

The background of the entire page is a close-up, slightly blurred photograph of the American flag. The red and white stripes are visible at the top and bottom, while the blue field with white stars occupies the central portion. The flag is draped, creating soft folds and shadows.

# **NO CLEAN SWEEP**

Ten Reasons Why Proposition 89's "Clean Money and Fair Elections" Proposal is Wrong for California

By K. Lloyd Billingsley



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**WHAT IS PROPOSITION 89?**

**Proposition 89**, the “California Clean Money and Fair Elections Act of 2006,” slated for the November 7 ballot, provides for public funding of political campaigns. Though participation is not mandatory, the measure limits the contribution amounts for privately funded candidates. Prop. 89 also imposes new contribution limits on ballot measures. The public funding is paid for by raising corporate taxes from 8.84 percent to 9.04 percent — a hike of 0.2 percent. The measure also raises the double-digit tax rate on financial institutions from 10.84 to 11.04, a similar 0.2 percent increase.

To receive public funding, candidates are required to collect a number of \$5 donations, known as “qualifying contributions,” paid to the state, along with signatures. For example, a candidate for Assembly needs 750 \$5 contributions with a \$10,000 maximum, and may receive public financing of \$250,000 for a primary and \$400,000 for a general election. Prop. 89 allots a full \$15 million for governor in a general election, with \$10 million for a primary. That candidate would need 25,000 \$5 contributions. Other races covered by Prop. 89 are for state offices of the Senate, lieutenant governor, attorney general, secretary of state, treasurer, controller, insurance commissioner, superintendent of public instruction, and members of the Board of Equalization.

Qualification for public funding requires candidates to participate in debates. They cannot use their personal funds to pay campaign costs and can receive no private funding except “seed money” contributions, limited to \$100 per contributor. Prop. 89 gives additional public funds to candidates, on a dollar-for-dollar basis, should their opponent spend more in private funds than the amount of public money available. Candidates receiving public money get more if independent expenditures are made in an opponent’s favor. Prop. 89 not only gives but takes away.

Proposition 34, passed in November 2000, limited political contributions but, according to the state’s Legislative Analyst, Prop. 89 would place limits that are “much more restrictive.”<sup>1</sup> Current arrangements allow for \$3,300

to legislative candidates, a cap that Prop. 89 slashes to \$500. The limit for statewide office is \$1,000. The ballot measure also limits to \$15,000 the overall amount of political contributions a person or group can make to candidates and committees in one year. It bans donations by lobbyists and, in some cases, by those receiving state contracts.

Prop. 34 did not impose restrictions on spending for ballot measures, but Prop. 89 limits candidates involved with a committee to spending \$10,000 on such measures, and bans corporations from spending more than \$10,000 to support or oppose a ballot measure.

Prop. 89 stipulates that total spending not exceed the funds available from increased revenues. The measure leans on the Franchise Tax Board to collect the “clean money” fees and will incur some \$3 million in administrative costs. The tax increases will raise approximately \$200 million annually, but the measure would reduce the General Fund by about \$1 million.<sup>2</sup>

These provisions, say the authors of Prop. 89, will “help level the playing field and make our elections more fair and competitive — so that candidates with the best ideas have a chance to win, even if they are not rich or well connected to wealthy special interest groups and lobbyists.” Further, “in states where the clean money and clean election laws have been enacted and used, election results show that more individuals, especially women and minorities, run as candidates; voter turnout increases, and overall campaign costs decrease.”<sup>3</sup>

Those claims can be tested, as can the premise on which Prop. 89 is based.

**TEN REASONS WHY PROP. 89 IS WRONG  
FOR CALIFORNIA**

## **Reason 1:**

### There Is No Campaign Funding “Crisis” in California

Public funding for political campaigns in America is not a new idea. President Theodore Roosevelt called for it in 1907. Two years later, Colorado began to subsidize parties, a move struck down by that state’s Supreme Court. Puerto Rico enacted public financing in 1957. Today, 22 states have some form of public support for campaigns, most enacted from 1974 to 1984. More recently, during the 1990s, Arizona, Massachusetts, and Maine passed full public funding. In these states, particularly Arizona, proponents claimed that public funding would clean up politics, increase competitiveness, increase fairness, stop big spending, and level the playing field. In California, proponents offer public financing as the remedy for what they see as a crisis of apocalyptic proportions.

