

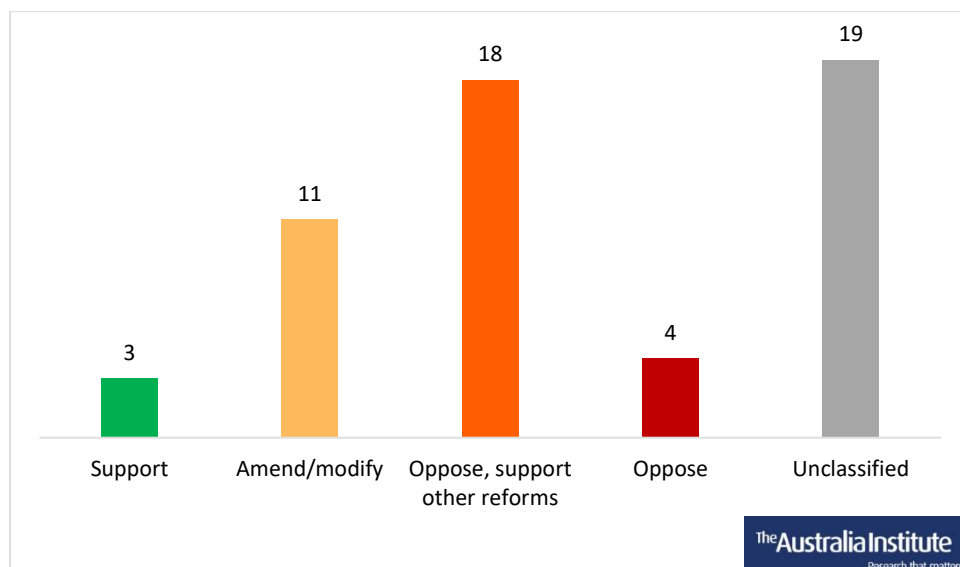
South Australian political finance changes primer

In June 2024, Premier Peter Malinauskas proposed the Electoral (Accountability and Integrity) Amendment Bill. He says it meets his election promise to ban political donations in South Australian elections. In November, a revised version of the bill was introduced to Parliament.ⁱ

Parliament has a duty to review changes to electoral laws

- The bill has not been the subject of a parliamentary inquiry. These are normal for even minor changes to electoral laws, and these changes are among the largest ever in the state.
- The South Australian Government conducted a secret, internal consultation and the submissions to that consultation were not published.
- Among those who provided formal written submissions to the secret consultation, 3 supported the bill without proposed amendments; 11 were broadly in favour but raised some concerns or recommended amendments; 18 supported campaign finance reform but did not support the draft bill and 4 were opposed to the draft bill.ⁱⁱ
 - Support for the Bill was higher among those providing general feedback via a comment form, although even when these general comments are included most did not support the draft bill in the form it was presented.ⁱⁱⁱ
- The Government received over 1,000 pages of reports and briefings relating to whether the bill is constitutional or not, and refused to release this advice.^{iv}
- The revised draft was not the subject of any public consultation.
- The legislation was introduced at 4:30pm 12 November, and by about 8pm a serious problem that could bankrupt minor parties and independent candidates was identified – which earlier, secret consultation and negotiations failed to notice or address.
- The revised bill was only published on the SA Parliament website at about 10pm 13 November. The Legislative Council passed it at about the same time.
- The government commissioned an independent review which recommended that administrative funding to the major parties be *decreased* relative to the draft bill, from \$1.4 million a year for each major party to \$1.2 million a year.^v Instead, the revised bill *increases* administrative funding to \$1.6 million a year for each major party.

Figure 1: Position formal submissions took on the draft donation ban/public funding increase bill



Effects of the legislation

The Bill would not end political donations. Because most of the new public funding is based on total number of MPs elected to the South Australian Parliament, it cannot – and does not – replace donations for new independent candidates or for parties without MPs.

