Proposition 89

Political Campaigns. Public Financing. Corporate Tax Increase. Contribution and Expenditure Limits. Initiative Statute.

OVERVIEW OF THE MEASURE

This proposition makes major changes to the way that political campaigns for state candidates and ballot measures are funded. Candidates could choose to receive public funding for the costs of their campaigns. For those candidates choosing not to receive public funding, existing limits on the amount of political donations ("contributions") would be lowered. Figure 1 shows the main provisions of the measure, which are discussed in more detail below.

Figure 1

Proposition 89: Main Provisions

✓ **Public Funding for Political Candidates**

- A candidate for state office meeting certain requirements could receive state funds to pay for the costs of a political campaign.
- The amount of state funds that a candidate would receive would go up if an opponent spent more in private funds.

✓ **Lower Contribution Amounts for Privately Funded Candidates**

- For candidates choosing not to receive public funding, the amount of money that could be collected from each individual, corporation, or other group would be lower than is currently the case.

✓ **Contribution Restrictions for State Ballot Measures**

- Places new limits on contributions to candidates' efforts to support or oppose ballot measures.
- Places new limits on contributions from corporations to support or oppose ballot measures.

✓ **Higher Corporate Taxes**

- Increases tax rate on corporations and financial institutions. For corporations, tax rate would increase from 8.84 percent to 9.04 percent. For financial institutions, tax rate would increase from 10.84 percent to 11.04 percent.
- Raises over $200 million each year to implement the measure.

BACKGROUND

Current Limits on Political Contributions. Candidates for state offices collect private donations from individuals, corporations, political parties, and other organizations (such as labor unions and nonprofit organizations) to pay for the costs of their political campaigns. The maximum amount of money that each person or group can give to a candidate is determined by state law. The limits were last changed when voters approved Proposition 34 at the November 2000 general election. Current limits on the amount of money that can be given depend on the office being sought and who is giving the donation. For instance, an individual can give a candidate for the state Assembly a donation of up to $3,300. On the other hand, a political party can give that same candidate as much money as it chooses. A candidate can accept donations any time before an election and can spend without limit any money that is collected.

Role of Committees and Independent Expenditures. Rather than make donations directly to candidates, some individuals and groups choose to make political donations to "committees." These committees take donations and then decide which candidates to give money. For instance, one type of committee—a small contributor committee—accepts donations of up to $200 from more than 100 individuals and then distributes the funds to candidates. Other individuals, groups, and committees choose to spend money on political campaigns without giving money directly to candidates. Instead, they make "independent expenditures" without coordinating with the candidate. These independent expenditures, such as television commercials or newspaper advertisements, may encourage voters to support or oppose a candidate. There are no limits on the amount of money that can be donated for or spent on independent expenditures.

Ballot Measures. There are no limits on the amount of money that can be collected or spent for and against state ballot measures (propositions).

State Government's Responsibilities. The state's campaign finance laws are administered by the Secretary of State (SOS) and the Fair Political Practices Commission (FPPC). Under state law, individuals and groups must tell SOS how much money has been given, received, and spent on political campaigns. This information is available to the public—generally on the Internet. The FPPC is in charge of enforcing the laws to make sure candidates and donors obey the rules. The FPPC can assess fines on candidates violating election laws.

PROPOSAL

This measure makes significant changes to state laws regarding the financing of campaigns for elected state offices and state ballot measures. The measure's provisions regarding candidates for office generally affect only state elected officials (see Figure 2).

Figure 2

State Elected Officials Covered by Proposition 89

Statewide Officials
- Governor
- Lieutenant Governor
- Attorney General
- Secretary of State
- Treasurer
- Controller
- Insurance Commissioner
- Superintendent of Public Instruction

Legislature
- Senators (40)
- Assembly Members (80)

Board of Equalization Members (4)

Public Funding for Political Candidates

The measure establishes a system for candidates to receive public funds to pay for the costs of campaigning for state offices.

Requirements to Receive Money

In order to receive public funding for a campaign, a candidate would have to meet certain requirements:

- *$5 Donations and Signatures.* A candidate would be required to collect a number of $5 donations ("qualifying contributions") and signatures from residents prior to a primary election. As shown in Figure 3, the required number of donations would range from 750 to 25,000 depending on the office sought. The measure requires that these donations be paid to the state.

