

Assembly Bill No. 583

CHAPTER 735

An act to add Chapter 7 (commencing with Section 20600) to Division 20 of the Elections Code, to add and repeal Chapter 12 (commencing with Section 91015) of Title 9 of, and to repeal Sections 85300 and 86102 of, the Government Code, and to add and repeal Article 8.6 (commencing with Section 18798) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 583, Hancock. Political Reform Act of 1974: California Fair Elections Act of 2008.

(1) Under the Political Reform Act of 1974 a public officer is prohibited from expending or accepting any public moneys for the purpose of seeking elective office.

This bill would repeal that prohibition and would enact the California Fair Elections Act of 2008, which would authorize eligible candidates for Secretary of State to obtain public funds according to specified procedures and requirements, provided that certain thresholds are attained. The bill would impose primary responsibility for the administration of the provisions of the bill on the Fair Political Practices Commission. This bill would create the Fair Elections Fund and, commencing January 1, 2011, would transfer funds from the Fair Elections Fund to the Fair Political Practices Commission for the purpose of the public financing provisions of the act. The bill would also establish nonrefundable fees to be imposed on lobbyists, lobbying firms, and lobbyist employers. The fees collected are to be deposited, in part, in the Fair Elections Fund. The bill would make funding for the administrative and enforcement costs of the act available from the Fair Elections Fund. The bill would require that the available funds, for each 4-year election cycle, would be no more than 10% of the total amount deposited in the Fair Elections Fund during the 4-year election cycle. The bill would repeal specified provisions on January 1, 2019.

(2) Existing law, relating to the administration of personal income taxes, authorizes individual taxpayers to contribute amounts in excess of their tax liability for the support of specified funds or accounts.

This bill would additionally allow taxpayers to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the Voters Fair Elections Fund, which would be created by this bill. The bill would provide that all moneys contributed to the fund pursuant to these provisions, upon appropriation by the Legislature, be allocated to the

Franchise Tax Board and the Controller for reimbursement of costs and to the Fair Political Practices Commission, as specified.

The bill would provide that these voluntary contribution provisions are repealed on either January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return, or on January 1 of an earlier calendar year, if the Franchise Tax Board estimates that the annual contribution amount will be less than \$250,000, or an adjusted amount for subsequent taxable years.

(3) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act by a statute that becomes effective only when approved by the voters.

This bill would require the Secretary of State to submit those provisions of the act that amend the Political Reform Act of 1974 to the voters for approval at the June 8, 2010, statewide primary election.

The people of the State of California do enact as follows:

SECTION 1. Chapter 7 (commencing with Section 20600) is added to Division 20 of the Elections Code, to read:

CHAPTER 7. FAIR ELECTIONS FUND

20600. (a) Each lobbying firm, as defined by Section 82038.5 of the Government Code, each lobbyist, as defined by Section 82039 of the Government Code, and each lobbyist employer, as defined by Section 82039.5 of the Government Code, shall pay the Secretary of State a nonrefundable fee of seven hundred dollars (\$700) every two years. Twenty-five dollars (\$25) of each fee from each lobbyist shall be deposited in the General Fund and used, when appropriated, for the purposes of Article 1 (commencing with Section 86100) of Chapter 6 of Title 9 of the Government Code. The remaining amount of each fee shall be deposited in the Fair Elections Fund established pursuant to Section 91133 of the Government Code. The fees in this section may be paid in even-numbered years when registrations are renewed pursuant to Section 86106 of the Government Code.

(b) The Secretary of State shall biennially adjust the amount of the fees collected pursuant to this section to reflect any increase or decrease in the Consumer Price Index.

SEC. 2. Section 85300 of the Government Code is repealed.

SEC. 3. Section 86102 of the Government Code is repealed.

SEC. 4. Chapter 12 (commencing with Section 91015) is added to Title 9 of the Government Code, to read:

CHAPTER 12. CALIFORNIA FAIR ELECTIONS ACT OF 2008

Article 1. General

91015. This chapter shall be known and may be cited as the California Fair Elections Act of 2008.

91017. The people find and declare all of the following:

(a) The current campaign finance system burdens candidates with the incessant rigors of fundraising and thus decreases the time available to carry out their public responsibilities.

(b) The current campaign finance system diminishes the free speech rights of nonwealthy voters and candidates whose voices are drowned out by those who can afford to monopolize the arena of paid political communications.

(c) The current campaign finance system fuels the public perception of corruption at worst and conflict of interest at best and undermines public confidence in the democratic process and democratic institutions.

(d) Existing term limits place a greater demand on fundraising for the next election even for elected officials in safe seats.

(e) The current campaign finance system undermines the First Amendment right of voters and candidates to be heard in the political process, undermines the First Amendment right of voters to hear all candidates' speech, and undermines the core First Amendment value of open and robust debate in the political process.