"The constitutional system of popular governance of the State of California is in serious jeopardy," claims Prop. 89. Further, it proclaims, "We have a crisis of corruption in our government marked by scandal after scandal and criminal investigations of politicians from both parties."<sup>4</sup> Scandals and corruption "in our government" offer plenty of latitude in California. They could be various no-bid contracts during the administration of Gray Davis, a useless computer system purchased by the DMV, vast cost overruns by CalTrans, or the felony conflict-of-interest conviction of Bill Honig when he was California's superintendent of public instruction. The people who drafted Prop. 89 have something else in mind.

"Special interests like big oil companies, the drug giants, the insurance industry, and HMOs can get their way in Sacramento by donating millions . . ."<sup>5</sup>

These millions have somehow failed to prevent a Legislature dominated by liberal Democrats, and some de facto socialists, who control both houses. Nevertheless, the Legislature has included independents such as former Senator Quentin Kopp, and candidates of the Green Party, such as Audie Bock, elected to the Assembly in 1999, along with conservative Republicans. These politicians represent a wide range of ideas.

If drug giants, the insurance industry, and HMOs can "get their way," how does a measure for government monopoly health care, SB 840, pass the Legislature? If oil companies and the insurance industry can dominate the political process, why were other special interests, namely government employee unions, able to defeat all four ballot measures advanced by a business-friendly Republican governor, Arnold Schwarzenegger, in 2005?

There are scandals and corruption in California government, as in all governments. But it is not true that, as the measure contends, the very constitutional system of popular governance of the state stands in "serious jeopardy." There is no "crisis" that calls for extending government funding to political candidates, a process likely to lead to additional scandal and corruption, at taxpayers' expense.

## **Reason 2:**

### Prop. 89 Does Not Level the Playing Field

In current political discourse, the term “public” enjoys positive connotations of diversity, inclusion, and general rectitude. “Private,” under current conditions, connotes exclusivity, elitism, and cupidity. In a rhetorical standoff between “public” schools and a “private” club, the public schools will win by default. This rift is also reflected in such designations as “public-spirited” individual, one presumed to be dedicated to service. In Orwellian terms, “public” is doubleplusgood; “private” is doubleplusungood.

Public funding of political candidates will create a class system in which candidates who take government money will gain, by default, the moral high ground of the “public” and “clean” designations, in addition to as much as \$15 million in taxpayer funds. This separate-but-unequal system will cast a shadow on the candidate who chooses to be funded by private means. Prop. 89 taints these candidates with “dirty” status, a considerable disadvantage. A system that is separate and unequal cannot possibly level any playing field.

Prop. 89 not only aims to apportion government money for glittering “public” candidates, it also restricts funding for suspect “private” candidates, assumed to be dirty and already playing rhetorical catch-up. When those candidates spend more than the amount of public funds Prop. 89 makes available, the public candidate gets more on a dollar-for-dollar basis. While making additional funds available for one side, the measure is punitive with the other. Likewise, it restricts contributions by corporations while allowing larger contributions by unions.

Those candidates choosing not to receive public funds are subject to restrictions that the Legislative Analyst considers “much more restrictive” than

current conditions, already subject to the limitations of Prop. 34, passed in 2000.<sup>6</sup> The limit for legislative candidates is lowered to \$500, with a statewide office limit of \$1,000. Prop. 89 also limits to \$15,000 the overall amount of political contributions a person or group can make to candidates and committees in a year. Candidates involved with a committee are limited to \$10,000, and corporations are prohibited from spending more than \$10,000 to support or oppose a ballot measure. As Peter Schrag notes, Prop. 89 “also would penalize third party candidates by offering them no more than half the public funds major party candidates would get.”<sup>7</sup>

Prop. 89 allows no donations by lobbyists and, in some cases, by those receiving state contracts. The California Nurses Association (CNA), the aggressive union that placed Prop. 89 on the ballot, employs five lobbyists, previously six. In the eighth quarter of the 2003-2004 legislative session, the CNA spent \$437,769 on general lobbying, according to the secretary of state.

