



MONEY TALKS: THE STATE OF PUBLIC FINANCING IN CALIFORNIA

A CALIFORNIA COMMON CAUSE STUDY

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ABOUT COMMON CAUSE

With a 40-year track record, chapters in 35 states, and nearly 400,000 supporters and activists across the country, Common Cause is one of the nation's most effective grassroots advocacy organizations dedicated to reforming government and strengthening democracy in America.

As founder John Gardner put it, "Common Cause is about making political decision-makers accountable to their constituents." In that vein, California Common Cause is working at the state and local level to ensure that elections are fair and that candidates answer to all of their constituents, not just the wealthy special interests. California Common Cause is working on reforms to level the playing field by pushing for campaign finance reforms that shed light on dark money and help bring power back to the people.

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EXECUTIVE SUMMARY..... 1

CALIFORNIA’S MONEY IN POLITICS “ROOT” PROBLEM 2

THE SUPREME COURT AND THE SOLUTIONS 2

THE FRAMEWORK OF PUBLIC FINANCING 3

GRANTS AND MATCHING FUNDS 4

PUBLIC FINANCING QUALIFICATION AND OTHER STIPULATIONS 4

EXAMPLES OF PUBLIC FINANCING SUCCESS 5

THE STATE OF PUBLIC FINANCING IN CALIFORNIA..... 5

MOVING FORWARD: IMITATION AND INNOVATION..... 6

 TOP 10 CA CITIES BY POPULATION AND PUBLIC FINANCING 7

 MODEL BILLS FOR PUBLIC FINANCING 8

NOTES 9

EXECUTIVE SUMMARY

America's current political environment has seen an influx of unchecked, unregulated money. Poll after poll shows that the American public views the undue influence of big money on politics as a major threat to American political institutions, and public policy studies confirm that, when it comes to responding to the needs of the public, politicians pay virtually no attention to the vast majority of their constituents; instead, these politicians respond to the policy demands of the ultra-wealthy and of corporations.

In order to successfully run for public office in California, candidates must raise exorbitant amounts of money from an elite set of wealthy donors. In 2012, general election candidates for the state senate and state assembly raised on average \$745,501 and \$492,600, respectively. Meanwhile, only 4 percent of those campaign contributions came from small donors giving \$250 or less.

In this broken system, it is no surprise that elected officials prioritize the policy demands of their big donors above those of their constituents. Checks for campaign contributions may have replaced the notorious Nixon-era envelopes stuffed with cash, but in this system the end result is essentially the same: Money Talks. And when money talks, the vast majority of Californians are left without a voice, as consumer rights, environmental protections, educational opportunity and economic prosperity fall victim to a narrow set of special interests.

The need for restructuring our campaign finance system has never been so dire. One reform with particular promise is the use of public funds to amplify the voice of everyday citizens in political campaigns. Public Financing helps to reduce corruption, hold politicians accountable and create a government of, by, and for the people.

This report outlines several frameworks for public financing solutions, gives an overview of the state of public financing in California, and provides additional resources for model public financing bills.

CALIFORNIA'S MONEY IN POLITICS "ROOT" PROBLEM

Money in politics is said to be like water: it is a necessary component of political systems, yet left fully unchecked, like an overflowing river, it can devastate the landscape it sustains. Undoubtedly, America's current political environment has been flooded by an influx of unchecked, unregulated money. Poll after poll shows that the American public views the undue influence of big money on politics as a major threat to American political institutions,ⁱ and public policy studies confirm that, when it comes to responding to the needs of the public, at least at the federal level, politicians pay virtually no attention to the vast majority of their constituents; instead, these politicians respond to the policy demands of wealthy special interests.ⁱⁱ

Public approval of government institutions remains at record lows. For the past four years, the job approval rating of Congress has not surpassed 20 percent. In California, 71 percent of likely voters believe that state government "is pretty much run by a few big interests looking out for themselves." Only 21 percent and 2 percent of likely voters say that California state government can be trusted to do the right thing most of the time or all of the time, respectively; while 64 percent and 12 percent believe California government can be trusted to do the right thing only some of the time or never.ⁱⁱⁱ

