

2012

POLITICAL CONTRIBUTIONS BY PAYROLL  
DEDUCTION. CONTRIBUTIONS TO  
CANDIDATES.

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**POLITICAL CONTRIBUTIONS BY PAYROLL DEDUCTION. CONTRIBUTIONS TO CANDIDATES. INITIATIVE STATUTE.**

- Prohibits unions from using payroll-deducted funds for political purposes. Applies same use prohibition to payroll deductions, if any, by corporations or government contractors.
- Permits voluntary employee contributions to employer-sponsored committee or union if authorized yearly, in writing.
- Prohibits unions and corporations from contributing directly or indirectly to candidates and candidate-controlled committees.
- Other political expenditures remain unrestricted, including corporate expenditures from available resources not limited by payroll deduction prohibition.
- Prohibits government contractor contributions to elected officers or officer-controlled committees.

**Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:**

- Increased costs to state and local government—potentially exceeding \$1 million annually—to implement and enforce the measure's requirements.

## ANALYSIS BY THE LEGISLATIVE ANALYST

**BACKGROUND**

**Political Reform Act.** California's Political Reform Act of 1974, an initiative adopted by the voters, established the state's campaign finance and disclosure laws. The act applies to state and local candidates, ballot measures, and officials, but does not apply to federal candidates or officials. The state's Fair Political Practices Commission (FPPC) (1) enforces the requirements of the act, including investigating alleged violations, and (2) provides administrative guidance to the public by issuing advice and opinions regarding FPPC's interpretation of the act.

**Local Campaign Finance Laws.** In addition to the requirements established by the act, some local governments have campaign finance and disclosure requirements for local candidates, ballot measures, and officials. These ordinances are established and enforced by the local government.

**Political Spending.** Many individuals, groups, and businesses spend money to support or oppose state and local candidates or ballot measures. This political spending can take different forms, including contributing money to candidates or committees, donating services to campaigns, and producing ads to communicate opinions. Under state campaign finance laws, there are three types of political spending:

- **Political Contributions.** The term political "contribution" generally includes giving money, goods, or services (1) directly to a candidate, (2) at the request of a candidate, or (3) to a committee that uses these resources to support or oppose a candidate or ballot measure. Current law limits the amount of political contributions that individuals, groups, and businesses may give to a state candidate (or to committees that give money to a state candidate). In 2012, for example, an individual, group, or business could contribute up to \$26,000 to a candidate for Governor and up to \$3,900 to a candidate for a legislative office. In addition, current law requires political contributions to be disclosed to state or local election officials.
- **Independent Expenditures.** Money spent to communicate support or opposition of a candidate or ballot measure generally is considered an independent expenditure if the funds are spent in a way that is not coordinated with (1) a candidate or (2) a committee established to support or oppose a candidate or a ballot measure. For example, developing a television commercial urging voters to "vote for" a candidate is an independent expenditure if the commercial is made without coordination with the candidate's campaign. Current law does not limit the amount of money individuals, groups, and businesses may spend on independent expenditures. These expenditures, however, must be disclosed to election officials.

- **Other Political Spending.** Some political spending is not considered a political contribution or an independent expenditure. This broad category includes “member communications”—spending by an organization to communicate political endorsements to its members, employees, or shareholders. This spending is not limited by state law and need not be disclosed to election officials.

**Payroll Deductions.** Under limited circumstances, employers may withhold money from an employee’s paycheck. The withheld funds are called “payroll deductions.” Some common payroll deductions include deductions for Social Security, income taxes, medical plans, and voluntary charitable contributions.

**Union Dues and Fees.** Approximately 2.5 million workers in California are represented by a labor union. Unions represent employees in the collective bargaining process, by which they negotiate terms and conditions of employment with employers. Generally, unions pay for their activities with money raised from (1) dues charged to union members and (2) fair share fees paid by non-union members who the union represents in the collective bargaining process. In many cases, employers automatically deduct these dues and fees from their employees’ paychecks and transfer the money to the unions.