Even the major parties are not subject to a complete ban:

- Levies on MP and staffer salaries are exempt from the revised bill, even though they were present in the draft bill and accounted for in the expert review. Between 2018 and 2022 (the last electoral cycle), MP levies and donations exceeded large political donations in value.^{vi}
- The bill introduces nominated entities (see below for more details).^{vii}

The Bill would introduce about \$18 million in new public funding per cycle,^{viii} which the Australia Institute estimates would go about 75% to the major parties and about 1 or 2% to new entrants.

The expert review recommended the \$1.4 million per major party per year funding be *reduced* to \$1.2 million. The expert review said:

Whilst this may require both the Labor Party and the Liberal Party to implement certain efficiencies in their administrative operations, this is a common feature in publicly funded organisations.^{ix}

The revised bill *increases* it to \$1.6 million.^x This change alone gives the Labor and Liberal parties an additional \$3.2 million every four years, contradicting expert advice the Government received.

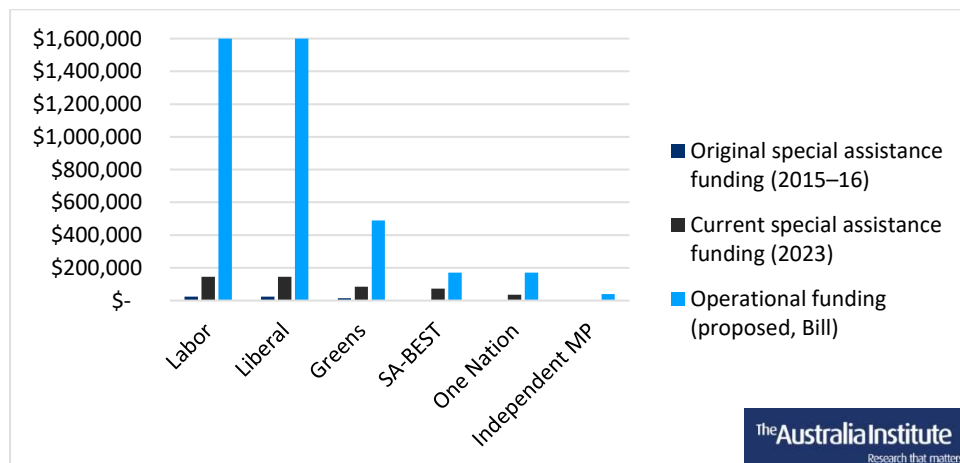
Even though per-vote and per-MP public funding for incumbents was increased in the revised bill, advance funding for new entrants was *not*. No reason has been given for this differential treatment.

The public cost of the Bill far exceeds the private money it is supposed to replace. Between 2022 and 2026, Labor, the Liberals and the Greens received about \$2.7 million in “large” donations (exceeding \$5,000).^{xi} These large donations pose the greatest risk of compromising government decision-making.

The Bill increases public funding by about \$18 million, or about \$15 million more than would have been needed to replace large political donations.

The Bill increases major party admin funding in South Australia x66 times compared to 10 years ago.

Figure: Changes in annual special assistance funding and its proposed replacement



The bill introduces “nominated entities” to grandfather in assets of major parties. The revised bill stops new parties from accumulating assets through donations, but lets the major parties set up nominated entities that can hold their assets and donate to the Labor and Liberal parties. This was *not* recommended by the expert review.

Victoria’s nominated entities are subject to potential constitutional challenge.^{xii} An independent review including former Labor MP David Feeney recommended their abolition.^{xiii}

The expert review recommended administrative funding for candidates and minor parties.^{xiv} The revised bill does not provide candidates with administrative funding, and only makes more limited “policy development funding” available for minor parties.^{xv}

The Bill still allows the parties to collect levies on MPs and staffers, provided the money is not spent on campaigns. Levies on MPs were worth \$3.5 million in the last electoral cycle. Administrative funding was meant to compensate for lost funding, including lost MP levies.

If an MP resigns or is expelled from their party and becomes an independent, they become entitled to an extra \$40,000 in administrative funding per year.^{xvi} This is not a problem by itself. However, it may damage public trust if an expelled MP received a large amount of additional money if the reason for the expulsion was alleged misconduct or alleged corruption, or even a criminal conviction.

