

Submission on the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Bill 2019* (Queensland)

9th January 2020

Attn: Committee Secretary
Economics and Governance Committee
Parliament House
George Street
Brisbane Qld 4000

Summary

The Centre for Public Integrity broadly supports the electoral reforms outlined in the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Bill 2019* (the bill). It will improve the transparency of donations and expenditure of political parties and limit the ability for third parties and individuals to use money to have an undue influence on our democratic process.

In this submission our experts highlight two major areas where the bill could be strengthened, and provide advice on changes to the bill that could assist in this process.

Strengthening the bill

Coverage of staff, membership fees, industry peak bodies and corporations

The Centre for Public Integrity is concerned that the definitions of electoral expenditure, political donation and third party disclosures in the bill are too narrow. As it currently stands, the bill will not cover expenditure on campaign staff or consultants, income from large party membership fees or fundraising events.

Income received by industry peak bodies, wealthy individuals or corporations through membership/affiliation fees, private wealth, and private business activity is not currently covered by the bill. This means that large third parties potentially attempting to influence elections such as the Resources Council, Property Council, Crown Casino or wealthy individuals such as Clive Palmer will not be restricted in how they raise money for electoral expenditure, and the source of this electoral expenditure will not be disclosed to the public.

The bill should also be widened to apply to local government elections. Recent QLD CCC investigations, including *Operation Belcarra*, have shown that corruption risk at a local government level is high.

Impact on charities and not-for-profits

The Centre for Public Integrity is concerned that the bill will unfairly impact on third party not-for-profits and charities that rely entirely on donations. The bill creates a disparity between not-for-profits and other third parties such as industry peak bodies and corporations, by requiring caps and disclosure on donations but not on other income streams such as membership fees and private business activities.

The threshold of electoral expenditure to define a third party should be raised to not affect small community groups, and the definition of electoral expenditure should be clarified to allow charities to continue to advocate on their issues. The current bill will allow companies or industry groups to self-fund \$1 million election campaigns without any disclosure or cap on where that income is from, providing opportunity for vested private interests to have an undue and opaque influence on elections. Limiting the electoral expenditure cap to \$500,000 will assist in levelling the playing field in this respect.

Advice is provided below on options to address these concerns.

Advice on changes and additions to the bill

Coverage of staff, membership fees, industry peak bodies and corporations

s9 199 definition of electoral expenditure should include staff and consultant fees – see *NSW Electoral Funding Act s7*.

s12 201 3(c)(i) membership fees over \$2000 should be included – see *NSW Electoral Funding Act s5(3)*. In addition membership or affiliation fees over \$2000 received by industry peak bodies and used for electoral expenditure should be included.

s22 250 definition of political donation should include fundraising events and membership - see *NSW Electoral Funding Act s5(2)* and *s5(3)*.

s26 263 insert clause requiring disclosure of all third party income used for electoral expenditure including membership fees over \$2000 per year (so that industry peak bodies are covered by disclosure requirements) and revenue from company activities (so that individual companies are covered by disclosure requirements). Currently companies and industry bodies are not covered, meaning that money from property developers' peak bodies and individual developer companies can be spent campaigning against planning laws without proper transparency (for example).

Local government

The bill should apply to local government elections.

Additional clause - Related companies

Insert related corporations clauses: See *s9(8) NSW Electoral Funding Act*: for the purposes of this Act, companies that are related to each other (in accordance with the

Corporations Act 2011 of the Commonwealth) are taken to be a single corporation; and s24(6) in its application to donations caps.

Impact on charities

s8 and **s22** (247) should be consistent with definition of third parties in s17 (Division 3 s216) ie. third parties that would have to register under s297. s8 and s22 currently apply to any third parties receiving a political donation or making any electoral expenditure, whereas s17 refers to the threshold of electoral expenditure defining a third party.

s22 251 donor statements would create a large administration burden on third parties, and are not necessary for compliance if independent auditors are engaged to audit campaign accounts.

s31 281G increase amount to \$5000 for unregistered third parties.

s41 297 increase the electoral expenditure threshold to register for third parties to \$5000.

\$500k third party expenditure caps

The 2018 amendments to the NSW electoral funding laws halved the expenditure cap on third parties from \$1 million to \$500,000. This was ruled unconstitutional by the High Court due to lack of evidence and the poor process followed by NSW Government.

In *Unions NSW* (2019), the High Court found that \$500,000 expenditure caps would be constitutional given sufficient evidence that limiting expenditure is 'reasonably necessary' to achieve caps are necessary to achieve the purpose identified by the NSW Government of preventing the drowning out of other voices in the political process by the distorting influence of money.

The Centre for Public Integrity believes the relative size of Queensland compared to NSW, and the lower donation caps being implemented in Queensland, could provide grounds for limiting third party expenditure caps to \$500,000. The Centre would be pleased to work further on developing this evidence base.

Other technical

s17 217(4) insert clause requiring the state campaign account to be independently audited.

s17 221C(2) creates an unnecessary loophole where the 4 week election campaign could be funded out of a separate account, including a third party account, and not be paid back until after the election.

s26 263 creates an anomaly where donors who give \$1,000 over four years must have their details disclosed if just \$1 or less of the total donation is used to incur electoral expenditure, but a donor who gives \$999 for electoral expenditure need not. This clause should be changed to make it clear only donors who have given over \$1,000 in political donations should have their details published on the ECQ website.

Statutory Guidelines – electoral expenditure and political donations

To assist all participants to comply with the new legislation and avoid excessive legal costs to participants, definitive Statutory Guidelines should be provided on how the definition of electoral expenditure and political donation applies. The Electoral Commission of Queensland should have staff available to give advice to third parties in the application of the definitions of electoral expenditure and political donation and other clauses.

About The Centre for Public Integrity

The Centre for Public Integrity is an independent think tank dedicated to preventing corruption, protecting the integrity of our accountability institutions, and eliminating undue influence of money in politics in Australia. Board members of the Centre are the Hon Tony Fitzgerald AC QC, the Hon David Ipp AO QC, the Hon Stephen Charles AO QC, the Hon Anthony Whealy QC, Professor George Williams AO, Professor Joo Cheong Tham and Geoffrey Watson SC.

The Centre for Public Integrity would be pleased provide further advice on any matters related to this submission.

Signed,

A handwritten signature in blue ink, appearing to read 'H. Aulby', is shown within a rectangular grey box.

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Hannah Aulby
Executive Director

The Centre for Public Integrity
713 Brunswick St North, Fitzroy North
hannah@publicintegrity.org.au