**Payroll Deductions Used to Finance Political Spending.** Many unions use some of the funds that they receive from payroll deductions to support activities not directly related to the collective bargaining process. These expenditures may include political contributions and independent expenditures—as well as spending to communicate political views to union members. Non-union members may opt out from having their fair share fees used to pay for this political spending and other spending not related to collective bargaining. Other than unions, relatively few organizations currently use payroll deductions to finance political spending in California.

## PROPOSAL

The measure changes state campaign finance laws to restrict state and local campaign spending by:

- Public and private sector labor unions.
- Corporations.
- Government contractors.

These restrictions do not affect campaign spending for federal offices such as the President of the United States and members of Congress.

**Bans Use of Payroll Deductions to Finance Spending for Political Purposes.** The measure prohibits unions, corporations, government contractors, and state and local government employers from spending money deducted from an employee’s paycheck for “political purposes.” Under the measure, this term would include political contributions, independent expenditures, member communications related to campaigns, and other expenditures to influence voters. This measure would not affect unions’ existing authority to use payroll deductions to pay for other activities, including collective bargaining and political spending in federal campaigns.

**Prohibits Political Contributions by Corporations and Unions.** The measure prohibits corporations and unions from making political contributions to candidates. That is, they could not make contributions (1) directly to candidates or (2) to committees that then make contributions to candidates. This prohibition, however, does not affect a corporation or union’s ability to spend money on independent expenditures.

**Limits Authority of Government Contractors to Contribute to Elected Officials.** The measure prohibits government contractors (including public sector labor unions with collective bargaining contracts) from making contributions to elected officials who play a role in awarding their contracts. Specifically, government contractors could not make contributions to these elected officials from the time their contract is being considered until the date their contract expires.

## FISCAL EFFECTS

The state would experience increased costs to investigate alleged violations of the law and to respond to requests for advice. In addition, state and local governments would experience some other increased administrative costs. Combined, these costs could exceed **\$1 million annually**.

★ **ARGUMENT IN FAVOR OF PROPOSITION 32** ★

Yes on 32: Cut the Money Tie between Special Interests and Politicians

Politicians take millions in campaign contributions from corporations and government unions and then vote the way those special interests tell them. Politicians end up working for special interests, not voters.

The result: massive budget deficits and abuses like lavish pensions and bad teachers we can't fire.

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Prop. 32 prohibits both corporate and union special interest contributions to politicians. **NO EXEMPTIONS. NO LOOPHOLES.** Individual Californians can contribute, not special interests!

Voters Beware:

Special interests have spent tens of millions of dollars to prevent Prop. 32 from cutting the money tie between them and politicians. They'll say anything to protect the status quo.

They've invented a false, bogus, red-herring argument:

They claim Prop. 32 has a loophole to benefit the wealthy and corporations to fund independent PACs. The fact is both unions and corporations fund independent political committees protected by the Constitution that cannot be banned.

"Prop. 32 ends corporate and union contributions to California politicians. Period. No exceptions. It goes as far as the U.S. Constitution allows to end special interest influence in state government. I urge you to vote Yes on Prop. 32."

—Retired California Supreme Court Justice John Arguelles

**YES ON 32: THREE SIMPLE, STRAIGHTFORWARD REFORMS**

- Bans corporate and union contributions to politicians
- Stops contractors from giving to politicians who approve their contracts
- Makes political contributions voluntary and prohibits money for political purposes from being deducted from employees' paychecks

**CUTS THE MONEY TIE BETWEEN SPECIAL INTERESTS AND POLITICIANS**

Politicians hold big-ticket, lavish fundraisers at country clubs, wine tastings and cigar smokers. Fat-cat lobbyists attend these fundraisers and hand over tens of millions of dollars in campaign

contributions. Most happen when hundreds of bills are up for votes, allowing politicians and special interests to trade favors:

- Giving multi-million dollar tax loopholes to big developers, wealthy movie producers and out-of-state corporations
- Exempting contributors from the state's environmental rules
- Handing out sweetheart pension deals for government workers
- Protecting funding for wasteful programs like the high-speed train to nowhere, even as they are cutting funds for schools and law enforcement while proposing higher taxes