Largesse for one side but restrictions for the other do not make a level playing field. Prop. 89 recalls the dictum of former Governor Ronald Reagan on the imbalance of arms limitations with the USSR: “They arm, we limit.”

### **Reason 3:**

## Prop. 89 Will Not Increase Electoral Competitiveness and Participation

Backers of Prop. 89, such as the League of Women Voters, contend that similar measures in Maine and Arizona have increased competitiveness. Since Arizona’s Clean Elections Act (Proposition 200) was passed in 1998, the

Green Party no longer fields candidates and is no longer officially recognized. Recall that Audie Bock, a Green Party candidate, was able to gain election in California under supposedly tainted conditions of privately funded campaigns, toppling a powerful Democrat.

A 2006 study of six years under Arizona's law reveals little evidence that the statute has helped minor or third-party candidates. Indeed, the actual number of candidates has fallen, not increased. Further, "the data do not reveal any trend of greater political participation by Arizonans since the passage of Clean Elections."<sup>8</sup>

In the election of 2002 in Arizona, 50 percent of legislative candidates and all but six major party candidates campaigned with public funds. The public funding had no significant impact on voter turnout or the level of campaign discourse. Further, "the handful of publicly funded candidates elected in 2000 voted no differently than their privately funded colleagues in the same party."<sup>9</sup>

In 1996, voters in Maine passed the Maine Clean Election Act with the expectation that it would enhance electoral competition. Ten years later, the results imply the opposite. Subsidized campaigning did not attract a substantial number of independent and minority party candidates supposedly brimming with great ideas instead of corporate cash.

"Maine's lesson for other states and for national politicians," write Patrick Basham and Martin Zelder, "is that a government trying to foster more competitive elections through taxpayer financing will be disappointed with the results and taxpayers will be discomforted by the costs." Beyond that, political scientists Michael J. Malbin and Thomas L. Gais studied public financing in other states and "found no evidence that taxpayer financing increases electoral competition."<sup>10</sup> The effect is to entrench incumbents.

## **Reason 4:**

### Prop. 89 Will Not Clean Up Political Discourse

Many Californians dislike negative ads and sleazy campaign tactics. It does not follow, however, that Prop. 89 will clean up that mess. Arizona's Clean Elections Act, similar in many ways to Prop. 89, has failed to change negative campaign tactics. The reason is simple: Candidates everywhere have discovered that negative ads work.

Under Prop. 89, negative ads and political junk mail will still abound. The difference is that these will now be funded by taxpayers, who in many cases will be subsidizing material they find offensive not only in style but also in content. The same can be said about candidates. As Thomas Jefferson noted, "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical." Prop. 89 compels such contributions.

## **Reason 5:**

### Prop. 89 Is Constitutionally Flawed

Vermont imposed limits on election contributions and expenditures in 1997. Last June, the U.S. Supreme Court struck down those limits as restricting free-speech rights. The limits imposed by Prop. 89 are not as draconian, but as Peter Schrag of the *Sacramento Bee* observes, "The limits imposed on privately funded candidates by Proposition 89, while greater than Vermont's in absolute dollars, are far smaller relative to the number of voters that California candidates have to reach." The drafters of Prop. 89 are also aware that the high court barred limits on contributions

for initiatives in a 1981 rent-control case in Berkeley. The drafters think their lengthy and confusing language will pass muster, but that remains far from certain.<sup>11</sup>

The *San Diego Union-Tribune* opined that Prop. 89 “has basic flaws that would yield likely-to-be-successful court challenges. It contradicts itself on whether petition signers must be registered voters, eligible voters, or any legal residents. It is certain to be subject to constitutional challenge and likely to be rejected.”<sup>12</sup>

## **Reason 6:**

### Prop. 89 Raises Already High Taxes, Punishing Consumers and Small Businesses

Prop. 89 advances a “modest” increase in corporate taxes, but fails to inform that such taxes are already high. California’s corporate income tax rate of 8.84 percent is the highest in the West, with only 11 states maintaining a higher corporate tax rate. It should be mentioned that businesses in San Francisco will have their taxes raised to pay for Mayor Gavin Newsom’s health-care plan. Prop. 89 also hikes taxes on financial institutions, already in double figures, from 10.84 percent to 11.04 percent.