(f) Citizens want to ensure the integrity of California's system of electronically reporting lobbyist contributions and the integrity of future Secretaries of State to administer lobbyist disclosure programs. Voters would like the opportunity to elect a Secretary of State who has not accepted any contributions from entities or individuals that employ lobbyists.

(g) In states where the fair elections full public financing laws have been enacted and used, election results show that more individuals, especially women and minorities, run as candidates and growth in overall campaign costs diminish.

91019. The people enact this chapter to establish a Fair Elections pilot program in campaigns for the office of Secretary of State to accomplish the following purposes:

(a) To reduce the perception of influence of large contributions on the decisions made by state government.

(b) To remove wealth as a major factor affecting whether an individual chooses to become a candidate.

(c) To provide a greater diversity of candidates to participate in the electoral process.

(d) To permit candidates to pursue policy issues instead of being preoccupied with fundraising and allow officeholders more time to carry out their official duties.

(e) To diminish the danger of actual corruption or the public perception of corruption and strengthen public confidence in the governmental and election processes.

(f) To reduce the perception of influence of lobbyist employers upon future Secretaries of State and their administration of the lobbyist disclosure program.

(g) To protect the public's fiscal interest by providing sufficient resources to make the public financing program a viable option for qualified candidates, while not wasting resources by providing candidates with an unnecessarily large initial grant of public funds.

91021. The people enact this chapter to further accomplish the following purposes:

(a) To foster more equal and meaningful participation in the political process.

(b) To provide candidates who participated in the program with sufficient resources with which to communicate with voters.

(c) To increase the accountability of the Secretary of State to the constituents who elect him or her.

(d) To provide voters with timely information regarding the sources of campaign contributions, expenditures, and political advertising.

Article 2. Applicability to the Political Reform Act of 1974

91023. Unless specifically superseded by this act, the definitions and provisions of the Political Reform Act of 1974 shall govern the interpretation of this chapter.

Article 3. Definitions

91024. "Address" means the mailing address as provided on the voter registration form.

91025. For purposes of this chapter, "candidate" means, unless otherwise stated, a candidate for Secretary of State.

91027. A "coordinated expenditure" means a payment made for the purpose of influencing the outcome of an election for Secretary of State that is made by any of the following methods:

(a) By a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to a particular understanding with a candidate, a candidate's controlled committee, or an agent acting on behalf of a candidate or a controlled committee.

(b) By a person for the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's controlled committee, or an agent of a candidate or a controlled committee.

(c) Based on specific information about the candidate's plans, projects, or needs provided to the person making the payment by the candidate or

the candidate's agent who provides the information with a view toward having the payment made.

(d) By a person if, in the same primary and general election in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's controlled committee in an executive or policymaking position.

(e) By a person if the person making the payment has served in any formal policy or advisory position with the candidate's campaign or has participated in strategic or policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to the office of Secretary of State in the same primary and general election as the primary and general election in which the payment is made.

(f) By a person if the person making the payment retains the professional services of an individual or person who, in a nonministerial capacity, has provided or is providing campaign-related services in the same election to a candidate who is pursuing the same nomination or election as any of the candidates to whom the communication refers.

91028. "Effective expenditures" for a nonparticipating candidate means the amount spent plus any independent electioneering expenditures intended to help elect the candidate minus any expenditure treated as an independent electioneering expenditure intended to defeat the candidate. For a participating candidate, it means the amount of Fair Elections funding the candidate has received plus any independent electioneering expenditures intended to help elect the candidate minus any expenditure treated as an independent electioneering expenditure intended to defeat the candidate.

91029. "Entity" means any person other than an individual.

91031. "Excess expenditure amount" means the amount of funds spent or obligated to be spent by a nonparticipating candidate in excess of the Fair Elections funding amount available to a participating candidate running for the same office.

91033. "Exploratory period" means the period beginning 18 months before the primary election and ending on the last day of the qualifying period. The exploratory period begins before, but extends to the end of, the qualifying period.

91035. "General election campaign period" means the period beginning the day after the primary election and ending on the day of the general election.

91037. "Independent candidate" means a candidate who does not represent a political party that has been granted ballot status for the general election and who has qualified, or is seeking to qualify, to be on the general election ballot.

91039. "Independent electioneering expenditure" means any expenditure of two thousand five hundred dollars (\$2,500) or more made by a person, party committee, political committee or political action committee, or any entity required to file reports pursuant to Section 84605, during the 45 calendar days before a primary or the 60 calendar days before a general

election, which expressly advocates the election or defeat of a clearly identified candidate or names or depicts clearly identified candidates.