**STOPS SPECIAL INTERESTS FROM TAKING POLITICAL DEDUCTIONS FROM EMPLOYEE PAYCHECKS TO GUARANTEE EVERY DOLLAR GIVEN FOR POLITICS IS STRICTLY VOLUNTARY**

The Supreme Court recently said the political fundraising practices of a large California union were "indefensible". (*Knox vs. SEIU*)

Prop. 32 will ensure that California workers have the right to decide how to spend the money they earn. They shouldn't be coerced to contribute to politicians or causes they disagree with. **STOPS CONTRACTORS FROM CONTRIBUTING TO POLITICIANS WHO APPROVE THEIR CONTRACTS**

Today, it is legal for politicians to give contracts to political donors, shutting out small businesses in the process. Prop. 32 will end this special treatment and the waste it causes, like a \$95 million state computer system that didn't work. (*CNET, June 12, 2002*)

All of this Special Interest corruption will continue without your vote. Yes on 32!

[www.stopspecialinterestmoney.org](http://www.stopspecialinterestmoney.org)

**GLORIA ROMERO**, State Director  
Democrats for Education Reform

**GABRIELLA HOLT**, President  
Citizens for California Reform

**JOHN KABATECK**, Executive Director  
National Federation of Independent Business—California

★ **REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 32** ★

Before you vote on Prop. 32, answer two questions: Would billionaires pay to place this on the ballot unless they were getting exemptions? When's the last time a proposition backed by special interests in California didn't contain loopholes or exemptions?

There's always a catch, and Prop. 32 is no different.

Real estate developers, insurance companies and billionaire venture capitalists are just three groups **EXEMPT** from provisions of Prop. 32, while a union will no longer be able to contribute to candidates. In addition, huge corporate special interests can continue to spend unlimited money on politics.

Prop. 32 supporters claim workers are forced to contribute to politics or causes they disagree with. They aren't. Current law protects workers from being forced to join a union or paying fees to unions for politics.

What's really going on?

- Major contributors to Prop. 32 are former Wall Street investors, insurance company executives and hedge fund managers—they're **EXEMPT** from provisions of Prop. 32. Ask yourself why.

- Other Prop. 32 funders own development companies that have sought exemptions from laws that protect our environment and neighborhoods. Prop. 32 **EXEMPTS** those companies too. Ask yourself why.
- Business Super PACs and independent expenditure committees are **EXEMPT** from Prop. 32's provisions.
- Prop. 32 adds to the massive state bureaucracy, and costs Californians over a **MILLION DOLLARS** for phony reform.

The League of Women Voters opposes Prop. 32. It's a thinly disguised attempt to fool voters into thinking it'll improve Sacramento's mess. In fact, it'll make things worse.

**JO SEIDITA**, Chair  
California Clean Money Campaign

**JOHN BURTON**, Chair  
California Democratic Party

**ROBBIE HUNTER**, Executive Secretary  
Los Angeles/Orange Counties Building and Construction  
Trades Council

★ ARGUMENT AGAINST PROPOSITION 32 ★

The League of Women Voters of California, California Common Cause and the California Clean Money Campaign all oppose Proposition 32.

That's because Proposition 32 is not what it seems. Prop. 32 promises "political reform" but is really designed by special interests to help themselves and harm their opponents. That's why we urge a No vote.

**WILL NOT TAKE MONEY OUT OF POLITICS**

- Business Super PACs and independent expenditure committees are EXEMPT from Prop. 32's controls. These organizations work to elect or defeat candidates and ballot measures but aren't subject to the same contribution restrictions and transparency requirements for campaigns themselves.
- A recent Supreme Court decision allows these groups to spend unlimited amounts of money. Prop. 32 does nothing to deal with that.
- If Prop. 32 passes, Super PACs, including committees backed by corporate special interests, will become the major way campaigns are funded. These groups have already spent more than \$95,000,000 in California elections since 2004. Our televisions will be flooded with even more negative advertisements.

