electoral (Election Finance Reform) Amendment Bill 2011, viewed 21 December 2011, [http://www.legislation.act.gov.au/es/db\\_43459/current/pdf/db\\_43459.pdf](http://www.legislation.act.gov.au/es/db_43459/current/pdf/db_43459.pdf)

123. Ibid.

## Northern Territory

### Election funding arrangements

The Northern Territory's [Electoral Act](#) provides for no public funding for political parties and election campaigns. However, Part 10 of the Act outlines financial disclosure provisions relating to donations, electoral expenditure and reporting that are incumbent on candidates, registered political parties, associated entities, publishers and broadcasters.<sup>124</sup>

### Disclosure and donations rules

Candidates have no limits on either expenditure or level of donations received, although it is illegal to accept anonymous donations of \$200 or more.

Parties must lodge [annual returns](#) of receipts, payments and debts. The return must also include the name and address of people or entities:

- from whom, or on whose behalf, payments of \$1500 or more were received during the financial year (Part 2).
  - Payments, including multiple payments, of less than \$1500 are disregarded for this disclosure requirement
- from whom, or on whose behalf, liabilities totalling \$1500 or more were incurred during the financial year (Part 5)
  - Individual transactions of less than \$1500 which total \$1500 or more must be considered for this disclosure requirement.

[Associated entities must lodge annual returns](#) of receipts, payments, outstanding liabilities and capital contributions. Returns from associated entities must show:

- total amounts received and paid during year and outstanding liabilities at year end
- from whom or on whose behalf payments of \$1500 or more were received including multiple payments and gifts-in-kind
- from whom or on whose behalf liabilities totalling \$1500 were incurred including multiple liabilities

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124. *NT Electoral Act*, viewed 12 November 2011,  
<http://notes.nt.gov.au/dcm/legislat/legislat.nsf/linkreference/Electoral%20Act>

- who contributed capital to the entity in the reporting year and the amount contributed.<sup>125</sup>

### Disclosure of donations

Parties' annual returns must show:

- total amounts received and paid during year and outstanding liabilities at end of year
- details of persons and organisations from whom receipts of \$1500 or more were received, and while multiple payments collectively below \$1500 do not need to be detailed, amounts over \$1500 collectively must be detailed
- in-kind gifting of goods, assets and services that were free or below true market value – except volunteer work.<sup>126</sup>

Parties' election returns must also show:

- total gifts with details of each person or organisation donating \$200 or more
- total number of persons and organisations who made gifts
- in-kind gifting of goods, assets and services that were free or below true market value – except volunteer work
- details of loans of \$1500 or more

People and organisations making donations to political parties and associated entities are required to [lodge annual and election returns](#) that declare donations:

- annual returns declare:
  - direct or indirect donations to a registered political party where these total \$1500 or more
  - donations of \$1000 or more received and used, in whole or part, to make party donations of \$1500 or more
- election returns relating to
  - donations totalling \$200 or more made to a candidate, or \$1000 or more made to an organisation specified by the NT Electoral Commission in the Gazette;

Anonymous donations of \$1000 and loans of \$1500 or more are illegal.<sup>127</sup>

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125. NT Electoral Commission, 'Disclosure handbook for associated entities', viewed 12 November 2011, [http://notes.nt.gov.au/nteo/Electorl.nsf/\(Files\\_Web\)/32A3F5C391C1368A692579B4001E2ECC/\\$File/Disclosure-Associated%20Entities%20Handbook.pdf?openelement](http://notes.nt.gov.au/nteo/Electorl.nsf/(Files_Web)/32A3F5C391C1368A692579B4001E2ECC/$File/Disclosure-Associated%20Entities%20Handbook.pdf?openelement)

126. Ibid., p. 2.

127. Ibid.

[Candidates election returns](#) must disclose the total of donations received, the number of donors, and details of donations of \$200 or more.

### **Disclosure of electoral expenditure**

[Candidates election returns](#) must show details of all expenditure according to categories (broadcasting, publishing, display advertising, campaign material, direct mailing, opinion polling/research).<sup>128</sup>

Donors must also make election returns of donations totalling \$200 or more to a candidate or \$1000 or more to parties and other organisations as gazetted by NTEC.<sup>129</sup>

Broadcasters and publishers must lodge a return for each TV/ radio station listing details of all electoral advertisements broadcast and all electoral advertisements published during an election and by-election. Details of advertisements for parties or candidates broadcast or published at no charge or below commercial rates are regarded as donations and separate reporting is required.<sup>130</sup>

All returns are available for public inspection at NTEC offices and summaries are on the [NTEC website](#).

### **NT reforms to political financing arrangements**

In April 2003, the NT Government engaged Minter Ellison Consulting to undertake an independent review of the Northern Territory electoral system. At the time it was not mandatory in the NT to report political donations.

Based on the review's recommendations, the Chief Minister, Clare Martin, introduced a bill that became the [Electoral Act 2004](#) (NT). The bill provided for, among other things, the establishment of an independent Electoral Commission and the registration of political parties. It also addressed political financing, donations and disclosure.

