



## **Australian Labor Party (NSW Branch)**

Submission to the Australian Government  
Electoral Reform Green Paper  
Donations, Funding and Expenditure  
December 2008

February 2009

## **INTRODUCTION**

NSW Labor welcomes the opportunity to make a submission to the Australian Government Electoral Reform Green Paper December 2008 (the Green Paper)

The Green Paper addresses a range of issues associated with electoral donations, funding and expenditure. Whilst recognising the importance of reform in a range of areas, this submission focuses on reforms related to funding sources and disclosure obligations.

NSW Labor is concerned about the perception that political donations create undue influence in the Australian political system. We feel such a view undermines the integrity of our democracy and diminishes public confidence in our electoral system and elected representatives.

We are also concerned by the recent development of an 'arms race' in electoral expenditure, with political parties spending record amounts each election.

We submit that fundamental reform of electoral funding, expenditure and disclosure is required to ensure any impression of undue influence is minimised and ideally removed, and all candidates and parties have an opportunity to put a fair case for election.

To achieve this any reform of the current system must focus on improving transparency, accountability and fairness. In this submission we recommend a number of reforms for the government to consider to meet these aims. These are:

1. Implementation of nationally consistent laws relating to electoral funding, expenditure and disclosure.
2. Improved disclosure laws for political donations to parties and candidates.
3. Reforms to public funding to reduce the reliance on corporate donations by parties and candidates.
4. Nationally consistent laws relating to registration of political parties.

We consider each of these issues in more detail below.

## **RECOMENDATIONS**

### **1. Nationally Consistent Laws**

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## **RECOMENDATIONS**

### **1. Nationally Consistent Laws**

For an electoral funding and disclosure regime to be robust and effective it must have little, if any, loopholes. To achieve this a nationally consistent set of

laws must be implemented that apply uniform provisions to local, state and federal elections.

Presently there are major differences in the laws relating to funding and disclosure between states, and between certain states and the Commonwealth. A simple comparison of the New South Wales regime and the Commonwealth regime relating to funding and disclosure laws reveals the following differences:

#### Funding

- The Commonwealth uses an entitlement system, based on an amount per vote not on what the party/candidate spent. NSW uses a reimbursement system, based on an amount per vote but limited to actual expenditure by the party/candidate.
- The dollar value available to parties and candidates is not consistent.
- NSW has an annual entitlement scheme for parties called the 'Political Education Fund', but no other State or the Commonwealth has such a scheme.

#### Disclosure

- Where disclosure provisions are in place, limits are different. For the Commonwealth only donations over \$10,900 need to be disclosed, whereas for NSW the threshold is \$1,000.
- There is no requirement for individual donors to establish their identity by providing a verified enrolment address or ABN. This provides for potential bogus donations.
- The Commonwealth requires parties to file an annual return of receipts, whereas NSW 6 monthly returns are required to be filed.

Funding and disclosure reform must be introduced at a Federal and State level simultaneously, and with identical legislation, otherwise it will not address the current problem where companies or individuals can manipulate differences in the laws in the States or Federally in order to disclose at a later time to avoid scrutiny, or to avoid disclosure altogether.

In the United States differences in state and federal funding regimes have resulted in 'soft money' spending on Presidential campaigns.

To achieve national consistency will require either the states agreeing to refer their powers to make laws with respect to electoral funding, expenditure and disclosure to the Commonwealth, or the enactment of identical laws in all state parliaments as the Commonwealth. The referral method is preferred as it reduces the opportunity for state governments pulling out of the system.

However, there must be sufficient safeguards against amendment without broad consensus to provide the states with confidence in the system. This could be achieved by a Ministerial Council of State, Territory and Commonwealth Ministers with agreed terms for referral and amendment of the laws.

As the main political parties operate at the Commonwealth level and at the State/Territory level, there needs to be a system that will capture funding and disclosure activity at both levels.