As the Tax Foundation observes, the ultimate burden of corporate taxes does not fall on corporations but on workers, shareholders, and consumers. The drafters of Prop. 89 fail to understand this reality.

“Corporations are not humans,” says the text of Prop. 89, “they are creatures of the state.”<sup>13</sup> This would surprise those California entrepreneurs who created corporations in their garages, such as the founders of Apple Computer. The founders of corporations employ workers, pay taxes, and make products that consumers are willing to purchase in a free market.

The text of Prop. 89 leads the reader to believe that it will tax only large corporations. The measure actually applies to corporations large and small, including California's many mom-and-pop small businesses that are incorporated. It aims at Goliath but strikes David.

## **Reason 7:**

### Prop. 89 Creates Perverse Incentives

Existing "clean money" election systems confirm that taxpayer funds designated for election campaigns often wind up spent on rather exotic purposes. In Arizona's 2002 election, three Libertarian candidates repaid \$104,237 spent on food, alcoholic beverages, "and other goods and services arguably of a festive and personal nature." Democrat Ed Ableser, a candidate for the House, received \$7,000 in matching funds on Election Day, too late to spend it on campaign ads. Instead, Ableser rented a frozen drink machine and threw a party for campaign volunteers. He also reimbursed his father more than \$1,000 for food and drink costs and made one of his campaign volunteers a paid consultant, to the tune of \$3,628.76 in "public" funds.<sup>14</sup>

Publicly funded candidates, of course, hold no monopoly on the squandering of cash, though the entry of OPM, other people's money, facilitates and encourages the process. Those candidates who raise their own funds punish themselves, not taxpayers, for squandering campaign money.

Beyond such cases, the prospect of public money attracts those adept at working the system. For example, Lenora Fulani, a Marxist psychologist, sought the 1992 nomination for president for the Democratic Party, the New Alliance Party, and other parties. She received \$2 million in federal funds under the Presidential Primary Matching Payment Account Act. The Federal

Election Commission ordered her to return \$612,557, subsequently reduced to \$117,000.<sup>15</sup>

It is reasonable to assume that the availability of taxpayer funds will attract new iterations of Jello Biafra (Eric Boucher), the former Dead Kennedys punk singer who ran for mayor of San Francisco under the slogan “There’s always room for Jello.” Sister Boom-Boom, also known as Jack Fertig, ran for the San Francisco Board of Supervisors on a “Nun of the Above” ticket.

Consider also Mary Carey (Mary Cook), a porn actress who drew more than 11,000 votes in the election to recall California Governor Gray Davis. The long list of candidates for that 2003 contest included pornographer Larry Flynt, who ran as a Democrat and got more than 17,000 votes, and former child actor Gary Coleman.

Prop. 89 also raises the possibility of public dollars financing a religious party. When school vouchers were on the ballot in 1994, opponents raised the specter of public money going to witch schools, Ku Klux Klan schools, and the like. These and other extremist groups might seek the public funds for elections simply because they are there. If you build it, they will come. And they won’t necessarily spend the money on election-related activities.

## **Reason 8:**

### **Prop. 89 Is Unwieldy on Its Own Terms**

Raymond La Raja, a professor of political science at the University of Massachusetts, is a partisan in favor of Maine’s public-financing system, but questions how well such a plan could work in a state with nearly 30 times the population. Independent agencies will be pressured to act quickly and, explains La Raja, “the way California politics works, you’re silenced if you have to wait a week to respond.”<sup>16</sup>

California's Fair Political Practices Commission (FPPC), the agency that would administer the "clean money" law, would face yet more problems, as Peter Schrag notes. "Neither the candidate nor the FPPC has any way of verifying the legality of the contributions and signatures, as the law would require. The FPPC would get thousands of individual pieces of paper, so presumably has to hand-check each. But the FPPC doesn't have voter lists, and no one, certainly not the candidate, has any means of determining who is a legal resident or an eligible voter."<sup>17</sup> T. Anthony Quinn, former FPPC commissioner, opposes Prop. 89 as wasteful and one-sided.