Figure 3
Proposition 89
Public Financing Provisions for Major Party Candidates

	Initial Steps		Public Financing Available	
Office	Number of $5 Contributions	Maximum Start-Up Contributions	Primary Election	General Election
Assembly	750	$10,000	$250,000	$400,000
Senate	1,500	20,000	500,000	800,000
Board of Equalization	2,000	30,000	250,000	400,000
Statewide officials	7,500	75,000	2,000,000	2,000,000
Governor	25,000	250,000	10,000,000	15,000,000

- *Private Contributions.* To receive public funding, a candidate could not receive private campaign funding, with two main exceptions. First, beginning up to 18 months prior to a primary election, the measure allows candidates to collect and spend start-up contributions, or "seed money." (These funds could be used, for instance, to pay costs for collecting the qualifying contributions and signatures.) The measure restricts these types of donations to $100 each. Total donations would be limited to between $10,000 and $250,000 depending on the office (see Figure 3). These funds could only be spent until 90 days prior to a primary election. Second, candidates would continue to be able to receive donations from political parties. Donations from political parties would be subject to the same limits as for candidates choosing not to receive public funds (described below).
- *Other Requirements.* By accepting public funding, a candidate would be subject to some additional requirements. For example, candidates would be required to participate in public debates before each election. In addition, candidates could not use their personal funds to pay for campaign costs.

Public Funding Provided

Those candidates meeting the requirements described above would become eligible to receive public funds. As shown in Figure 3, the amount of funding would vary based on (1) the office sought and (2) whether it was a primary or general election. For instance, for a primary election, a candidate running for the Assembly could receive $250,000 for the primary election and an additional $400,000 for the general election (if successful in the primary election). A candidate for Governor could receive $10 million in the primary election and an additional $15 million in the general election. The FPPC would administer the funds and make disbursements using a debit card system.

Additional Public Funds. In cases where a candidate's opponent chose not to participate in the public financing system, the measure allows a participating candidate to receive additional funds in some cases. Specifically, if an opponent spent more in private funds than the amount of public funds available, additional public funds would be provided to the candidate on a dollar-for-dollar basis. Similarly, a participating candidate would receive additional public funds if independent expenditures were made in support of an opponent. The maximum amount of additional public funds that a candidate could receive is capped under the measure (generally five times the original amount provided to a candidate and four times the amount for a candidate for Governor). For instance, the maximum amount of additional public funds that a candidate for the Assembly could receive for a primary election would be $1.25 million.

Funds for Expenses While in Office. Under current law, state elected officials generally may use leftover campaign funds to pay for some expenses while in office. Under the measure, those candidates who accept public financing and win their election would be eligible to receive annual payments to cover similar expenses. Members of the Legislature would receive $50,000 each year while in office and other state officials would receive $100,000 each year.

Minor Party and Independent Candidates

The amounts shown in Figure 3 are for candidates representing major parties (generally, parties whose nominee for Governor in the last election received at least 10 percent of the vote). Under the measure, candidates from minor parties and independent candidates are eligible to receive smaller amounts of public funds. Depending on the situation, a minor party or independent candidate could receive as much as one-half of the amount that a major party candidate receives.

Lower Contribution Amounts for Privately Funded Candidates

Lower Campaign Contributions. For those candidates who choose not to participate in the public financing of campaigns, the measure imposes new limits for campaign donations to candidates. The measure's limits generally are much more restrictive than is now the case. For instance, currently individuals, corporations, and other groups can donate $3,300 per election to a candidate for the Legislature. This measure would restrict contributions to $500 for legislative candidates. Currently, political parties can give unlimited amounts to candidates. Under the measure, a political party's donations would be limited. For example, a political party could give a privately funded candidate for Assembly up to $20,000 for a general election. These new limits are summarized in Figure 4.

Figure 4

Campaign Contribution Limits for Privately Funded Candidates (For Each Election)

	Individual, Group, or Corporation		Small Contributor Committee		Political Party	
	Current	Proposition 89	Current	Proposition 89	Current	Proposition 89[a]
Assembly	$3,300	$500	$6,700	$2,500	No limit	$20,000
Senate	3,300	500	6,700	2,500	No limit	40,000
Board of Equalization	5,600	500	11,100	2,500	No limit	20,000
Statewide officials	5,600	1,000	11,100	2,500	No limit	200,000
Governor	22,300	1,000	22,300	2,500	No limit	750,000

[a] Amounts shown are for general elections. Primary election limits are between one-half and two-thirds of the amounts shown. Political party limits would apply to both privately and publicly funded candidates.

Other Restrictions on Campaign Contributions. The measure also adds other types of restrictions on campaign contributions related to privately funded candidates, which are summarized in Figure 5.

