



*Help achieve an open and accountable government*

July 18, 2018

VIA EMAIL

Chair Germond and Commissioners  
Fair Political Practices Commission  
1102 Q Street, Suite 3000  
Sacramento, CA 95811

RE: Agenda Item 25, Possible FPPC Position on AB 84 (Mullin)

Dear Chair Germond and Commissioners:

The California Clean Money Campaign has not yet taken a position on AB 84, and joins California Common Cause, California Public Interest Research Group (CALPIRG), California Voices for Progress, and the League of Women Voters of California in requesting that the Commission delay taking a position until your next hearing, because the bill was amended with entirely new language so recently that our organizations and likely other stakeholders who may wish to weigh in have not had an opportunity to fully analyze the bill or take a position.

However, we attach our initial analysis of AB 84 for your consideration. We believe it illustrates why the issues and questions involved are of such import that the public deserves more time to fully analyze the bill and weigh in with official comments.

Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Trent Lange". The signature is fluid and cursive.

Trent Lange, PhD.  
President and Executive Director  
California Clean Money Campaign

# Clean Money Analysis of AB 84

## What AB 84 Does

- Allows creation of four new “Legislative Caucus Committees,” each directed by the respective caucus leaders, as political party committees, i.e. an Assembly Democratic Caucus committee, a Senate Democratic Caucus Committee, an Assembly Republican Caucus committee, and a Senate Republican Caucus committee.
- Requires political party committees to file 12 monthly disclosure reports in election years if they raised or spent \$50,000 or more in the previous, non-election calendar year, rather than the 8 to 10 reports (depending on special elections) they currently must file in election years<sup>1</sup>. Requires the new Caucus Committees to adhere to this reporting.

## What does it mean?

- Currently, candidates and elected officials, including the Assembly and Senate caucus leaders, can only control their own campaign committees and ballot measure committees. This means that caucus leaders are limited to maximum contributions of \$4,400 per election that they can use on state candidate races.
- With AB 84, the Assembly and Senate caucus leaders can each form and control a new kind of political party committee like the ones run by the State Democratic and Republican parties. This means that each of the four caucus leaders would be able to direct new committees that can receive individual contributions **of up to \$36,500 for purposes of giving to state candidates and unlimited contributions for independent expenditures for and against candidates. They could in turn give unlimited amounts to state candidate committees.**

	Current Law	With AB 84
Contribution limits TO committees directed by caucus leaders for state candidates	\$4,400	\$36,500
Contribution limits TO committees directed by caucus leaders for candidate IEs	\$4,400	Unlimited
Contribution limits FROM committees directed by caucus leaders to legislative candidates	\$4,400	Unlimited

- Currently political party committees are required to have 8 to 10 full disclosure reports in election years if they received contributions totaling \$1,000 or more in each disclosure period or made independent expenditures or contributions of \$500 or more in connection with the upcoming election. They must also file reports within 24 hours after every contribution or expenditure of \$1,000 or more within 90 days of the election.
- AB 84 would increase the required full disclosure reports in an election year from to 12 for political party committees including the Democratic and Republican parties and the new Legislative Caucus Committees if they received contributions or made expenditures totaling \$50,000 or more in the previous calendar year.
- **Reporting exceptions.** AB 84’s new election year reporting requirements do not apply for any political party committees that raised or spent less than \$50,000 in the previous non-election year, even if they raise or spend large amounts during the election year itself. For example, the Del Norte County Democratic Central Committee spent \$396,000 in the election year of 2016, \$365,000 of it for state candidates running for legislative seats outside of Del Norte county. But, it wouldn’t have had any increased reporting under AB 84 because it raised and spent less than \$50,000 in the non-election year of 2015.

## Arguments For AB 84

- Increases reporting requirements on political party committees in some circumstances in election years from 8 or 10 a year to 12 a year.
- As the Del Norte example illustrates, county and state party committees (exempt from the *DISCLOSE Act*) routinely receive contributions up to \$36,500 solicited by legislative leaders to then give to legislative candidates. Contributions to these party committees are hard to trace and, thus, political accountability for accepting

<sup>1</sup> Current filing requirements for FPPC committees can be found here: <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Filing%20Schedules/2018/2018%20Annual%20Filing%20Schedule%20for%20PP.pdf>



contributions from particular kinds of special interests, for how the money is directed, and identifying who benefits from the contributions is diffused and, candidly, almost non-existent. To the extent that AB 84 would allow legislative leaders to raise and spend money in a more concentrated fashion, and directly and transparently, accountability based on who they raise money from and how they spend it is improved, compared to the status quo.

- Assembly and Senate Leadership will have more campaign funds under their direct control to get candidates they support elected and keep them elected, helping protect them from special interest attacks when members take hard votes.
- Though AB 84 increases the state candidate contribution limits for committees controlled by legislative caucus leaders to \$36,500, no contributors currently give the maximum of \$36,500 to the state party and write individual checks of \$36,500 to each and all of the 58 county party committees. So, if contributors are already giving the maximum they are willing to give for state candidates, AB 84 won't increase the total amount contributors give to state candidates, it will theoretically just cause contributors to elect to give some of their contributions to the new Legislative Caucus Committees, where it is clearer who asked for their contributions, instead.

## Arguments Against AB 84

- The possible negative flipside of improved accountability is that the bill as currently drafted dramatically expands the legal limits for special interests to contribute to the leaders who head the lawmaking branches of government, concentrating their fundraising and hence power over their caucus members. This power can be used for public interest purposes or special interest purposes with little check to ensure the former and not the latter. Likewise, the bill could make it harder for insurgent party candidates to compete although, again, the leaders currently do find many less direct ways to solicit and direct large sums to favored candidates.
- Deep pocketed contributors that max out with \$36,500 contributions to the state parties but that don't routinely give to county central committees may feel compelled to also give to the new Legislative Caucus Committees, increasing the number of five figure contributions they give that are used for state candidates overall.
- Current political party committees are under the control of actual political parties, either at the state or county levels, whose delegates ultimately have control over their fundraising and expenditures. AB 84's Legislative Caucus Committees are not truly political party committees because their fundraising and expenditures are directed by each caucus's legislative leader, not a political party ultimately governed by delegates.
- Nothing in the bill as currently drafted would stop caucus leaders from raising \$36,500 contributions for their Legislative Caucus Committees and directing unlimited contributions to their own campaigns.
- The bill as currently drafted offers no significant public interest reforms comparable to and in exchange for such a dramatic expansion of possible leader power or the possible increase of monied interest influence (although, as said, it is at least somewhat true that such interests have lots of less visible ways of contributing and obtaining influence now). For example, the bill as currently drafted offers nothing to curtail fundraisers where special interests and legislators mingle (sometimes for days) and where such interests obtain coveted "access" and relationship-building with legislators; advantages unavailable to sometimes competing public interest groups.
- As well, and for another example, the bill as currently written does almost nothing that reliably and significantly increases existing transparency or transparency over the new, proposed caucus committees compared to the status quo. Thus, the bill as currently written does not do enough to assure that the concentrated and hence improved accountability for fundraising and spending that is the bill's only significant theoretical merit is assured.
- Because of the above, the bill is likely not a lawful, furthering amendment to the Political Reform Act.