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16 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
17 COUNTY OF SACRAMENTO

18 HOWARD JARVIS TAXPAYERS )  
19 ASSOCIATION, a California nonprofit public )  
20 benefit corporation, and QUENTIN L. KOPP, )  
21 a California Taxpayer, )  
22 Petitioners and Plaintiffs, )  
23 v. )  
24 EDMUND G. BROWN, JR., Governor of the )  
25 State of California, and FAIR POLITICAL )  
26 PRACTICES COMMISSION, an agency of )  
27 the State of California, )  
28 Respondents and Defendants. )

Case No.:  
**VERIFIED PETITION FOR WRIT OF  
MANDATE AND COMPLAINT FOR  
INJUNCTIVE AND DECLARATORY  
RELIEF**

26 INTRODUCTION

27 1. Petitioners and plaintiffs bring this action to invoke the duty of the court to “jealously guard”  
28 the people’s power of initiative. As the California Supreme Court has noted, the initiative is not a

FILED  
Superior Court Of California,  
Sacramento  
12/12/2016  
mrubalcaba  
By \_\_\_\_\_, Deputy  
Case Number:  
34-2016-80002512

1 mere “right,” instead it is a power reserved to the people. Once the people have enacted a state law  
2 by initiative, it may only be amended by another vote of the people unless the initiative measure  
3 itself provides for legislative amendment. The purpose of this restriction is to prohibit the  
4 Legislature “from undoing what the people have done, without the electorate’s consent.” *People v.*  
5 *Kelly* (2010) 47 Cal.4th 1008, 1025–26.

6 2. This action challenges the Legislature’s decision to undo “what the people have done,  
7 without the electorate’s consent.” Senate Bill No. 1107 (Chapter 837 of the Statutes of 2016)  
8 purports to amend Government Code § 85300’s ban on public financing of election campaigns. In  
9 place of the ban, the Legislature’s amendment now expressly authorizes such public financing.

10 3. Senate Bill No. 1107 was not submitted to the electorate for approval and it does not further  
11 the purposes of the Political Reform Act, as amended.

12 4. Petitioners and plaintiffs seek a writ of mandate from this Court directing the FAIR  
13 POLITICAL PRACTICES COMMISSION and Governor BROWN to continue to enforce and  
14 publicize the provisions of Government Code § 85300 as they existed prior to the purported  
15 amendment, an injunction barring the expenditure of any taxpayer funds to enforce or implement the  
16 invalid changes to made to section 85300 by Senate Bill No. 1107, and declarations that amendment  
17 of section 85300 requires voter approval and that the purported amendments made by Senate Bill  
18 No. 1107 are invalid and of no effect.

19  
20 **PARTIES**

21 5. Petitioner and plaintiff HOWARD JARVIS TAXPAYERS ASSOCIATION (“HJTA”) is a  
22 nonprofit public benefit corporation, comprised of over 200,000 individual and corporate California  
23 taxpaying members. HJTA was organized under the laws of California for the purpose, among  
24 others, of advocating the reduction of taxes and engaging in civil litigation on behalf of its members  
25 and all California taxpayers to achieve its tax reduction goals. Petitioner and plaintiff is beneficially  
26 interested in this matter as an association of taxpayers and citizens, and as a representative of its  
27 member taxpayers and citizens.

28 ///

1 6. Petitioner and plaintiff QUENTIN L. KOPP ("KOPP") is a California taxpayer and was one  
2 of the authors and proponents of Proposition 73, the Campaign Funding, Contribution Limits,  
3 Prohibition of Public Funding Initiative Statute that added the ban on public financing of political  
4 campaigns. Petitioner and plaintiff is beneficially interested in this matter as a citizen, taxpayer,  
5 author, and proponent of Proposition 73.

6 7. Respondent and defendant EDMUND G. BROWN, JR. ("BROWN") is named in his official  
7 capacity as Governor of the State of California and the chief executive of the state. As the officer in  
8 whom the supreme executive power of the state is vested, BROWN has the duty to see that the law is  
9 faithfully executed.

10 8. The FAIR POLITICAL PRACTICES COMMISSION ("COMMISSION") is an agency of  
11 the State of California. The COMMISSION has the primary responsibility to enforce the provisions  
12 of the Political Reform Act, as amended, including ministerial duties to publish, on an annual basis,  
13 the provisions of the Act that are legally in effect. The COMMISSION has its principal office in  
14 Sacramento, California.

### 15 **BACKGROUND**

16 9. The people of the State of California enacted Political Reform Initiative ("Political Reform  
17 Act") by initiative statute in 1974. The initiative statute created the COMMISSION and put the  
18 COMMISSION in charge of enforcing the terms of the Political Reform Act.