91043. “Nonparticipating candidate” means a candidate who is on the ballot but has chosen not to apply for Fair Elections campaign funding or a candidate who is on the ballot and has applied but has not satisfied the requirements for receiving Fair Elections funding.

91045. “Office-qualified party” means a political party whose gubernatorial or Secretary of State nominee has received 10 percent or more of the votes at the last election.

91046. “Office-qualified candidate” is a candidate seeking nomination from an office-qualified party.

91049. “Participating candidate” means a candidate who qualifies for Fair Elections campaign funding. These candidates are eligible to receive Fair Elections funding during primary and general election campaign periods.

91051. “Party candidate” means a candidate who represents a political party that has been granted ballot status and holds a primary election to choose its nominee for the general election.

91053. “Performance-qualified candidate” means either an office-qualified candidate or a candidate who has shown a broad base of support by gathering twice the number of qualifying contributions as is required for an office-qualified candidate. Independent candidates may qualify for funding as performance-qualified candidates.

91055. “Petty cash” means cash amounts of one hundred dollars (\$100) or less per day that are drawn on the Fair Elections Debit Card and used to pay expenses of no more than twenty-five dollars (\$25) each.

91059. “Primary election campaign period” means the period beginning 120 days before the primary election and ending on the day of the primary election.

91061. “Qualified candidate” means a candidate seeking nomination from a party that is not an office-qualified party.

91063. “Qualifying contribution” means a contribution of five dollars (\$5) that is received during the designated qualifying period by a candidate seeking to become eligible for Fair Elections campaign funding from a registered voter of the district in which the candidate is running for office.

91065. “Qualifying period” means the period during which candidates are permitted to collect qualifying contributions in order to qualify for Fair Elections funding. It begins 270 days before the primary election and ends 90 days before the day of the primary election for party candidates and begins any time after January 1 of the election year and lasts 180 days, but in no event ending later than 90 days, before the general election for performance-qualified candidates who are running as independent candidates.

91067. “Seed money contribution” means a contribution of no more than one hundred dollars (\$100) made by a California registered voter during the exploratory period.

Article 4. Fair Elections Eligibility

91071. (a) An office-qualified candidate qualifies as a participating candidate for the primary election campaign period if the following requirements are met:

(1) The candidate files a declaration with the commission that the candidate has complied and will comply with all of the requirements of this act, including the requirement that during the exploratory period and the qualifying period the candidate not accept or spend private contributions from any source other than seed money contributions, qualifying contributions, Fair Elections funds, and political party funds as specified in Section 91123.

(2) The candidate meets the following qualifying contribution requirements before the close of the qualifying period:

(A) The office-qualified candidate shall collect at least 7,500 qualifying contributions.

(B) Each qualifying contribution shall be acknowledged by a receipt to the contributor, with a copy submitted by the candidate to the county registrar of voters in the county where the candidate files his or her declaration of candidacy. The receipt shall include the contributor's signature, printed name, and address, the date, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate by the contributor's signature that the contributor understands that the purpose of the qualifying contribution is to help the candidate qualify for Fair Elections campaign funding, that the contribution is the only qualifying contribution the contributor has provided to a candidate for this office, and that the contribution is made without coercion or reimbursement.

(C) A contribution submitted as a qualifying contribution that does not include a signed and fully completed receipt shall not be counted as a qualifying contribution.

(D) All five-dollar (\$5) qualifying contributions, whether in the form of cash, check, or money order made out to the candidate's campaign account, shall be deposited by the candidate in the candidate's campaign account.

(E) All qualifying contributions' signed receipts shall be sent to the county registrar of voters in the county where the candidate files his or her declaration of candidacy and shall be accompanied by a check or other written instrument from the candidate's campaign account for the total amount of qualifying contribution funds received for deposit in the Fair Elections Fund. This submission shall be accompanied by a signed statement from the candidate indicating that all of the information on the qualifying contribution receipts is complete and accurate to the best of the candidate's knowledge and that the amount of the enclosed check or other written instrument is equal to the sum of all of the five-dollar (\$5) qualifying contributions the candidate has received. County registrars of voters shall forward these checks or other written instruments to the commission.

(b) A candidate qualifies as a participating candidate for the general election campaign period if both of the following requirements are met:

(1) The candidate met all of the applicable requirements and filed a declaration with the commission that the candidate has fulfilled and will fulfill all of the requirements of a participating candidate as stated in this act.

(2) As a participating party candidate during the primary election campaign period, the candidate had the highest number of votes of the candidates contesting the primary election from the candidate's respective party and, therefore, won the party's nomination.

91073. (a) A qualified candidate shall collect at least one-half of the number of qualifying contributions as required for an office-qualified candidate for the same office. A qualified candidate may show a greater base of support by collecting double the amount of qualifying contributions as required for an office-qualified candidate to become a performance-qualified candidate. The candidate shall also file a declaration with the commission that the candidate has complied and will comply with all of the requirements of this act.