Prop. 89 tasks the Franchise Tax Board with collecting the "clean money" fees. This agency, though increasingly zealous at pursuing tax delinquents, sometimes takes weeks to cash checks it already has in hand. This trips delinquency notices, automatically sent out at further and often needless expense.<sup>18</sup> It would be impossible to fairly and fully administer Prop. 89's "clean money" law.

## **Reason 9:**

### Prop. 89 Will Divert Money From More Pressing Needs

"Taxpayer funds spent on political campaigns — to buy balloons, bumper stickers, and buttons — are taxes diverted from other public policy initiatives."<sup>19</sup> That is the view of Thomas M. Finneran, opponent of taxpayer-funded political campaigns and speaker of the House in Massachusetts (1996-2004), a state with taxpayer-funded campaigns. Finneran cites expenditures for education, public safety, and transportation as having suffered from public financing of campaigns.

California leads the nation in natural disasters and the capital, Sacramento, is the major city most vulnerable to flooding on the scale of New

Orleans. Levees need to be repaired, dams refitted. Taxpayer dollars diverted to bumper stickers will not be spent on these and other safety and infrastructure priorities statewide.

## **Reason 10:**

### Prop. 89 Is Welfare for Politicians

Every job, from surgeon to sanitation engineer, has aspects that are burdensome or distasteful. Fund-raising is difficult and demanding work and it's understandable that those running for public office dislike it. The candidate must make the rounds, press the flesh, and meet the press. Candidates must showcase ideas, competence, and character that donors find worthy of merit. This has been American practice, and there is no evidence it has caused a constitutional crisis or soiled politics beyond repair. In fact, by all historical accounts, politics were far "dirtier" 200 years ago than today.

Prop. 89, in effect, does the fund-raising job for politicians. Elected officials will get the same pay, but work less. It reduces initiative, encourages laxity, expands government, and favors incumbents, all realities at odds with its stated goals of a cleaner and a more accessible system. It is welfare for politicians in the purest sense and a bad idea in every sense.

**CONCLUSION:  
WEIGHED AND FOUND WANTING**

**From the outset,** those who sought public financing of election campaigns faced difficult questions. How much spending is right? Can the law respond to circumstances but resist manipulation? When campaigns are publicly funded, does that lose the democratic value of requiring candidates to appeal to the people for support?<sup>20</sup>

Past efforts at public funding have failed to provide adequate answers and produced outcomes sometimes at odds with goals, particularly the goal of making elections more competitive. State funding, it turns out, is every bit as problematic as private funding, and there is evidence that government funding actually increases the momentum behind the search for more private donations.<sup>21</sup>

“Far from being a reform,” notes John Samples, “government financing offers more ‘politics as usual,’ understood as the struggle to obtain special favors from government.”<sup>22</sup>

Alexander Solzhenitsyn, author of *The Gulag Archipelago*, learned that the line between good and evil does not run between social classes, religions, races, or nations but straight down the middle of every human heart. It requires willful ignorance to expect that line to divide “public” and “private” candidates. And if the state of California is so plagued by corruption and scandal that a crisis exists, why would it not be worse to accept money from such a state than from corporations? Should the state of California take over the media to mitigate the influence of billionaires and corporations and the reporting of salacious scandals?

The government of California has plenty to do on issues of public safety alone, and the most casual observer can attest that the state’s performance is often poor. Adding taxpayer financing of political campaigns is an expansion of the state that will not help the government perform its legitimate and needed tasks.

Other states have tried public financing and found it ineffectual. Voters disturbed at the prospect that their tax dollars will bankroll porn stars and fund views at odds with their own should find Prop. 89 wanting and leave it untried.

