

HOWARD JARVIS, Founder (1903-1986)
 JON COUPAL, President
 TREVOR GRIMM, General Counsel
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HOWARD JARVIS
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Via Hand Delivery

November 15, 2007

Ms. Toni Melton
 Initiative Coordinator
 Attorney General's Office
 1515 K Street, 6th Floor
 Sacramento, CA 95814

RECEIVED

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INITIATIVE COORDINATOR
 ATTORNEY GENERAL'S OFFICE

Re: Taxpayer Protection Act of 2008

Dear Ms. Melton:

By this letter, we respectfully request the Attorney General to prepare a title and summary of the chief purpose and points of the Taxpayer Protection Act of 2008. The undersigned are the proponents of this measure.

Any correspondence regarding this initiative should be directed to Howard Jarvis Taxpayers Association, 921 Eleventh Street, Suite 1201, Sacramento, CA 95814 (916) 444-9950. The proponents' resident addresses are attached to this letter.

Enclosed is the required \$200 filing fee as well as the certification as required by Elections Code Section 18650.

Thank you for your cooperation.

Sincerely,

Jon Coupal
 President Howard
 Jarvis Taxpayers
 Association

Sincerely,

Jim Nielsen
 Chairman, Cal.
 Alliance to Protect
 Private Property

Sincerely,

Lew Uhler
 President, National
 Tax Limitation
 Committee

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

SECTION 1. FINDINGS AND DECLARATION OF PURPOSES

(A) Our State Supreme Court has stated that “A fundamental precept of this nation's democratic electoral process is that the government may not ‘take sides’ in election contests or bestow an unfair advantage on one of several competing factions.”

(B) State and local governments and their officials are therefore prohibited from expending public funds or using public resources for campaign activity.

(D) State law also requires campaign activity to be disclosed and the source of funds used for such activity to be publicly reported.

(E) Yet politicians and government officials have created a loophole undercutting these laws that were designed to protect taxpayers and voters. They have used taxpayer funded non-profit organizations to conduct campaign activity that would be illegal if undertaken directly.

(F) Therefore, the People hereby enact the “Taxpayer Protection Act of 2008” to close this loophole and ensure that no public funds are used for political campaign activity.

SECTION 2. Use of public resources for campaign activity prohibited

Government Code section 8314 is hereby amended to read as follows (deletions denoted by ~~stricken~~ type; additions denoted in *italicized* type):

§ 8314 (a) It is unlawful for any ~~elected state or local officer, including any state or local appointee, employee, or consultant~~ *elected official, officer, director, appointee, employee, agent or consultant of the state, of any state agency, of any local agency, or of any organization formed or acting as an association or representative of local agencies, which organization is funded in whole or in part by dues or other voluntary payments made by local agencies,* to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.

(b) For purposes of this section:

(1) "Personal purpose" means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to state business. "Personal purpose" does not include the incidental and minimal use of public resources, such as equipment or office space, for personal purposes, including an occasional telephone call.

(2) "Campaign activity" means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. "Campaign activity" does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities.

(3) "Public resources" means any property or asset owned by the state or any *state or* local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state-compensated time. *"Public resources" also means the property and assets of any organization formed or acting as an association or representative of local agencies, which organization is funded in whole or in part by dues or other voluntary payments made by local agencies, including revenue derived by any such organization from investments, events or enterprises financed in whole or in part by dues or other voluntary payments made by any local agency. Nothing herein shall prohibit such an organization from sponsoring a committee funded by non-public resources pursuant to Government Code section 82013(a).*

(4) "Use" means a use of public resources which is substantial enough to result in a gain or advantage to the user or a loss to the state or any local agency for which a monetary value may be estimated.

(5) *"Local agency" means a county, city and county, city, district, redevelopment agency, school district, community college district, joint powers authority, or any other political subdivision or public corporation of California, or entity created thereby.*

(c)(1) Any person who intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons are responsible for any violation, they shall be jointly and severally liable for the penalty.

(2) If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasurer of that city.

(3) No civil action alleging a violation of this section may be commenced more than four years after the date the alleged violation occurred.

(d) Nothing in this section shall prohibit the use of public resources for providing information to the public about the possible effects of any bond issue or other ballot measure on state activities, operations, or policies, provided that (1) the informational activities are otherwise authorized by the constitution or laws of this state, and (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid

the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(e) The incidental and minimal use of public resources by an elected state or local officer, including any state or local appointee, employee, or consultant, pursuant to this section shall not be subject to prosecution under Section 424 of the Penal Code.

Penal Code section 424 is hereby amended to read as follows:

§ 424 (a) Each officer of this state, or of any county, city, town, or district of this state, and every other person charged with the receipt, safekeeping, transfer, or disbursement of public moneys, who either:

1. Without authority of law, appropriates the same, or any portion thereof, to his or her own use, or to the use of another; or,
2. Loans the same or any portion thereof; makes any profit out of, or uses the same for any purpose not authorized by law; or,
3. Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the same; or,
4. Fraudulently alters, falsifies, conceals, destroys, or obliterates any account; or,
5. Willfully refuses or omits to pay over, on demand, any public moneys in his or her hands, upon the presentation of a draft, order, or warrant drawn upon these moneys by competent authority; or,
6. Willfully omits to transfer the same, when transfer is required by law; or,
7. Willfully omits or refuses to pay over to any officer or person authorized by law to receive the same, any money received by him or her under any duty imposed by law so to pay over the same; or
8. *Willfully uses or permits others to use public money or resources for a campaign activity prohibited by Government Code section 8314 and which are not authorized by law --*

Is punishable by imprisonment in the state prison for two, three, or four years, and is disqualified from holding any office in this state.

(b) As used in this section, "public moneys" includes the proceeds derived from the sale of bonds or other evidence or indebtedness authorized by the legislative body of any city, county, district, or public agency.

(c) This section does not apply to the incidental and minimal use of public resources authorized by Section 8314 of the Government Code.

SECTION 3. SEVERABILITY

The provisions of this section are severable. In any provision is this section or its application is held invalid, that finding shall not affect other provisions or applications that can be given effect without the invalid provision or application.