In her speech introducing the bill, the Chief Minister explained the political financing arrangements as follows:

Another essential component of this bill relates to financial disclosure. The procedures cover the disclosure of loans, donations and gifts to political parties, candidates or associated entities. An annual return is required to be submitted to the commission by persons making donations of \$1500 or more, or providing gifts of \$1500 or more to the same registered party or associated entity during the financial year. ... In relation to electoral expenditure, the bill requires ... a candidate to provide to the commission within 15 weeks after polling day details of election

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128. NT Electoral Commission, 'Summary of disclosure provisions as at April 2009', viewed 1 December 2011, <http://notes.nt.gov.au/nteo/Electorl.nsf?OpenDatabase>, p. 1.

129. *Ibid.*, p. 4.

130. *Ibid.*, p.5.

expenditure exceeding \$200. ... To complete the financial disclosure accountability loop... a political party or ... an associated entity must...complete an annual return. ... The bill provides for the commission to take investigative action in relation to financial disclosure if the commission considers it necessary.<sup>131</sup>

There have been no further moves in recent years to modify the Territory's political financing regime.

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131. C Martin, second reading speech, 'Electoral Bill', NT Legislative Assembly, *Parliamentary Record No. 16*, 27 November 2003, viewed 6 December 2011, <http://notes.nt.gov.au/lant/hansard/hansard9.nsf/webSearchView/D01C22B524DB521F69256E0500106C04?opendocument>

## Appendix 1: Comparative overview of political financing regimes

	NSW	Vic	SA	Qld	Tas	WA	ACT	NT
<b>Public funding of election campaigns</b>	Graduated reimbursement of actual electoral expenditure, capped using a sliding-scale type formula. Threshold of 4% of primary votes needed to be eligible.	Indexed amount per first preference vote up to actual election expenditure incurred. Threshold of 4% primary votes needed.	No public funding of election campaigns.	Graduated reimbursement of actual electoral expenditure, capped using a sliding-scale formula. Threshold of 4% of primary votes needed to be eligible. Different caps for parties & candidates, independents and third parties	No public funding support.	Indexed amount per first preference vote up to actual election expenditure incurred. Threshold of 4% primary votes needed.	Indexed amount per first preference vote paid automatically to candidate. There is no claims process. Threshold of 4% primary votes needed.	No public funding of election campaigns
<b>Public funding of parties' or candidates' activity</b>	Administration Fund provides support of \$80 000 per year for each elected member, not exceeding total of \$2 million per party. Policy Development Fund assists some eligible parties.	No public funding for administration or other organisational or policy development purposes	No public funding for administration or other organisational or policy development purposes	Registered parties entitled to \$40 000 per MP or \$1million state wide, whichever is less.	No public funding for administration or other organisational or policy development purposes	No public funding for administration or other organisational or policy development purposes	No public funding for administration or other organisational or policy development purposes	No public funding for administration or other organisational or policy development purposes
<b>Disclosure of donations</b>	Parties and candidates disclose donations of \$1000 or more. Also disclose aggregate of all small donations.  A donor must disclose donations of \$1000 or above (including where	No state-legislated disclosure requirements. If party is federally-registered, must submit copy of its AEC return. Gambling-related businesses must	Disclosure not required by candidates or parties under state legislation. Federally-registered parties and candidates must disclose under	Registered political parties, associated entities and donors of \$1000 (or more) to a registered political party must submit disclosure returns detailing gifts. Donations limited to \$2000 to individuals candidates, \$5000 to	No state-legislated provisions for disclosure	All political parties and associated entities are required to disclose all gifts and other income received. Gifts above \$2100 must be detailed. Anonymous	MLAs, associated entities and third parties submit annual returns. Must disclose details of donations of \$1000 or more. Associated entities must disclose all payments received (except	Parties must submit annual returns showing total amounts received and detailing gifts of \$1500 or more. Donors of \$1500 or more must submit

	<b>NSW</b>	<b>Vic</b>	<b>SA</b>	<b>Qld</b>	<b>Tas</b>	<b>WA</b>	<b>ACT</b>	<b>NT</b>
	small donations aggregate to \$1000). Only individuals can donate. (Note: subject to court challenge)	not exceed \$50 000 donations per year.	Commonwealth rules.	parties.		donations above \$2100 prohibited.	membership fees). Donors of more than \$1000 in a year must submit annual return.	returns.
<b>Disclosure of electoral expenditure</b>	All electoral expenditure during the capped expenditure period must be disclosed annually by parties, candidates and third party campaigners.	Parties and candidates submit audited statement of total expenditure (not full detail). Commission publishes amount paid.	Not applicable	Electoral expenditure returns must be submitted by parties, candidates and third parties. Broadcasters, publishers, and donors of more than \$1000 must submit election returns.	No state-legislated expenditure regulations for Assembly, but <i>parties</i> may not incur expenditure for Legislative Council elections and Council candidates must submit election returns.	Political parties, associated entities, candidates and groups who incur expenditure for political purposes, are required to disclose all gifts received and expenditure incurred for election purposes.	Registered parties must submit election returns detailing electoral expenditure.	Election returns must detail all election expenditure by category (broadcast, direct mail, opinion polling etc.). Must disclose total gifts and give details of gifts of \$200 or more related to election campaigns.

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