**NOT REAL CAMPAIGN FINANCE REFORM**

Real campaign reform treats everyone equally, with no special exemptions for anyone. Proposition 32 was intentionally written to exempt thousands of big businesses like Wall Street investment firms, hedge funds, developers, and insurance companies. Over 1000 of the companies exempted by this measure are listed as Major Donors by the California Secretary of State. They have contributed more than \$10,000,000 to political campaigns, just since 2009.

**UNBALANCED AND UNFAIR**

This measure says it prohibits unions from using payroll-deducted funds for political purposes. It says it also applies to corporations, so it sounds balanced. But 99% of California

corporations don't use payroll deductions for political giving; they would still be allowed to use their profits to influence elections. That's not fair or balanced.

Just take a look at the official summary. You can see the imbalance from this line: "Other political expenditures remain unrestricted, including corporate expenditures from available resources not limited by payroll deduction prohibition."

**LOOK WHO'S BEHIND IT**

Many top contributors to Proposition 32 are former insurance company executives, Wall Street executives, developers, and big money donors to causes which benefit from Prop. 32's special exemptions.

Sacramento has too much partisan bickering and gridlock. The money spent on political campaigns has caused all of us to mistrust the political campaign system. The sponsors of Proposition 32 are trying to use our anger and mistrust to change the rules for their own benefit.

**PROPOSITION 32 WILL MAKE THINGS WORSE**

Some say "this is unbalanced but it's a step forward." Here's the problem with that. Restricting unions and their workers while not stopping corporate special interests will result in a political system that favors corporate special interests over everyone else. If you don't want special interests in control of air and water safety and consumer protections, vote NO on Prop. 32.

Go to <http://www.VoteNoOn32.com> and see for yourself why Proposition 32 is not what it seems and will hurt average Californians. Vote NO on Proposition 32.

**JENNIFER A. WAGGONER**, President  
League of Women Voters of California

**DEREK CRESSMAN**, Regional Director  
California Common Cause

**DAN STANFORD**, Former Chairperson  
California Fair Political Practices Commission

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 32 ★

**SPECIAL INTERESTS ARE NOT TELLING YOU THE TRUTH.**

They say they oppose Prop. 32 for WHAT IT DOESN'T DO. But they're trying to stop it for WHAT IT DOES.

The fact is, Prop. 32 goes as far as the Supreme Court allows: It stops both corporations and unions from giving money to politicians. *No exemptions. No loopholes.*

**YES ON 32: THREE SIMPLE REFORMS:**

- For the 2010 elections, corporations and unions gave state politicians \$48 million. If Prop. 32 had been in place, *that \$48 million never could have been given to candidates.*
- Never again will contractors give money to politicians who approve their contracts.
- No more will corporations or unions take money from workers' paychecks to spend on politics. Under Prop. 32, every employer and union will have to ask permission, and every worker can say no.

Big-money special interests are spending *millions* to stop Prop. 32. They refuse to lose their power over Sacramento.

Just one example:

When the LA school district couldn't move quickly to fire a teacher for sexually abusing his students, it asked lawmakers to pass a law making it easier. But the state's largest teachers union—which gave \$1 million to politicians over two years—called in its army of lobbyists. They killed the reform.

LA Mayor Antonio Villaraigosa called it "cynical political manipulation." To the *San Francisco Chronicle* it was "sickening."

Business as usual hurts real Californians.

Take the big money out of politicians' hands. YES ON 32.

**MARIAN BERGESON**  
Former California Secretary of Education

**JON COUPAL**, President  
Howard Jarvis Taxpayers Association

**HON. JOHN ARGUELLES**  
California Supreme Court Justice (Retired)

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SEC. 16. Effective Date

Sections 4, 5, and 6 of this Act shall become operative on the first Monday of December in 2014. Unless otherwise specified in the Act, the other sections of the act shall become operative the day after the election at which the act is adopted.

