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Political Contributions and Expenditures. Restrictions on Corporations and Unions. Initiative Statute.

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December 12, 2005

RECEIVED
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Via Federal Express

Ms. Tricia Knight
Initiative Coordinator
Office of the Attorney General
State of California
PO Box 994255
Sacramento, CA 94244-25550

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title & Summary for Proposed Initiative

Dear Ms. Knight:

Pursuant to Article II, Section 10(d) of the California Constitution, I am submitting the attached proposed statewide ballot measure to your office and request that you prepare a title and summary of the measure as provided by law. I have also included with this letter the required signed statement under California Elections Code section 9608 and a check in the amount of \$200.

Thank you for your time and attention to this matter.

Very Truly Yours,

Mark W. Bucher

Enclosure

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

Section 1. Findings and Declarations. The People of California find and declare that:

(a) State and local government officials should serve the needs of all citizens equally, and not be beholden to corporations or labor organizations.

(b) Costs of conducting election campaigns for state and local office have increased greatly in recent years, in large part due to large contributions by corporations and labor organizations.

(c) The provisions of the Federal Election Campaign Act of 1971 ("FECA"), as amended, establishing prohibitions on contributions by corporations and labor organizations, have helped reduce the undue influence of corporations and labor organizations over federal elections, and will have the same effect if similar restrictions are enacted for contributions to state and local campaigns.

Section 2. Purpose and Intent. In enacting this measure, it is the intent of the people of the State of California to establish prohibitions on contributions by corporations and labor organizations to candidates for California state and local offices which are consistent with FECA, and that regulations interpreting this measure adopted by the Fair Political Practices Commission should be consistent with the regulations adopted by the Federal Election Commission in interpreting similar sections of the FECA.

Section 3. Chapter 5, Article 4.5, Section 85441b is added to Title 9 of the Government Code to read as follows:

85441b. Contributions or expenditures by corporations or labor organizations

(a) Notwithstanding any other provision of law to the contrary, it is unlawful for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which one or more candidates for elective office (as defined in Section 82023 of this Code) are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any officer of any labor organization to consent to any contribution or expenditure by the corporation or labor organization, as the case may be, prohibited by this section.

(b) (1) For the purposes of this section the term "labor organization" 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.

(2) For the purposes of this section the term "contribution or expenditure" includes a contribution or expenditure, as those terms are defined in sections 82015 and 82025 of this Code, and also includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything

of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section or for any applicable electioneering communication, but shall not include

(A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject;

(B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and

(C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(3) It shall be unlawful --

(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

(4) (A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful --

(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation,

labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of \$50 or less as a result of such solicitation and who does not make such a contribution.

(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

(7) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(c) Since the intent of this section is to make federal law regarding corporate and labor organization contributions to federal candidates applicable to candidates for state and local office, when interpreting this section the Commission and the Courts should consider the interpretation of 2 U.S.C. Section 441b(a) & (b) by the Federal Election Commission and the Federal Courts.

Section 4. The provisions of this measure are severable. If any provision of this measure is held to be invalid or unconstitutional, the remaining provisions shall not be affected, and shall remain in full force and effect.