

Political Donations in SA - Briefing Note

Greens MLC Mark Parnell / January 2010

The current system

SA, Victoria & Tasmania are the only states without separate state-based political donations disclosure laws (see Table A). Political donation disclosure limits in SA apply to federally-registered political parties and candidates only. Independents and parties registered only at state level (eg FREE, Save the RAH etc) do not have to disclose any donations received.

What are the current disclosure requirements?

Under Commonwealth rules, which are the only ones that apply in SA, only donations greater than \$11,200 need to be disclosed to the AEC (current threshold from 1/7/09 to 30/6/10 - originally set at \$10,000 and indexed to inflation) (See Table C). However, a donor could make separate donations, each under the \$11,200 limit, to the federal and each state branch of the one political party ('donation splitting') with no obligation for public disclosure.

When does disclosure occur?

Party returns disclosing donations are only required to be lodged with the AEC annually. Further, they are only publicly released on the first business day of February following each financial year. This means that we do not know who has donated large amounts to a political party until long after elections are held, and up to 18 months after a donation is made.

Other loopholes

Annual financial returns, which include total receipts, expenditure and debts owed by a political party, do not have to be categorised. The identity of donors can be hidden through devices such as large membership fees, 'intimate' lunches and dinners and other fundraising activities. Also, AEC only record names as listed on party returns. No effort is made to alter incorrect spelling, or link associated companies.

To increase transparency, the Greens have set up a searchable database, based on AEC data, but with extra features to increase accuracy. See: www.democracy4sale.org

In addition, there is a large amount of party financial activity channelled through 'associated entities'. For example Labor in SA uses an intermediary, SA Progressive Business, to raise funds by offering access to Ministers and Government leaders at functions. In Canada, attendance charges for these types of events beyond actual reasonable/market costs are considered a political donation. Not so here, despite the concern about 'buying' political access.

Because of the many loopholes we simply do not know how much money is given to political parties and by whom. The AEC data is only a start.

Public electoral funding

In SA, unlike most other states, there is no public funding for state election campaigns (See Table B). TAS and NT are the only other jurisdictions without public funding of elections. This dramatically increases the reliance by political parties in SA on political donations. Under the Commonwealth regime, political parties receive public funding of \$2.25 per vote (indexed to inflation) received in a federal election, provided at least 4% of first preference votes have been won.

What is the problem with the current approach?

Ideally in a democracy each voting citizen should have equal political power. When parties become dependent on large donors who constitute a small but wealthy section of the community, this principle is threatened. The perception that corporations and wealthy individuals are able to gain a greater degree of access and influence within politics can promote community distrust and disengagement from the political process.

Also, the higher disclosure limits introduced by the Howard Government (by *The Electoral and Referendum Amendment (Electoral Integrity and other Matters) Act 2006*) and the infrequent disclosure of donations reduces the accountability of SA political parties and makes it easier for them to hide big donors.

The 'Faulkner' changes to Commonwealth political donation laws

In 2008, the then Rudd Government Special Minister for State, John Faulkner, introduced a Bill to improve the laws governing political donations. If passed, these laws would have reduced the threshold for declaring political donations from \$11,200 (indexed to CPI) to a flat rate of \$1,000, removed 'donation splitting', banned anonymous (> \$50) and foreign gifts, and required public electoral funding payments to be tied to actual electoral expenditure incurred.

Unfortunately the Bill was defeated in the Senate in March 2009 when it was opposed by the Coalition and Senator Steve Fielding. Senator Faulkner is now no longer Special Minister for State, and the reform agenda has stalled. We are therefore still stuck with Howard-era donations laws.

Rann and donations law reform

In August 2009, Premier Rann publicly declared his support for reducing the donations disclosure threshold to \$1,000, but has failed to match his words with action. This leaves our state with the worst political donations laws in the nation.

Canadian approach

The Greens have long championed reforms based on the Canadian system which tightly controls political donations and political funding. Recently, the SA Liberal party has also shown interest in this model.

Only individuals who are Canadian citizens or permanent residents are allowed to make political donations. It is illegal for corporations or trade unions to make political donations in Canada and donations by individuals are limited to no more than \$1,100 (indexed to inflation) in any calendar year. All donations regardless of size must be declared. Public funding is in place (See Table D).

Canada has also introduced spending limits for political parties and candidates in elections, however, public funding and broadcasting time is provided by the State on television and radio, divided between parties based on their level of support in previous elections. In addition, Canada has also placed limits on electoral spending by 'third parties' who are not running in an election but who wish to advertise in support or against a candidate or party. The rationale for this is to prevent 'parallel campaigns' being run by groups allied to political parties.

What the Greens want

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 \$1,000.

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.