The Bill does not stop wealthy candidates from self-funding their campaigns,^{xvii} but it does stop poorer candidates from gathering larger donations from wealthy friends or supporters.

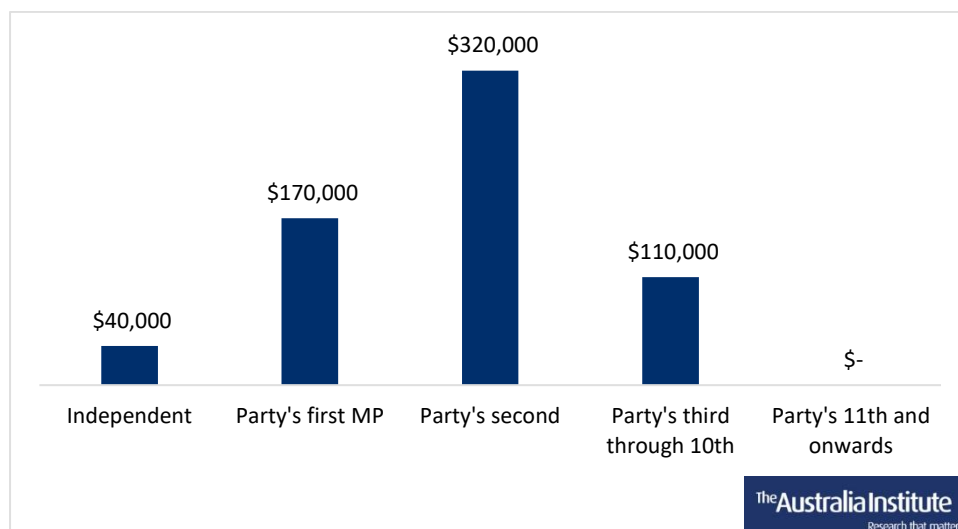
If parts of the Bill are unconstitutional, the donation ban may end but the extra public funding remain.

Better alternatives exist. A democracy voucher system would give the public the power to decide how public funding is distributed, and allow for the abolition of all political donations.

Administrative funding kludge for parties with two MPs

The revised bill has an extremely unusual administrative funding arrangement. A political party with one MP gets \$170,000 in administrative funding per year, while a party with two MPs gets three times as much – \$490,000.^{xviii} Figure 2 shows the additional funding a party gets for its first, second and third MPs, and compares that to the amount given to a single independent.

Figure 2: Funding for each additional MP



The Greens are the only party with exactly two MPs. The effect is to fund the Greens in line with their median expenditure of \$540,529 (once levies, membership fees, etc are added). This is acknowledged in the expert review.^{xix}

The fact that a per-MP funding model breaks when you get to the third largest political party in South Australia is evidence that the per-MP funding model is fundamentally flawed and illogical.

The expenses of a political party bear little relation to the number of MPs it has.

There is no principled reason for the special allowance for parties with exactly two MPs; it exists only to paper over the fundamental problems with a per-MP funding model.

Disproportionate SA-BEST 2026 election funding

The revised bill provides for advance funding for Legislative Council candidates based on their performance at the 2018 election. In 2018, SA-BEST received 203,364 votes in the Legislative Council, enough to elect two MLCs. One, Frank Pangallo, has since quit the party.

If Connie Bonaros, SA-BEST's one remaining MLC, contests the 2026 election, I estimate SA-BEST would be entitled to advance funding of \$4.4 per vote received in 2018 (80% of \$5.50), or \$895,000. Presumably, the party could claim up to the \$500,000 Legislative Council expenditure cap.

At the 2022 election SA-BEST spent \$80,000, and was entitled to \$7,000 in public funding.^{xx}

Details of the Bill

The Bill would disproportionately advantage incumbents, with enormous increases in public funding. This is especially true for the Labor and Liberal parties.