(b) An independent candidate who does not run in a primary may become a performance-qualified candidate by collecting twice as many qualifying contributions as required of an office-qualified candidate. The qualifying period for such candidates shall begin any time after January 1 of the election year and shall last 180 days, except that it shall end no later than 90 days before the general election. An independent candidate shall notify the commission within 24 hours of the day when the candidate has begun collecting qualifying contributions. The candidate shall also file a declaration with the commission that he or she has complied and will comply with all of the requirements of this chapter.

91075. During the first election that occurs after the effective date of this act, a candidate may be certified as a participating candidate, notwithstanding the acceptance of contributions or making of expenditures from private funds before the date of enactment that would, absent this section, disqualify the candidate as a participating candidate, provided that any private funds accepted but not expended before the effective date of this act meet any of the following criteria:

(a) Are returned to the contributor.

(b) Are held in a segregated account and used only for retiring a debt from a previous campaign.

(c) Are submitted to the commission for deposit in the Fair Elections Fund.

91077. A participating candidate who accepts any benefits during the primary election campaign period shall comply with all of the requirements of this act through the general election campaign period whether the candidate continues to accept benefits or not.

91079. (a) During the primary and general election campaign periods, a participating candidate who has voluntarily agreed to participate in, and has become eligible for, Fair Elections benefits, shall not accept private contributions from any source other than the candidate's political party as specified in Section 91123.

(b) During the qualifying period and the primary and general election campaign periods, a participating candidate who has voluntarily agreed to participate in, and has become eligible for, Fair Elections benefits shall not solicit or receive contributions for any other candidate or for any political party or other political committee.

(c) No person shall make a contribution in the name of another person. A participating candidate who receives a qualifying contribution or a seed money contribution that is not from the person listed on the receipt required by subparagraph (D) of paragraph (2) of subdivision (a) of Section 91071 shall be liable to pay the commission the entire amount of the inaccurately identified contribution, in addition to any penalties.

(d) During the primary and general election campaign periods, a participating candidate shall pay for all of the candidate's campaign expenditures, except petty cash expenditures, by means of a "Fair Elections Debit Card" issued by the commission, as authorized under Section 91137.

(e) Participating candidates shall furnish complete campaign records to the commission upon request. Candidates shall cooperate with any audit or examination by the commission, the Franchise Tax Board, or any enforcement agency.

91081. (a) During the primary election period and the general election period, each participating candidate shall conduct all campaign financial activities through a single campaign account.

(b) Notwithstanding Section 85201, a participating candidate may maintain a campaign account other than the campaign account described in subdivision (a) if the other campaign account is for the purpose of retiring a net debt outstanding that was incurred during a previous election campaign in which the candidate was not a participating candidate.

(c) Contributions for the purposes of retiring a previous campaign debt that are deposited in the "other campaign account" described in subdivision (b) shall not be considered "contributions" to the candidate's current campaign. Those contributions shall only be raised during the six-month period following the date of the election.

91083. (a) Participating candidates shall use their Fair Elections funds only for direct campaign purposes.

(b) A participating candidate shall not use Fair Elections funds for any of the following:

(1) Costs of legal defense or fines resulting from any campaign law enforcement proceeding under this act.

(2) Indirect campaign purposes, including, but not limited to, the following:

(A) The candidate's personal support or compensation to the candidate or the candidate's family.

(B) The candidate's personal appearance.

(C) A contribution or loan to the campaign committee of another candidate for any elective office or to a party committee or other political committee.

(D) An independent electioneering expenditure.

(E) A gift in excess of twenty-five dollars (\$25) per person.

(F) Any payment or transfer for which compensating value is not received.

91085. (a) Personal funds contributed as seed money by a candidate seeking to become eligible as a participating candidate or by adult members of the candidate's family shall not exceed the maximum of one hundred dollars (\$100) per contributor.

(b) Personal funds shall not be used to meet the qualifying contribution requirement except for one five-dollar (\$5) contribution from the candidate and one five-dollar (\$5) contribution from the candidate's spouse.

91087. (a) The only private contributions a candidate seeking to become eligible for Fair Elections funding shall accept, other than qualifying contributions and limited contributions from the candidate's political party as specified in Section 91123, are seed money contributions contributed by duly registered voters in the district in which the candidate is running for election prior to the end of the qualifying period.

(b) A seed money contribution shall not exceed one hundred dollars (\$100) per donor, and the aggregate amount of seed money contributions accepted by a candidate seeking to become eligible for Fair Elections funding shall not exceed seventy-five thousand dollars (\$75,000).