This crisis of confidence in government is derived from a legitimate concern regarding whose interests are being served in governing bodies. In order to successfully run for public office in California, candidates must raise exorbitant amounts of money from an elite set of wealthy donors. An analysis of the 2008 elections shows that in general elections for the state assembly, candidates who raised the most money won 98 percent of the time; for

the state senate, that figure stood at 95 percent.^{iv} In 2012, general election candidates for the state senate and state assembly raised on average \$745,501 and \$492,600;^v meanwhile, only 4 percent of those campaign contributions came from small donors giving \$250 or less.^{vi} These trends demonstrate why American elections are now considered by many to be binary: there is the well known "voting election" that takes place on election day, and then there is the lesser known yet equally important "money election" that occurs in the months and years leading up to election day.^{vii}



In this broken system, it is no surprise that elected officials prioritize the policy demands of their big donors above those of their constituents. Checks for campaign contributions may have replaced the notorious Nixon-era envelopes stuffed with cash, but in this system the end result is essentially the same: Money Talks.

And when money talks, the vast majority of Californians are left without a voice, suffering in forced silence as consumer rights, environmental protections, educational opportunity and economic prosperity fall victim to a narrow set of narrow interests.

THE SUPREME COURT AND THE SOLUTIONS

In recent years America's "pay to play" system has been exacerbated by a series of 5-4 majority decisions by the high court. In landmark cases like *Citizens United v. FEC* (2010), the Supreme Court has continued to empower the powerful by



chipping away at the regulatory framework of campaign finance reform. The result of these decisions was felt immediately, with big money inundating local, state and federal elections, often times coming from “dark money” sources that do not disclose their donors.^{viii}

As a result, the need for restructuring campaign finance systems has seldom been so dire. Common Cause and a broad coalition of allies are working on long-term strategies to overturn the Court’s rulings and amend the Constitution,^{ix} but in the short-term, advocates are calling on public officials to pass legislative measures that are constitutionally permissible. Although these legislative reforms fall short of completely overhauling the campaign finance system, they can reduce the influence of big campaign contributors and put our government back in the hands of ordinary Americans..

One short-term reform with particular promise is the use of public funds to subsidize viable political campaigns- public financing. Public Financing helps to reduce corruption, hold politicians accountable and create a government of, by, and for the people. Although the Roberts Court has ruled certain provisions of public financing programs as unconstitutional,^x the basic tenet of public

financing remains valid in the eyes of the court, and thus can and has been implemented across the country at all levels of government.

It is in the implementation of these programs that the old adage, “all politics is local,” rings particularly true: state and municipal public financing programs have become the petri dishes of reform, transforming local political environments and setting practical examples for larger jurisdictions to imitate and adapt.

THE FRAMEWORK OF PUBLIC FINANCING

Public financing is an umbrella term used to describe legislative programs that subsidize and/or provide public benefits for candidate campaigns that qualify to receive such funds and/or public benefits. Public financing programs vary substantially, yet typically the programs are designed to 1) free candidates from gratuitous fundraising demands^{xi} and 2) expand the donor base, so that public officials are more responsive to the needs of their constituencies.^{xii} At the local, state and federal level, public financing programs have been implemented to achieve such ends.

Public financing programs can include provisions that:

1. subsidize “qualified” candidates with grants to replace all or a portion of private contributions that candidates typically solicit;
2. subsidize candidates by “matching” the private contributions of small donors to amplify the impact of those contributions;
3. provide tax credits or vouchers to citizens to incentivize more small donations;
4. offer discounted rates for media advertising for candidate campaigns;
5. provide “qualified” candidates space in voter guides or on government websites

to inform the public on candidate viewpoints;

6. and other provisions that utilize public funds or access to government-regulated industries to shift the election paradigm away from forcing candidates to chase big money.