The Bill would:

Donation caps and bans

- Ban most political donations to sitting MPs and parties with sitting MPs.
 - Allow each party a “nominated entity” that can make still make donations to the party (albeit not into the campaign account).
 - Allow parties to charge levies on the taxpayer-funded salaries of MPs and staffers.
- Cap donations to new independent candidates and new parties at \$5,000 per donor.

Per-MP administrative funding

- Pay up to \$6.4 million per party per electoral cycle, depending on number of MPs.
- Pay up to \$160,000 per independent MP per electoral cycle.

Advance funding for independent candidates

- Pay advance funding for new parties and independent candidates of \$5,000 per candidate per election.

Per-vote public funding

- Increase per-vote public funding by over \$1 per vote
- Provide advance funding to parties and candidates, based on:
 - the number of votes they received in the House of Assembly at the last election.
 - the number of votes they received in the Legislative Council in earlier elections.

Spending caps

- Lowers the electoral spending cap in each of South Australia’s 47 seats to \$100,000 per candidate (2026 dollars).
- Allow political parties to spend above the cap in target seats provided they do not mention the candidate and provided the party remains below its statewide cap.
- Cap political spending by third parties.

The Bill is on top of existing public funding, which is worth about \$3 million per major party per cycle. In total, the Bill introduces about \$18 million in new public funding per cycle.

Find out more, including calculations and polling research:

<https://australiainstitute.org.au/report/money-and-power-in-south-australian-elections/>

ⁱ Electoral (Accountability and Integrity) Amendment Bill 2024 (SA), <https://www.legislation.sa.gov.au/lz>

ⁱⁱ Footnotes 52 through 55 in Parker, Williams and Tully (2024) *Review of the Electoral (Accountability and Integrity) Amendment Bill*, p. 31, South Australian Government

ⁱⁱⁱ Parker, Williams and Tully (2024) *Review of the Electoral (Accountability and Integrity) Amendment Bill*, p. 31

^{iv} Australia Institute freedom of information request qA115424

^v Parker, Williams and Tully (2024) *Review of the Electoral (Accountability and Integrity) Amendment Bill*, p. 17

^{vi} Electoral (Accountability and Integrity) Amendment Bill 2024 (SA), pp. 10–11

^{vii} *Electoral (Accountability and Integrity) Amendment Bill 2024 (SA)*, p. 53

^{viii} Calculated at \$14 million in Browne (2024) *Money and power in South Australian elections*, <https://australiainstitute.org.au/report/money-and-power-in-south-australian-elections/>; plus \$3 million from the increase in per-MP administrative funding; plus a conservative \$870,000 for the increase in public funding (above the increase from indexation).

^{ix} Parker, Williams and Tully (2024) *Review of the Electoral (Accountability and Integrity) Amendment Bill*, pp. 17, 79

^x Electoral (Accountability and Integrity) Amendment Bill 2024 (SA), p. 44

^{xi} Other than donations from MPs.

^{xii} Gordon (2024) *Former Victorian teal candidates threaten High Court challenge over donation laws*, <https://www.theage.com.au/politics/victoria/former-victorian-teal-candidates-threaten-high-court-challenge-over-donation-laws-20240803-p5jz46.html>

^{xiii} Parker, Williams and Tully (2024) *Review of the Electoral (Accountability and Integrity) Amendment Bill*, p. 19

^{xiv} Parker, Williams and Tully (2024) *Review of the Electoral (Accountability and Integrity) Amendment Bill*, p. 17

^{xv} Electoral (Accountability and Integrity) Amendment Bill 2024 (SA), pp.49–50

^{xvi} Electoral (Accountability and Integrity) Amendment Bill 2024 (SA), p.44

^{xvii} Electoral (Accountability and Integrity) Amendment Bill 2024 (SA), p.59

^{xviii} Electoral (Accountability and Integrity) Amendment Bill 2024 (SA), p.44

^{xix} Parker, Williams and Tully (2024) *Review of the Electoral (Accountability and Integrity) Amendment Bill*, pp. 75, 78–80

^{xx} ECSA (2022) *State and by-election reports*, p. 90, <https://www.ecsa.sa.gov.au/state-and-by-election-reports>