A national regime will establish a simple and across the board process so that parties, candidates and donors understand their obligations and responsibilities, and need only comply with a single system, thereby improving effectiveness, accountability and confidence.

A national solution will enable the body administering the provisions to recruit appropriately skilled staff. Further, it will enable the body to undertake election based advertising and education campaigns to educate and inform parties, candidates and donors of their obligations and responsibilities. Presently, this is impossible considering the diversified and inconsistent provisions.

## **2. Improved Disclosure Laws**

To improve transparency and accountability in laws relating to donations to political parties and candidates we submit that the government should consider the following:

- A common threshold for donations disclosure should be set at no more than \$1,000. This would be simple to understand and easy to administer.
- The government should consider imposing a cap on political donations that individuals and corporations can make to political parties. The cap should be set at a level such that it does not infringe the implied right to the freedom of political communication in the Australian Constitution.
- Individual donors should be required to provide their enrolled electoral address so that the party/ candidate can verify the elector.
- Other entities should be required to provide their ABN so that the entity can be verified and cross matched between party/ candidate return and donor returns.
- Candidates not endorsed by a party should be required to lodge a return within a prescribed period.
- To simplify administration, compliance and auditing, each state branch

of a political party should have one account for donations. Each federal and State Electorate Council for each party should have a sub-account of the state branch account and all candidate donations must be deposited into this account. This will make it easy and transparent for the federal body responsible for disclosure to audit all donations and contributions.

### **3. Reforms to Public Funding**

To improve and maintain public confidence that the electoral system is free of undue influence the reliance on corporate donations to fund election campaigns must be reduced.

Improved public funding models both at an election and between elections could assist in reducing reliance on corporate donations. We make the following recommendations.

#### Public Funding of Parties and Candidates at an election

- A simple and consistent system for public funding should be introduced across the country.
- There should be the same dollar value for a funded vote whether at Commonwealth or State Elections.
- Where candidates are endorsed by a registered party only the party should be entitled to apply for funding.

#### Public Funding of Parties between elections for non-campaign operations

- There is an argument that if a party candidate is elected to parliament, then the party should receive some annual public funding to keep the party going. In NSW, this could replace the 'Political Education Fund'. This recognises that if a party has secured sufficient support to have candidates elected to Parliament, then it should be supported in between elections whilst it has members in the Parliament.
- A scheme where a party receives a dollar amount for an MP could be worked out, that would provide for the annual salary of a number of party staff. This could be calculated on the basis of the number of members the party elects or the level of primary vote support over multiple elections.

### **4. Registration of Political Parties**

To improve the accountability of political parties a nationally consistent party registration regime should be established. We recommend such a regime should include the following:

- The Commonwealth should register parties who want to stand

candidates for a Federal Election. Any party registered by the Commonwealth should automatically be registered in all States and Territories for state and local government elections.

- In addition, the States and Territories should administer a regime for registering parties who want to stand candidates for State and Local Government elections but have no interest in standing candidates for the federal parliament. Usually such parties only stand candidates in local government elections. This information should be provided to the Commonwealth so that they can administer the funding and disclosure provisions.
- There should be consistent criteria to register a Party. The only variation may be in the number of enrolled electors that are required to establish the Party and the fee involved.
- There could be an annual continued registration requirement especially if the party is in receipt of annual public funding.

## **CONCLUSION**

NSW Labor supports the process of review of electoral funding, expenditure and disclosure laws undertaken by the Special Minister of State The Hon. John Faulkner. We welcome the opportunity to make this submission.

NSW Labor believes that an opportunity exists to restore confidence to Australian political processes, parties, candidates and our system of democracy by improving the accountability, transparency and fairness of our nation's electoral funding and disclosure laws. We hope this opportunity will be met with multi-party support.

The recommendations we have made in our view shall improve our system of government and our countries citizens' faith in it. We look forward to hearing the views of others and working with them to achieve improvement to our electoral system.