(c) Receipts for seed money contributions shall include the contributor's signature, printed name, address, and ZIP Code. Receipts described in this subdivision shall be made available to the commission upon request.

(d) Seed money shall be spent only during the exploratory and qualifying periods. Seed money shall not be spent during the primary or general election campaign periods, except when they overlap with the candidate's qualifying period. Any unspent seed money shall be turned over to the commission for deposit in the Fair Elections Fund.

(e) Within 72 hours after the close of the qualifying period, candidates seeking to become eligible for Fair Elections funding shall do both of the following:

(1) Fully disclose all seed money contributions and expenditures to the commission.

(2) Turn over to the commission for deposit in the Fair Elections Fund any seed money the candidate has raised during the exploratory period that exceeds the aggregate seed money limit.

91091. Participating candidates in contested races shall agree to participate in at least one public debate during a contested primary election and two public debates during a contested general election, to be conducted pursuant to regulations promulgated by the commission.

91093. (a) No more than five business days after a candidate applies for Fair Elections benefits, the county registrar of voters in the county where the candidate files his or her declaration of candidacy shall certify that the candidate is or is not eligible. Eligibility may be revoked if the candidate violates the requirements of this act, in which case all Fair Elections funds shall be repaid.

(b) The candidate's request for certification shall be signed by the candidate and the candidate's campaign treasurer under penalty of perjury.

(c) The certification determination of the county registrar of voters is final except that it is subject to a prompt judicial review.

Article 5. Fair Elections Benefits

91095. (a) Candidates who qualify for Fair Elections funding for primary and general elections shall:

(1) Receive Fair Elections funding from the commission for each election in an amount specified by Section 91099. This funding may be used to finance campaign expenses during the particular campaign period for which it was allocated consistent with Section 91081.

(2) Receive, if a performance-qualified candidate, additional Fair Elections funding to match the effective expenditures of any candidates in the election that exceed the effective expenditures of the performance-qualified candidate.

(b) The maximum aggregate amount of funding a participating performance-qualified candidate shall receive to match independent electioneering expenditures and excess expenditures of nonparticipating candidates shall not exceed four times the base funding amount pursuant to Section 91099 for a particular primary or general election campaign period.

91095.5. (a) An expenditure by a candidate in a primary election against a candidate running for that office in another party's primary shall be treated as an independent electioneering expenditure against that candidate when that candidate's effective expenditures are less than those of the candidate making the expenditure for the purposes of Section 91095.

(b) The commission shall promulgate regulations allocating the share of expenditures that reference or depict more than one candidate for the purposes of Section 91095.

(c) Expenditures made before the general election period that consist of a contract, promise, or agreement to make an expenditure during the general election period resulting in an extension of credit shall be treated as though made at the beginning of the general election period.

91097. (a) An eligible qualified or performance-qualified candidate running in a primary election shall receive the candidate's Fair Elections funding for the primary election campaign period on the date on which the county registrar of voters certifies the candidate as a participating candidate or at the beginning of the primary election period, whichever is later.

(b) An eligible qualified or performance-qualified candidate shall receive the candidate's Fair Elections funding for the general election campaign period within two business days after certification of the primary election results.

91099. (a) For eligible candidates in a primary election:

(1) The base amount of Fair Elections funding for an eligible office-qualified candidate in a primary election is one million dollars (\$1,000,000).

(2) The amount of Fair Elections funding for an eligible qualified candidate in a primary election is 20 percent of the base amount that an office-qualified candidate would receive.

(b) For eligible candidates in a general election:

(1) The base amount of Fair Elections funding for a performance-qualified candidate in a general, special, or special runoff election is one million three hundred thousand dollars (\$1,300,000).

(2) The amount of Fair Elections funding for an eligible qualified candidate in a contested general election is 25 percent of the base amount a performance-qualified candidate would receive.

Article 6. Disclosure Requirements

91107. (a) If a nonparticipating candidate's total expenditures or promises to make campaign expenditures exceed the amount of Fair Elections funding allocated to the candidate's Fair Elections opponent or opponents, the candidate shall declare every excess expenditure amount which, in the aggregate, is more than five thousand dollars (\$5,000) to the commission online or electronically within 24 hours of the time the expenditure or promise is made, whichever occurs first.

(b) The commission may make its own determination as to whether excess expenditures have been made by nonparticipating candidates.

(c) Upon receiving an excess expenditure declaration or determining that an excess expenditure has been made, the commission shall immediately release additional Fair Elections funding to the opposing performance-qualified candidates pursuant to Section 91095.