GRANTS AND MATCHING FUNDS

In current public financing programs, “grants” and “matching funds” are the most commonly used methods for distributing public funds to candidates. In grant-based systems, qualified candidates receive grants that provide them with sufficient resources to run a campaign while completely removing the need to solicit private funds. In order for grant financing to be effective, the grants must be relatively large. Studies show that partial-grant funding fails to change election-spending trends and simply subsidizes the status quo.^{xiii}

In systems that utilize matching funds, qualified candidates receive public subsidies that “match” small donor donations. These systems retain a certain element of fundraising, while transforming the target of that fundraising to be broader and more diverse. For example, in a system with a \$5 to \$1 public match, a \$100 contribution becomes a \$600 contribution, and thus candidates are incentivized to raise a large number of small contributions from local donors rather than chasing money from big donors or out-of state interests..

Grants and matching funds are not however mutually exclusive. Public financing models that couple grants with small donor matches have been implemented at the municipal and state level, and are at the forefront of federal reform proposals.^{xiv} The impetus for mixing these methods can be found in their respective strengths. By offering grants to candidates,

election agencies can free those candidates from excessive fundraising demands; by simultaneously offering small donors matches, agencies can ensure that candidates are not merely relying on city, state, or federal-based grants, but are also dependent on the backing of their respective constituencies.

The policy debate over how this coupling should be structured, or whether such coupling should occur at all, is by no means definitive. The efficacy of public financing programs is in constant flux, and progress must be quantified, and programs amended, when necessary. Both methods have proven successful in their own regard.

PUBLIC FINANCING QUALIFICATION AND OTHER STIPULATIONS

In order to receive grants, matches, or other public benefits, candidates must first “qualify” by proving the viability of their campaigns. This qualification process preserves limited public resources. And when structured correctly, qualification can also help ensure that candidates are genuinely supported by the communities they serve. For example, in Los Angeles in order to obtain matching funds, city council candidates must receive at least 200 “qualifying contributions” of \$5 or more from district residents.^{xv}

Under the Supreme Court’s current interpretation of election law, public financing programs must be voluntary, and thus leave the option open for candidates to fundraise using traditional methods from private sources. But because they are voluntary, public financing programs can include binding provisions that may not be constitutionally permissible otherwise, and that are not directly related to the subsidies and/or public benefits at hand. Such provisions include setting limits on campaign

expenditures, requiring qualified candidates to participate in debates, placing a cap on the self-funding of campaigns, and other measures that improve the transparency and overall democratic state of elections.

EXAMPLES OF PUBLIC FINANCING SUCCESS

Public financing began to receive national attention in the Progressive era. Representative William Bourke Cockran [NY-12] introduced the first public financing bill in 1904 in response to allegations of corruption stemming from corporate contributions to Teddy Roosevelt's presidential campaign.^{xvi} President Roosevelt countered by advocating for a ban on all contributions from corporations to candidates, and later by calling directly for public financing, stating that such programs offer a "substantial improvement in our system of conducting a campaign."^{xvii} Yet it was not until the post-Watergate era when, like so much campaign



finance law, the call for reform was finally codified. In the wake of Watergate, Congress passed a presidential public funding program that was a mainstay of presidential campaigns for decades. Unfortunately, Congress failed to adequately update that program, which had become fully obsolete by the 2012 election, and also failed to enact public financing for their own campaigns.^{xviii}

Thus, the onus of proving the legitimacy of public financing fell upon municipalities and the states. Fortunately, states and

municipalities acted and that legitimacy has been proven. In New York City, for example, a strong small donor-matching program has increased the number and financial relevance of small donors, and has diversified the demographic and class profile of donors at large.^{xix} In Connecticut, public financing has similarly changed donor trends, as well as helped elect a more diverse set of candidates to the statehouse. Furthermore, having diminished the influence of lobbyists, Connecticut's program led to the adoption of public policies that are more in line with public preferences.^{xx} Numerous academic studies analyzing different state and municipal public financing programs have corroborated these findings.^{xxi}

THE STATE OF PUBLIC FINANCING IN CALIFORNIA

In 1988, California voters passed Proposition 73. Among other provisions, the initiative prohibits public officials from "using and candidates accepting public funds for purpose of seeking elective office," amending the 1974 Political Reform Act to effectively ban public financing of campaigns.^{xxii}

However, due to the "Local Government" Article XI in California's State Constitution,^{xxiii} Charter cities are exempt from this ban; Charter counties unfortunately are not.^{xxiv} Of California's 482 cities, 121 are chartered,^{xxv} and thus, if these local jurisdictions choose to do so, they can enact public financing programs.