SEC. 17. Legislative Counsel

(a) The people find and declare that the amendments proposed by this measure to Section 12 of Article IV of the California Constitution are consistent with the amendments to Section 12 of Article IV of the California Constitution proposed by Assembly Constitutional Amendment No. 4 of the 2009–10 Regular Session (Res. Ch. 174, Stats. 2010) (hereafter ACA 4), which will appear on the statewide general election ballot of November 4, 2014.

(b) For purposes of the Legislative Counsel’s preparation and proofreading of the text of ACA 4 pursuant to Sections 9086 and 9091 of the Elections Code, and Sections 88002 and 88005.5 of the Government Code, the existing provisions of Section 12 of Article IV of the California Constitution shall be deemed to be the provisions of that section as amended by this measure. The Legislative Counsel shall prepare and proofread the text of ACA 4, accordingly, to distinguish the changes proposed by ACA 4 to Section 12 of Article IV of the California Constitution from the provisions of Section 12 of Article IV of the California Constitution as amended by this measure. The Secretary of State shall place the complete text of ACA 4, as prepared and proofread by the Legislative Counsel pursuant to this section, in the ballot pamphlet for the statewide general election ballot of November 4, 2014.

**PROPOSITION 32**

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Government Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

**PROPOSED LAW**

SECTION 1. Title, Findings, and Declaration of Purpose

A. Special interests have too much power over government. Every year, corporations and unions contribute millions of dollars to politicians, and the public interest is buried beneath the mountain of special-interest spending.

B. Yet, for many years, California’s government has failed its people. Our state is billions of dollars in debt and many local governments are on the verge of bankruptcy. Too often politicians ignore the public’s need in favor of the narrow special interests of corporations, labor unions, and government contractors who make contributions to their campaigns.

C. These contributions yield special tax breaks and public contracts for big business, costly government programs that enrich private labor unions, and unsustainable pensions, benefits, and salaries for public employee union members, all at the expense of California taxpayers.

D. Even contribution limits in some jurisdictions have not slowed the flow of corporate and union political money into the

political process. So much of the money overwhelming California’s politics starts as automatic deductions from workers’ paychecks. Corporate employers and unions often pressure, sometimes subtly and sometimes overtly, workers to give up a portion of their paycheck to support the political objectives of the corporation or union. Their purpose is to amass millions of dollars to gain influence with our elected leaders without any regard for the political views of the employees who provide the money.

E. For these reasons, and in order to curb actual corruption and the appearance of corruption of our government by corporate and labor union contributions, the people of the State of California hereby enact the Stop Special Interest Money Now Act in order to:

1. Ban both corporate and labor union contributions to candidates;
2. Prohibit government contractors from contributing money to government officials who award them contracts;
3. Prohibit corporations and labor unions from collecting political funds from employees and union members using the inherently coercive means of payroll deduction; and
4. Make all employee political contributions by any other means strictly voluntary.

SEC. 2. The Stop Special Interest Money Now Act

Article 1.5 (commencing with Section 85150) is added to Chapter 5 of Title 9 of the Government Code, to read:

*Article 1.5. The Stop Special Interest Money Now Act*

85150. (a) *Notwithstanding any other provision of law and this title, no corporation, labor union, or public employee labor union shall make a contribution to any candidate, candidate controlled committee; or to any other committee, including a political party committee, if such funds will be used to make contributions to any candidate or candidate controlled committee.*

(b) *Notwithstanding any other provision of law and this title, no government contractor, or committee sponsored by a government contractor, shall make a contribution to any elected officer or committee controlled by any elected officer if such elected officer makes, participates in making, or in any way attempts to use his or her official position to influence the granting, letting, or awarding of a public contract to the government contractor during the period in which the decision to grant, let, or award the contract is to be made and during the term of the contract.*

85151. (a) *Notwithstanding any other provision of law and this title, no corporation, labor union, public employee labor union, government contractor, or government employer shall deduct from an employee’s wages, earnings, or compensation any amount of money to be used for political purposes.*

(b) *This section shall not prohibit an employee from making voluntary contributions to a sponsored committee of his or her employer, labor union, or public employee labor union in any manner, other than that which is prohibited by subdivision (a), so long as all such contributions are given with that employee’s written consent, which consent shall be effective for no more than one year.*

(c) *This section shall not apply to deductions for retirement*

*benefit, health, life, death or disability insurance, or other similar benefit, nor shall it apply to an employee's voluntary deduction for the benefit of a charitable organization organized under Section 501(c)(3) of Title 26 of the United States Code.*

85152. For purposes of this article, the following definitions apply:

(a) "Corporation" means every corporation organized under the laws of this state, any other state of the United States, or the District of Columbia, or under an act of the Congress of the United States.