- ***Independent Expenditure Contribution Limit.*** The measure restricts donations to $1,000 each year to a committee for independent expenditures. As under current law, individuals could make unlimited independent expenditures if they spent the money on their own, without the use of a committee.
- ***Overall Donation Limit.*** The measure also adds new limits on the overall amount of political contributions that a person or group can make to candidates and committees in a year. The total amount that could be donated to all types of committees to support or oppose state candidates would be limited to $15,000. Of this total, however, any contributions over $7,500 would be required to go for independent expenditures.
- ***Lower Political Party Contribution Limit.*** The measure lowers an existing limit on annual contributions to political parties from $27,900 to $7,500.
- ***Lobbyist Restrictions.*** Under existing law, lobbyists are prohibited from making contributions to candidates. The measure also forbids lobbyists from making donations to political parties and committees.
- ***State Contractor Restrictions.*** Under existing law, those individuals and entities receiving state contracts are not subject to any special restrictions on political contributions. The measure forbids, in some instances, those

receiving state contracts from making donations to candidates, political parties, and committees.

Figure 5

Other Changes Under Proposition 89

	Current	Proposition 89
Candidate-Related Contributions		
• Total annual contribution to an independent expenditure committee to support or oppose a candidate.	No limit	$1,000
• Total annual contributions to political parties for candidate-related expenditures.	$27,900	7,500
• Total annual contributions to all types of committees for candidate-related expenditures.	No limit	15,000[a]
Ballot Measure Contributions		
• Contributions for or against a ballot measure where a candidate is significantly involved.	No limit	$10,000
• Contributions for or against a ballot measure by a corporation.	No limit	10,000

[a] Contributing more than $7,500 is allowed only for independent expenditures.

Contribution Restrictions for State Ballot Measures

Unlike donations for candidates, the amount of money donated by entities to support or oppose state ballot measures currently is not subject to contribution limits. This measure places two new restrictions on donations for ballot measures:

- First, when a candidate for state office is significantly involved with a committee that supports or opposes a ballot measure, individuals, corporations, and other groups would be limited to a $10,000 contribution to that committee.
- Second, corporations would be prohibited from making contributions or spending more than $10,000 to support or oppose a ballot measure. (Non-profit corporations meeting certain requirements would not be subject to this restriction.) Corporations, however, could establish special committees to collect voluntary donations from employees for additional expenditures.

Fiscal Provisions

Higher Corporate Taxes. In order to pay for the measure's provisions (primarily for the public financing of campaigns), the measure increases taxes on corporations and financial institutions beginning in 2007. The measure increases the income tax rates paid

by corporations from 8.84 percent to 9.04 percent. For financial institutions, the rate would rise from 10.84 percent to 11.04 percent.

Other Revenues. In addition, the measure would result in other, small sources of revenues, primarily the collection of candidates' $5 contributions and fines on candidates violating election laws. (Under current law, fines for violating election laws are deposited into the state's General Fund.)

Total Amount of Funds. The total amount of funds that could be held by the state at any time for the measure's purposes would be limited to about $900 million. (The formula determining this amount would be adjusted for inflation every two years.) Any amount over this limit would be transferred to the state's General Fund. If there were not enough money to fully fund the measure's provisions, the measure authorizes FPPC to proportionately reduce the amount of funds available to each candidate.

Other Provisions

Administration Costs. The measure provides that a minimum of $3 million (adjusted for inflation every two years) of the new funds would go to FPPC to pay for the administration of the measure. The SOS would also be required to use some of the funds for a voter education campaign.

Election Procedures. The measure makes a number of other changes to election procedures. For instance, the measure prohibits any candidate (whether receiving public financing or not) from collecting campaign donations earlier than 18 months prior to a primary election. Also, the measure changes what counts as independent and political expenditures prior to an election. These changes would result in more spending being subject to donation limits and disclosure requirements.

FISCAL EFFECTS

New Revenues. We estimate that the measure would raise over $200 million annually. Virtually all of this amount would come from the increased taxes on corporations and financial institutions. Small amounts would come from the collection of candidates' $5 contributions and fines on candidates violating election laws. Since fines for violating election laws are currently deposited in the state's General Fund, the measure would slightly reduce General Fund revenues (by about $1 million annually).

New Spending. The new funds would pay for costs associated with the measure. We estimate costs to administer the provisions of the measure and pay for voter education would be in the range of several million dollars each year. (There would be additional one-time costs, largely for computer systems and voter education, to set up the public financing of campaigns for the first time.) The remaining funds would be available for candidates who choose to receive public funds for their political campaigns. The amount of spending on the public financing of election campaigns would depend on a

number of factors and vary from election to election. Among the factors affecting spending would be:

- The number of candidates accepting public funds.
- The amount of money spent by candidates not receiving public financing (which would determine the level of any additional public funds).

The measure provides that total spending could not exceed the amount of money available from the increased revenues. Assuming that the number of candidates in each election does not increase significantly from current levels, there probably would be sufficient funds available to provide all candidates with the amounts allowed under the measure.