Although local public financing programs are not universal in California, some cities have successfully implemented them. In the state's most populous city, Los Angeles, public financing has been well received and the program steadily improved upon. Since its inception in 1993, 78 percent of all candidates have participated in the program.^{xxvi} In 2011,

voters approved Measure H – a Charter amendment that authorized the city council to strengthen the program by increasing small donor subsidies – with 75 percent of the vote.^{xxvii} In the city’s 2013 election, every candidate who was elected not only participated in the program but maxed out on matching funds.

In San Francisco, public financing was first implemented in 2002 after a citywide referendum passed in 2000, and the program has witnessed increased participation ever since. A report by academics at the Goldman School of Public Policy at UC Berkeley prepared at the request of the San Francisco Ethics Commission concluded that the city’s public financing program had reduced fundraising demands, and was overall a success. The report concluded that, if anything, the program should be more securely funded, have a more egalitarian qualification process, and be more distinguishable to voters at the polls.^{xxviii}

In Long Beach, the city’s public financing program could be greatly improved, with a current small donor match that likely seems too low to appreciably affect election trends. Similar structural issues afflict the public financing program of Oakland.^{xxix}

In Santa Rosa, Visalia and Santa Clara, candidates who agree to expenditure limits and prove the viability of their campaigns are granted space to highlight their policy ideas in such venues as voter pamphlets, municipal websites, government access cable television and city libraries. The goal of these programs is clear, as stated in the intent and purpose section of Santa Rosa’s program: “to provide all candidates for election to the City Council, regardless of financial resources, with a means, subject to conditions, to disseminate candidate information to the public.”

In Richmond, the smallest city in the state to implement public financing, candidates who accept a \$100,000 expenditure limit can receive a quarter of that limit from matching funds.^{xxx}

At the state level, due to the aforementioned initiated state statute, Proposition 73, the state legislature cannot enact public financing through standard legislative means. Initiated state statutes receive the same protections as constitutional initiatives in California, and thus cannot be amended or repealed by the legislature without a popular vote (unless the initiated state statute grants the legislature the authority to do so, which Proposition 73 did not).^{xxxi} Initiatives to repeal the public financing prohibitions of Proposition 73 have been placed on the ballot twice in the last decade. Both have failed.^{xxxii} However, given the growing public support for reform, the proven success of the Los Angeles and San Francisco public financing programs, and the recent scandals in the California statehouse,^{xxxiii} the time is ripe to put the issue to California voters once again.

MOVING FORWARD: IMITATION AND INNOVATION

There are models of public finance reform that can be replicated and adapted to fit particular localities [see below], and that have been proven to democratize the campaign funding process. Yet these model bills, although valuable, should not hinder efforts by citizens and public officials to innovate new reforms. None of these models, for example, fully harness technological innovation for the public financing sphere. With streaming debates, online forums, voter information apps there exists enormous potential for governments – using voluntary public financing programs – to create more democratic elections.

Municipal governments in California should work to create programs that enhance the quality of debate in elections, reduce corruption and the appearance of corruption in representative bodies, and increase electoral competition. California’s state legislature, once given the authority to do so

by ballot initiative, should follow suit. Public financing has the potential to create a culture of clean elections. It is a means to an end, the end being a healthier democracy where ideas and public support, not campaign coffers full of special interest cash, determine the outcome of elections.