91111. (a) In addition to any other report required by this chapter, a committee, including a political party committee, that is required to file reports pursuant to Section 84605 and that makes independent electioneering expenditures of two thousand five hundred dollars (\$2,500) or more during a calendar year in connection with a candidate for Secretary of State, shall file online or electronically a report with the Secretary of State disclosing the making of the independent electioneering expenditure. This report shall disclose the same information required by subdivision (b) of Section 84204 and shall be filed within 24 hours of the time the independent electioneering expenditure is made.

(b) The report to the Secretary of State shall include a signed statement under penalty of perjury by the person or persons making the independent electioneering expenditure identifying the candidate or candidates whom the independent electioneering expenditure is intended to help elect or defeat and affirming that the expenditure is independent and whether it is coordinated with a candidate or a political party.

(c) Any individual or organization that fails to file the required report to the Secretary of State or provides materially false information in a report filed pursuant to subdivision (a) or (b) may be fined up to three times the

amount of the independent electioneering expenditure, in addition to any other remedies provided by this act.

(d) The Secretary of State shall provide information received pursuant to subdivision (a) to the commission simultaneously upon receipt. Upon receiving a report that an independent electioneering expenditure has been made or obligated to be made, the commission shall immediately release additional Fair Elections funding pursuant to Section 91095.

91113. All broadcast and print advertisements placed by candidates or their committees shall include a clear written or spoken statement indicating that the candidate has approved of the contents of the advertisement.

Article 7. Legal Defense, Officeholder, and Inaugural Funds

91115. (a) Notwithstanding Section 85316, a Secretary of State or candidate for the office of Secretary of State may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or elected state officer's legal defense if the candidate or elected state officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the elected state officer's governmental activities and duties. These funds may be used only to defray those attorney's fees and other related legal costs.

(b) A Secretary of State may establish a separate account for expenses associated with holding office that are reasonably related to a legislative or governmental purpose as specified in this subdivision and in regulations of the commission. The total amount of funds that may be deposited in a calendar year into an account established pursuant to this subdivision shall not exceed fifty thousand dollars (\$50,000).

(c) A Secretary of State may establish an inaugural account to cover the cost of events, celebrations, gatherings, and communications that take place as part of, or in honor of, the inauguration of the Secretary of State.

(d) The maximum amount of contributions a candidate or elected state officer whose office is covered by these provisions may receive from a contributor in a calendar year for all of the accounts described in subdivisions (a), (b), and (c) combined is five hundred dollars (\$500). All contributions, whether cash or in kind, shall be reported in a manner prescribed by the commission. Contributions to such funds shall not be considered campaign contributions.

(e) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged or after the elected state officer whose office is covered by these provisions leaves office, for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

Article 8. Restrictions on Candidates

91121. A nonparticipating candidate may accept an otherwise lawful contribution after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election.

91123. Participating candidates may accept monetary or in-kind contributions from political parties provided that the aggregate amount of such contributions from all political party committees combined does not exceed the equivalent of 5 percent of the original Fair Elections financing allotment for that office for that election. Such expenditures shall not count against the moneys spent by Fair Elections candidates.

Article 9. Ballot Pamphlet Statements

91127. The Secretary of State shall designate in the state ballot pamphlet and on any Internet Web site listing of candidates maintained by any government agency including, but not limited, to the Secretary of State those candidates who have voluntarily agreed to be participating candidates.

91131. (a) A candidate for Secretary of State who is a participating candidate may place a statement in the state ballot pamphlet that does not exceed 250 words. The statement shall not make any reference to any opponent of the candidate. The candidate may also provide a list of up to 10 endorsers for placement in the state ballot pamphlet or sample ballot, as appropriate. This statement and list of endorsers shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlets and by county elections officials for the preparation of sample ballots.

(b) A nonparticipating candidate for Secretary of State may pay to place a statement in the state ballot pamphlet that does not exceed 250 words. A nonparticipating candidate may also pay to place a list of up to 10 endorsers in the state ballot pamphlet or sample ballot, as appropriate. The statement shall not make any reference to any opponent of the candidate. This statement and list of endorsers shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlets and by county elections officials for the preparation of sample ballots. The nonparticipating candidate shall be charged the pro rata cost of printing, handling, translating, and mailing any ballot pamphlet statement and list of endorsers provided pursuant to this subdivision.

Article 10. Appropriations for the Fair Elections Fund

91133. (a) A special, dedicated, nonlapsing Fair Elections Fund is created in the State Treasury. Commencing January 1, 2011, the funds collected pursuant to Section 20600 of the Elections Code shall, when appropriated by the Legislature, be available from the Fair Elections Fund to the commission for expenditure for the purpose of providing public

financing for the election campaigns of certified participating candidates during primary and general campaign periods.

(b) Funding for the administrative and enforcement costs of the commission related to this act shall be from the Fair Elections Fund and shall be, for each four-year election cycle, no more than 10 percent of the total amount deposited in the Fair Elections Fund during the four-year election cycle.