(b) "Government contractor" means any person, other than an employee of a government employer, who is a party to a contract between the person and a government employer to provide goods, real property, or services to a government employer. Government contractor includes a public employee labor union that is a party to a contract with a government employer.

(c) "Government employer" means the State of California or any of its political subdivisions, including, but not limited to, counties, cities, charter counties, charter cities, charter city and counties, school districts, the University of California, special districts, boards, commissions, and agencies, but not including the United States government.

(d) "Labor union" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(e) "Political purposes" means a payment made to influence or attempt to influence the action of voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or any payment received by or made at the behest of a candidate, a controlled committee, a committee of a political party, including a state central committee, and county central committee, or an organization formed or existing primarily for political purposes, including, but not limited to, a political action committee established by any membership organization, labor union, public employee labor union, or corporation.

(f) "Public employee labor union" means a labor union in which the employees participating in the labor union are employees of a government employer.

(g) All other terms used this article that are defined by the Political Reform Act of 1974, as amended (Title 9 (commencing with Section 81000)), or by regulation enacted by the Fair Political Practices Commission, shall have the same meaning as provided therein, as they existed on January 1, 2011.

SEC. 3. Implementation

(a) If any provision of this measure, or part of it, or the application of any such provision or part to any person, organization, or circumstance, is for any reason held to be invalid or unconstitutional, then the remaining provisions, parts, and applications shall remain in effect without the invalid provision, part, or application.

(b) This measure is not intended to interfere with any existing contract or collective bargaining agreement. Except as governed by the National Labor Relations Act, no new or

amended contract or collective bargaining agreement shall be valid if it violates this measure.

(c) This measure shall be liberally construed to further its purposes. In any legal action brought by an employee or union member to enforce the provisions of this act, the burden shall be on the employer or labor union to prove compliance with the provisions herein.

(d) Notwithstanding Section 81012 of the Government Code, the provisions of this measure may not be amended by the Legislature. This measure may only be amended or repealed by a subsequent initiative measure or pursuant to subdivision (c) of Section 10 of Article II of the California Constitution.

**PROPOSITION 33**

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds a section to the Insurance Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

**PROPOSED LAW**

SECTION 1. Title

This measure shall be known as the 2012 Automobile Insurance Discount Act.

SEC. 2. The people of the State of California find and declare that:

(a) Under California law, the Insurance Commissioner regulates insurance rates and determines what discounts auto insurance companies can give to drivers.

(b) It is in the best interest of California insurance consumers to be allowed to receive discounted prices if they have continuously followed the state's mandatory insurance laws, regardless of which insurance company they have used.

(c) A consumer discount for continuous automobile coverage rewards responsible behavior. That discount should belong to the consumer, not the insurance company.

(d) A personal discount for maintaining continuous coverage creates competition among insurance companies and is an incentive for more consumers to purchase and maintain automobile insurance.

SEC. 3. Purpose

The purpose of this measure is to allow California insurance consumers to obtain discounted insurance rates if they have continuously followed the mandatory insurance law.

SEC. 4. Section 1861.023 is added to the Insurance Code, to read:

1861.023. (a) *Notwithstanding paragraph (4) of subdivision (a) of Section 1861.02, an insurance company may use continuous coverage as an optional auto insurance rating factor for any insurance policy subject to Section 1861.02.*

(b) *For purposes of this section, "continuous coverage" shall mean uninterrupted automobile insurance coverage with any admitted insurer or insurers, including coverage provided pursuant to the California Automobile Assigned Risk Plan or the California Low-Cost Automobile Insurance Program.*

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