More information

- The Greens [Democracy 4 Sale](#) website
- The [Victorian Inquiry into Political Donations and Disclosure](#) (April 2009)
- The [Commonwealth 'Faulkner Reforms' Green Paper](#) (Dec 2008)
- The [NSW Select Committee on Electoral and Political Party Funding](#) (June 2008)

Table A: Financial disclosure in Australia (Political Parties)

Commonwealth	Queensland	New South Wales	Western Australia	ACT	NT
Yes. Registered parties and their state branches report annually on total receipts, expenditure and debts, and details of receipts and debts of \$11,200 or more.	Yes. Report every six months on total receipts, expenditure and debts, and details of receipts, expenditure and debts of \$1,000 or more. Report after every election totals of specified electoral expenditure for which election funding is sought. Report donations from any single donor which reach \$100,000 within a half-year period. Report to be made within 14 days after \$100,000 is reached. Returns published by the Queensland Electoral Commission within 10 business days.	Yes. Report every six months on the total value of 'small donations' (those valued at less than \$1,000) and the total number of people who made small donations. Report every six months on the details of 'reportable donations' (those valued at \$1,000 or more). 'Donation' includes subscription and membership fees, and entry fees to fundraising events. Mandatory reporting of loans.	Yes. Report annually on number and value of donations below \$1,800, details of donations of \$1,800 or more, and sum of income from other sources. Report after every election totals of specified electoral expenditures. Accepts copies of disclosure returns lodged with the AEC.	Yes. Report annually on total receipts, expenditure and debts, and details of receipts and debts of \$1,000 or more.	Yes. Report annually on total receipts, expenditure and debts, and details of receipts and debts of \$1,500 or more. Accepts copies of disclosure returns lodged with the AEC.

Source: Commonwealth Electoral reform green paper: Donations, funding and expenditure. Victoria, South Australia and Tasmania do not have disclosure schemes but political parties must provide a copy of the return they lodge with the AEC to their respective electoral commissions.

Table B: Public funding provisions in Australia

Jurisdiction	Introduced	Threshold	Public funding capped by election expenditure	Disclosure provision	Paid
Commonwealth	1984	4%	No	No details of expenditure required	Post-election
New South Wales	1981	4% or elected candidate	Yes	Lodge election expenditure with the Electoral Funding Authority	Post-election
Victoria	2002	4%	Yes	Audited statement of expenditure must be submitted to VEC but no details of expenditure required	Post-election
Queensland	1994	4%	Yes	Lodge election expenditure with Electoral Commission Queensland	Post-election
Australian Capital Territory	1992	4%	No	No details of expenditure required	Post-election
Western Australia	2006	4%	Yes	Lodge election expenditure with the Western Australian Electoral Commission	Post-election

Source: Victorian inquiry into Political Donations and Disclosure

Table C: Donor Prohibitions by State

Jurisdiction	Prohibition
Commonwealth	Anonymous donations over \$11,200 are prohibited
NSW	Anonymous donations Donations from a source (other than an individual) which does not hold an Australian Business Number (ABN) In kind donations that exceed \$1,000 in value, such as the provision of office accommodation, vehicles and computers Loans unless the details of the loan are recorded and disclosed
QLD	Anonymous donations of more than \$1,000 to parties and \$200 to candidates prohibited Banning of donations from foreign property
VIC	Holders of casino and gaming licences may not make political donations of more than \$50,000 a financial year to each political party. Victoria is also bound by the provisions of the <i>Commonwealth Electoral Act 1918</i> (Cth)—ie anonymous donations over \$11,200 are prohibited
WA	Anonymous donations of \$1,800 or more to parties, groups or candidates prohibited
ACT	Anonymous donations of \$1,500 or more to parties, groups, MLAs or candidates prohibited
NT	Anonymous donations of \$1,500 or more to parties, groups, MLAs or candidates prohibited

Source: Victorian inquiry into Political Donations and Disclosure

Table D: The Canadian Model

	Canada
Caps on donations	Yes. Donors are only allowed to give up to C\$1,100 in a calendar year to political parties and candidates.
Bans on donations	Yes. Donations from non-resident non-citizens, corporations and trade unions; and anonymous donations are prohibited.
Financial disclosure of political donations to political parties	Yes, including registered electorate associations, similar to branches of a political party. Donations totalling above C\$200 per quarter. Quarterly reports as a condition of receiving quarterly allowances.
Direct public funding	Yes. There are two types of public funding in Canada: (i) direct expenditure reimbursement for candidates and political parties; and (ii) quarterly allowances for political parties.
Limits on electoral expenditure	Yes. For political parties: Limit: C\$0.70 multiplied by the number of electors in the electorates in which party is running candidates multiplied by an inflation adjustment factor. Regulated period: Election period.

Source: Victorian inquiry into Political Donations and Disclosure