TOP 10 CA CITIES BY POPULATION AND PUBLIC FINANCING

<i>CITY BY POPULATION</i>	<i>PROGRAM HISTORY</i>	<i>PROGRAM STRUCTURE</i>	<i>FURTHER RESOURCES</i>
Los Angeles	Following ethic scandals in the 1980s, voters passed Charter Amendment H in 1990; program implemented in 1993; program strengthened following city referendum in 2011, full modifications executed by 2015.	As of 2015, qualification contributions must come from in-district residents; \$2 to \$1 “match” in primaries and a \$4 to \$1 “match” in general elections; fifth of grant given upfront in general elections; funds city attorney, council, controllers and mayor races.	Los Angeles Ethics Commission Presentation Program Charter , Ordinance , Regulations
San Diego	N/A	N/A	N/A
San Jose	N/A	N/A	N/A
San Francisco	Following the San Francisco Ethics Commission voting unanimously to place public financing on the ballot, Proposition O passed in 2000; program implemented in 2002; consistently improved and amended to provide more funding (originally from \$43,750 maximum funds to candidates now to \$155,000).	Qualification contributions must come from in-district residents; \$2 to \$1 “match” and \$1 to \$1 match at top tier threshold; candidates must agree to expenditure limits, debates, and other stipulations; funds board of supervisors and mayor races.	San Francisco Ethics Commission Presentation San Francisco Ethics Program Analysis Campaign Finance Ordinance , Regulations
Fresno	N/A	N/A	N/A
Sacramento	N/A	N/A	N/A

Long Beach	In 1994, the citizen initiative Proposition M, entitled “Long Beach Campaign Reform Act,” was passed by voters and immediately became effective later that month, codified in the Municipal Code as Chapter 2.01. The act was an omnibus reform bill that included matching funds provisions.	Qualifying contributions do not have to come from in-district; candidates provided \$1 for every \$2 they raise in primary, \$1 for \$1 in runoff; matching funds disbursement cannot exceed 33 percent of expenditure limit in primary election, 50 percent in runoff election; funds city council, attorney, auditor, prosecutor and mayor races.	The Long Beach Campaign Reform Act
Oakland	In December 1999, the city council passed the “Limited Public Financing Act” to strengthen the objectives of Oakland’s “Campaign Reform Act” by providing matching funds for candidates; in 2010, the program was amended to provide reimbursements as opposed to matching funds.	To qualify, candidates must agree to a expenditure limit, receive contributions totaling 5 percent of that limit from in-district residents or donors whose primary place of business is in Oakland, and limit self-funding to 10 percent of the limit; public funds provided in reimbursements and shall not exceed, is distributed to candidates on a pro rata basis, 30 percent of expenditure limit.	Oakland’s Limited Public Financing Act Limited Public Financing Act Audit 2012 Election
Bakersfield	N/A	N/A	N/A
Anaheim	N/A	N/A	N/A

MODEL BILLS FOR PUBLIC FINANCING

[New York City Matching Funds Statutes](#)

Los Angeles Public Financing [Program Charter](#), [Ordinance](#), [Regulations](#)

[Santa Rosa Voter Guide Public Financing Program](#) [ideal for smaller municipalities]

[Connecticut Grant Public Financing Program](#)

[US Senate FAIR Elections Now Grant/Matching Funds Program](#)

[US House of Representatives Government By The People Matching Funds Program](#)

NOTES

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<http://www.brennancenter.org/analysis/national-survey-super-pacs-corruption-and-democracy>

“Citizens Actually United,” DEMOS: <http://www.demos.org/publication/citizens-actually-united-bi-partisan-opposition-corporate-political-spending-and-support>

ⁱⁱ “Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens,” Princeton University Professor Martin Gilens and Northwestern University Professor Benjamin Page *via* Breitbart News:

<http://www.breitbart.com/Big-Government/2014/08/12/Study-You-Have-Near-Zero-Impact-on-U-S-Policy>

ⁱⁱⁱ “Californians & Their Government,” Public Policy Institute of California:

http://www.ppic.org/content/pubs/survey/S_1213MBS.pdf

^{iv} “Taking Elections off the Auction Block,” Derek Cressman, California Common Cause:

http://www.commoncause.org/research-reports/CA_051310_Report_Taking_Elections_off_the_Auction_Block_1.pdf

^v “Overview of Campaign Finances, 2011-2012 Elections,” Zach Holden, National Institute on Money in State Politics: <http://beta.followthemoney.org/research/institute-reports/overview-of-campaign-finances-20112012-elections/>

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^{vii} “We the People, and the Republic we must reclaim,” Lawrence Lessig, TED Talks:

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^{viii} “Election 2014 Is Drowning in Dark Money,” Robert Maguire, The Daily Beast:

<http://www.thedailybeast.com/articles/2014/08/28/election-2014-is-drowning-in-dark-money.html>

“Money Pours Into State Races as Stakes Rise,” Jeffrey Stinson, The Pew Charitable Trusts:

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^{ix} To date, 16 states and over 550 municipalities (including 45 municipalities in California) have passed resolutions or ballot measures calling for a constitutional amendment to overturn *Citizens United* and related cases. For a history of local and state organizing efforts, see “Local and State Resolutions,” United For The People: <http://united4thepeople.org/local.html>. For a list of current endorsers in Congress, see “Endorsing Public Officials,” United For The People: <http://united4thepeople.org/endorsers.html>

For more information on why a constitutional amendment is necessary to overhaul the campaign finance system, see “Edit Memo: Senator Udall’s Constitutional Amendment Proposal Would Restore the First Amendment and Strengthen Our Democracy,” People For the American Way: <http://www.pfaw.org/press-releases/2014/06/edit-memo-senator-udall-s-constitutional-amendment-proposal-would-restore-fir>

^x In *Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett* (2011), the Supreme Court, in a 5-4 decision authored by Chief Justice Roberts, struck down portions of Arizona’s public financing program that provided publicly financed candidates with additional “trigger” funds when facing better-funded privately financed opponents and outside spenders. For full decision, see <http://www.supremecourt.gov/opinions/10pdf/10-238.pdf/>. For case description and analysis, see SCOTUS Blog: <http://www.scotusblog.com/case-files/cases/arizona-free-enterprise-clubs-freedom-club-pac-v-bennett/>.

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- xii *"Stacked Deck: How the Dominance of Politics by the Affluent & Business Undermines Economic Mobility In America,"* DEMOS: <http://www.demos.org/stacked-deck-how-dominance-politics-affluent-business-undermines-economic-mobility-america>
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- xiii *"Subsidizing Democracy: How Public Funding Changes Elections And How It Can Work In The Future,"* Michael G. Miller, Cornell University Press, 2014. Pages 5, 56-57, 81.
- xiv The most popular public financing bill in the US Senate, the Fair Elections Now Act, introduced by Senator Dick Durbin [IL], provides participating candidates with an initial grant – the size of which is determined by the size the state of the senate candidate – and allows participating candidates to continue aggregating funds through a matching funds program. See "S. 2023" <https://beta.congress.gov/bill/113th-congress/senate-bill/2023/text>.
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[http://ballotpedia.org/California Proposition 73, Limits on Campaign Donations \(June 1988\)](http://ballotpedia.org/California_Proposition_73,_Limits_on_Campaign_Donations_(June_1988))

xxiii See *California Constitution*, Article XI, Section 5 (a): http://www.leginfo.ca.gov/const/article_11

xxiv In 1992, the California Supreme Court in *Johnson v. Bradley*, 4 Cal.4th 389, 841 P.2d 990, ruled that charter cities have different authority than charter counties in this regard. See:

[https://www.law.berkeley.edu/files/Johnson v. Bradley.pdf](https://www.law.berkeley.edu/files/Johnson_v._Bradley.pdf)

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xxvi *"City of Los Angeles Matching Funds Program Presentation,"* Los Angeles City Ethics Commission:

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xxvii *"Los Angeles City Council Votes to Strengthen City's Public Financing of Campaigns,"* California Clean Money Campaign: http://www.caclean.org/problem/ccmc_2012-09-12.php

xxviii *"Evaluating San Francisco's Partial Public Campaign Financing Program After Two Elections,"* Gina Banks, Sasha Horwitz, Adam Lang and Ernie Tedeschi, UC Berkeley Goldman School of Public Policy:

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Oakland:

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xxxii *"California Proposition 15,"* Ballotpedia:

[http://ballotpedia.org/California Proposition 15, Public Funding of Some Elections \(June 2010\)](http://ballotpedia.org/California_Proposition_15,_Public_Funding_of_Some_Elections_(June_2010))

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