## ENDNOTES

- <sup>1</sup> "Proposition 89. Political Campaigns. Public Financing. Corporate Tax Increase. Campaign Contribution and Expenditure Limits. Initiative Statute. Official Title and Summary" prepared by the California attorney general, 2006, p. 85.
- <sup>2</sup> *Ibid.*, 85.
- <sup>3</sup> *Ibid.*, 88, 172.
- <sup>4</sup> *Ibid.*, 88, 172.
- <sup>5</sup> *Ibid.*, 88.
- <sup>6</sup> *Ibid.*, 85.
- <sup>7</sup> Peter Schrag, "Prop. 89: California nurses' clean money dream," *Sacramento Bee*, August 23, 2006.
- <sup>8</sup> Allison R. Hayward, "Campaign Promises: A Six-year Review of Arizona's Experiment with Taxpayer-financed Campaigns," (Phoenix, Ariz.: The Goldwater Institute), Policy Report 209, March 28, 2006, pp. 10, 13, 21.
- <sup>9</sup> Robert J. Franciosi, "Elections in Arizona, Clean and Unclean," *Welfare for Politicians? Taxpayer Funding of Campaigns*, John Samples, ed. (Washington, D.C.: Cato Institute, 2005), p. 69.
- <sup>10</sup> Patrick Basham and Martin Zelder, "Does Cleanliness Lead to Competitiveness? The Failure of Maine's Experiment," *Welfare for Politicians? Taxpayer Funding of Campaigns*, John Samples, ed. (Washington, D.C.: Cato Institute, 2005), pp. 102, 103.
- <sup>11</sup> Peter Schrag, "Prop. 89: California nurses' clean money dream," *Sacramento Bee*, August 23, 2006.
- <sup>12</sup> "No on 89: It's badly written, unconstitutional and futile," editorial, *San Diego Union-Tribune*, August 24, 2006.
- <sup>13</sup> "Proposition 89. Political Campaigns. Public Financing. Corporate Tax Increase. Campaign Contribution and Expenditure Limits. Initiative Statute. Official Title and Summary," prepared by the California attorney general, 2006, p. 173.
- <sup>14</sup> Allison R. Hayward, "Campaign Promises: A Six-year Review of Arizona's Experiment with Taxpayer-financed Campaigns," (Phoenix, Az.: The Goldwater Institute), Policy Report 209, March 28, p. 17.
- <sup>15</sup> *Lenora B. Fulani v. FED*, U.S. D.C. Circuit Court of Appeals, June 23, 1998, nos. 97-1466.
- <sup>16</sup> John Marelus, "Ballot measure endangers labor-business truce; two sides at odds over financing of campaigns," *San Diego Union-Tribune*, July 30, 2006.
- <sup>17</sup> Peter Schrag, "Prop. 89: California nurses' clean money dream," *Sacramento Bee*, August 23, 2006.
- <sup>18</sup> K. Lloyd Billingsley, "State Greed Has Consequences," *Capital Ideas*, Pacific Research Institute, August 4, 2004.
- <sup>19</sup> Thomas M. Finneran, "The Case Against Taxpayer Financing: A View from Massachusetts," *Welfare for Politicians? Taxpayer Funding of Campaigns*, John Samples, ed. (Washington, D.C.: Cato Institute, 2005), p. 29.
- <sup>20</sup> Allison R. Hayward, "Campaign Promises: A Six-year Review of Arizona's Experiment with Taxpayer-financed Campaigns," (Phoenix, Az.: The Goldwater Institute), Policy Report 209, March, p. 2.
- <sup>21</sup> Patrick Basham, "Taxpayer Financing in Comparative Perspective," *Welfare for Politicians? Taxpayer Funding of Campaigns*, John Samples, ed. (Washington, D.C.: Cato Institute, 2005), p. 296.
- <sup>22</sup> John Samples, "Introduction to Taxpayer Financing of Campaigns," *Welfare for Politicians? Taxpayer Funding of Campaigns*, John Samples, ed. (Washington, D.C.: Cato Institute, 2005), p. 17.

## **ABOUT THE AUTHOR**

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Editorial Director Lloyd Billingsley has been widely published on topics including popular culture, defense policy, education reform, and many other current policy issues. He has written a number of PRI education studies, including *California's Charter Schools: Empowering Parents, Students, and Teachers* and *Expanding the Charter Idea*, and was editor of the Institute's *Voices on Choice: The Education Reform Debate*. Mr. Billingsley is also the author of six books, including *Hollywood Party: How Communism Seduced the American Film Industry in the 1930s and 1940s*.

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