91135. Other sources of revenue to be deposited in the Fair Elections Fund shall include all of the following:

(a) The qualifying contributions required of candidates seeking to become certified as participating candidates and candidates' excess qualifying contributions.

(b) The excess seed money contributions of candidates seeking to become certified as participating candidates.

(c) Unspent funds distributed to any participating candidate who does not remain a candidate until the primary or general election for which they were distributed, or funds that remain unspent by a participating candidate following the date of the primary or general election for which they were distributed.

(d) Voluntary donations made directly to the Fair Elections Fund.

(e) Other funds appropriated by the Legislature.

(f) Any interest generated by the Fair Elections Fund.

(g) Any other sources of revenue from the General Fund or from other sources as determined by the Legislature.

Article 11. Administration

91137. (a) Upon a determination that a candidate has met all the requirements for becoming a participating candidate as provided for in this act, the commission shall issue to the candidate a card, known as the "Fair Elections Debit Card," and a "line of debit" entitling the candidates and members of the candidate's staff to draw Fair Elections funds from a commission account to pay for all campaign costs and expenses up to the amount of Fair Elections funding the candidate has received.

(b) Neither a participating candidate nor any other person on behalf of a participating candidate shall pay campaign costs by cash, check, money order, loan, or by any other financial means other than the Fair Elections Debit Card.

(c) Cash amounts of one hundred dollars (\$100) or less per day may be drawn on the Fair Elections Debit Card and used to pay expenses of no more than twenty-five dollars (\$25) each. Records of all such expenditures shall be maintained and, upon request, made available to the commission.

91139. If the commission determines that there are insufficient funds in the program to fund adequately all candidates eligible for Fair Elections funds, the commission shall reduce the grants proportionately to all eligible candidates. If the commission notifies a candidate that the Fair Elections

funds will be reduced and the candidate has not received any Fair Elections funds, the candidate may decide to be a nonparticipating candidate. If a candidate has already received Fair Elections funds or wishes to start receiving such funds, a candidate who wishes to collect contributions may do so in amounts up to the contribution limits provided for nonparticipating candidates but shall not collect more than the total of Fair Elections funds that the candidate was entitled to receive had there been sufficient funds in the program less the amount of Fair Elections funds that will be or have been provided. If, at a later point, the commission determines that adequate funds have become available, candidates, who have not raised private funds, shall receive the funds owed to them.

91140. The commission shall adjust the seed money limitations in subdivision (a) of Section 91085 and in subdivision (b) of Section 91087 and the Fair Elections Fund funding amounts in Section 91099 in January after the election of the Secretary of State to reflect any increase or decrease in the Consumer Price Index and the increase or decrease in the number of registered voters in California. The adjustments made pursuant to this section shall be rounded to the nearest ten dollars (\$10) for the seed money limitations and one thousand dollars (\$1,000) for the Fair Elections funding amounts.

Article 12. Enforcement

91141. (a) If a participating candidate spends or obligates to spend more than the Fair Elections funding the candidate is given, and if it is determined by the commission, subject to court review, not to be an amount that had or could have been expected to have a significant impact on the outcome of the election, then the candidate shall repay to the Fair Elections Fund an amount equal to the excess.

(b) If a participating candidate spends or obligates to spend more than the Fair Elections funding the candidate is given, and if that excess amount is determined by the commission, subject to court review, to be an amount that had or could have been expected to have a significant impact on the outcome of the election, then the candidate shall repay to the Fair Elections Fund an amount up to 10 times the value of the excess.

91143. It is unlawful for candidates to knowingly accept more benefits than those to which they are entitled, spend more than the amount of Fair Elections funding they have received, or misuse such benefits or Fair Elections funding.

91145. Any person who knowingly or willfully violates any provision of this chapter is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of this chapter, or who aids and abets any other person in the violation of any provision of this chapter shall be liable under this section.

91147. Prosecution for a violation of any provision of this chapter shall be commenced within four years after the date on which the violation occurred.

91149. No person convicted of a misdemeanor under this chapter shall act as a lobbyist or state contractor, or run for elective state office, for a period of five years following the date of conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable.

91157. This chapter shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 5. Article 8.6 (commencing with Section 18798) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 8.6. Voters Fair Elections Fund

18798. (a) An individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Voters Fair Elections Fund, pursuant to Section 18798.1.

(b) Contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the individual return for that taxable year and, once made, shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the individual's account, do not exceed the individual's liability, the return shall be treated as if no designation were made.

(d) The Franchise Tax Board shall revise the forms of the return to include a space labeled "Voters Fair Elections Fund" to allow for the designation permitted under subdivision (a). The forms shall also include instructions that the contribution may be in the amount of one dollar (\$1) or more and that the contribution will be used to provide public funding for the campaigns of qualified candidates for Secretary of State who agree to take no private moneys for their campaigns.

(e) Notwithstanding any other provision of law, a voluntary contribution designation for the Voters Fair Elections Fund shall not be added to the tax return until another voluntary contribution is removed.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

18798.1. There is hereby established in the State Treasury the Voters Fair Elections Fund to receive contributions made pursuant to Section 18798. The Franchise Tax Board shall notify the Controller of both the amount of moneys paid by taxpayers in excess of their tax liability and the amount of refund moneys which taxpayers have designated pursuant to Section 18798

to be transferred to the Voters Fair Elections Fund. The Controller shall transfer from the Personal Income Tax Fund to the Voters Fair Elections Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18798 for payment into that fund.

18798.2. All moneys transferred to the Voters Fair Elections Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) To the Fair Elections Fund established pursuant to Section 91133 of the Government Code.

18798.3. (a) Except as otherwise provided in subdivision (b), this article shall remain in effect only until January 1 of the fifth taxable year following the first appearance of the Voters Fair Elections Fund on the personal income tax return, and as of that date is repealed, unless a later enacted statute that is enacted before the applicable date deletes or extends that date.

(b) (1) By September 1 of the second calendar year, and by September 1 of each subsequent calendar year that the Voters Fair Elections Fund appears on a tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the Fair Political Practices Commission of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for the second calendar year after the first appearance of the Voters Fair Elections Fund on the personal income tax return or the adjusted minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with the third calendar year after the first appearance of the Voters Fair Elections Fund on the personal income tax return, the Franchise Tax Board shall adjust, on or before September 1, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated

contribution amount for the calendar year multiplied by the inflation factor adjustment as specified in subparagraph (A) of paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 6. The provisions of Section 81012 of the Government Code, which allow legislative amendments to the Political Reform Act of 1974, shall apply to all of the provisions of this act that are placed on the June 8, 2010, ballot, except that Section 91157 of the Government Code, and Article 8.6 (commencing with Section 18798) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, may be amended or repealed by a statute passed in each house of the Legislature, a majority of the membership concurring, and signed by the Governor.

SEC. 7. (a) The Secretary of State shall, pursuant to subdivision (b) of Section 81012 of the Government Code, submit Sections 1, 2, 3, 4, 5, 6, and 8 of this act for approval by the voters at the June 8, 2010, statewide primary election, notwithstanding Section 9040 of the Elections Code.

(b) (1) Notwithstanding any other provision of law, all ballots of the June 8, 2010, primary election shall have printed thereon as the ballot label the following: “CALIFORNIA FAIR ELECTIONS ACT. Creates a voluntary system for candidates for Secretary of State to qualify for a public campaign grant if they agree to strict spending limits and no private contributions. Each candidate demonstrating enough public support would receive the same amount. Participating candidates would be prohibited from raising or spending money beyond the grant. There would be strict enforcement and accountability. Funded by voluntary contributions and by an annual fee on lobbyists, lobbying firms, and lobbyist employers.” At the appropriate location on the ballot, in the manner prescribed by law, there shall be provided the opportunity for voters to indicate whether they vote for or against the measure.

(2) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in paragraph (1) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General shall include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and summary and the financial impact summary.

(c) Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section,

the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

(d) (1) Notwithstanding any other provision of law, the Secretary of State shall use the following as the ballot title and summary for the act: "CALIFORNIA FAIR ELECTIONS ACT. This act creates a voluntary system for candidates for Secretary of State to qualify for a public campaign grant if they agree to strict spending limits and take no private contributions. Candidates would have to qualify before receiving the grant. Candidates who demonstrate sufficient public support would receive the same amount. Participating candidates would be prohibited from raising or spending money beyond the grant. There would be strict enforcement and accountability with published reports open to the public. Funded by voluntary contributions and by a \$350 annual registration fee on lobbyists, lobbying firms, and lobbyist employers."

(2) Notwithstanding any other provision of law, the language in paragraph (1) shall be the only language included in the ballot title and summary, and the Attorney General shall not supplement, subtract from, or otherwise revise that language, except that the Attorney General shall include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code.

(e) The Secretary of State shall include, in the ballot pamphlets mailed pursuant to Section 9094 of the Elections Code, the information specified in Section 9084 of the Elections Code regarding the act described in subdivision (a).

SEC. 8. The section of this act that adds Chapter 12 (commencing with Section 91015) to Title 9 of the Government Code shall be deemed to amend the Political Reform Act of 1974 as amended and all of the provisions of the Political Reform Act of 1974 as amended that do not conflict with Chapter 12 shall apply to the provisions of that chapter.

SEC. 9. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.