19 10. Because it was enacted as an initiative statute, the Legislature can only amend the Political  
20 Reform Act if it submits the amendment to the electorate for approval or if the amendment furthers  
21 the purpose of the Political Reform Act and is passed by a 2/3 majority vote.

22 11. In 1988, the People of the State of California amended the Political Reform Act by adopting  
23 Proposition 73, the Campaign Funding, Contribution Limits, Prohibition of Public Funding Initiative  
24 Statute. Among other things, that initiative statute added Government Code § 85300 which  
25 outlawed public financing of campaigns and prohibited candidates from accepting public funds for  
26 campaigns.

27 ///

1 12. Government Code § 85103, added by Proposition 73, provided that this initiative statute  
2 could be amended by the Legislature only by following the procedures for amendment of the  
3 Political Reform Act. Under this authorization, any legislative amendment must either further the  
4 purposes of Proposition 73 or be submitted to the electorate for approval.

5 13. Proposition 34, adopted by the voters in 2000, repealed section 85103, thus revoking any  
6 authorization for the Legislature to amend the provisions of Proposition 73, the Campaign Funding,  
7 Contribution Limits, Prohibition of Public Funding Initiative Statute.

8 14. Section 1 of Proposition 34 reiterated the electorate's prohibition on public financing of  
9 political campaigns. That section titled Proposition 34 the "Campaign Contribution and Voluntary  
10 Expenditure Limits Without Taxpayer Financing Amendments to the Political Reform Act of 1974.

11 15. As added by Proposition 73, the Campaign Funding, Contribution Limits, Prohibition of  
12 Public Funding Initiative Statute, Government Code § 85300 provided: "No public officer shall  
13 expend and no candidate shall accept any public moneys for the purpose of seeking elective office."

14 16. The California Supreme Court ruled that this provision does not preclude charter cities from  
15 amending their charters to provide for public financing of municipal campaigns. *Johnson v. Bradley*  
16 (1992) 4 Cal.4th 389, 411. The bar on public financing continues to apply to the state, counties, and  
17 non-charter cities.

18 17. The California Supreme Court also acknowledged that the provisions of Proposition 73  
19 outlawing public financing of political campaigns prevailed over a competing initiative statute that  
20 received fewer votes and would have authorized public campaign financing. *Taxpayers To Limit*  
21 *Campaign Spending v. Fair Pol. Practices Com.* (1990) 51 Cal.3d 744, 759.

22 **SENATE BILL NO. 1107**

23 18. In its 2015-16 legislative session the California Legislature enacted Senate Bill No. 1107.  
24 Respondent and defendant BROWN signed the bill on September 9, 2016, and the Secretary of State  
25 chaptered it as Chapter 837 of the Statutes of 2016.

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27 ///

1 19. As enacted by the people as part of Proposition 73, section 85300 declared: “No public  
2 officer shall expend and no candidate shall accept any public moneys for the purpose of seeking  
3 elective office.” Violation of this prohibition is a misdemeanor.

4 20. Section 2 of Senate Bill No. 1107 purports to amend Government Code § 85300 by  
5 eliminating the prohibition on public financing of political campaigns and instead providing: “A  
6 public officer or candidate *may* expend or accept public moneys for the purpose of seeking elective  
7 office if the state or a local governmental entity establishes a dedicated fund for this purpose by  
8 statute, ordinance, resolution, or charter.” (Emphasis added.) The purported amendment also  
9 requires funds to be available to all qualified candidates without regard to incumbency or political  
10 party identification and further requires that statute, ordinance, resolution, or charter establish the  
11 qualifications for the financing.

12 21. The amendments convert an absolute prohibition on public financing of political campaigns  
13 into express permission for public financing of political campaigns.

#### 14 **LEGAL EFFECT OF SENATE BILL NO. 1107**

15 22. The Legislature did not submit provisions of Senate Bill No. 1107 to the electorate for  
16 approval. Instead, the provisions of the new law purport to take effect on January 1, 2017.

17 23. Although Proposition 73 of 1988, the Campaign Funding, Contribution Limits, Prohibition of  
18 Public Funding Initiative Statute originally authorized legislative amendments that furthered the  
19 purpose of the initiative statute, that authorization was repealed by the voters by the adoption of  
20 Proposition 34 of 2000, the “Campaign Contribution and Voluntary Expenditure Limits Without  
21 Taxpayer Financing Amendments to the Political Reform Act of 1974.”

22 24. California Constitution article II, § 10(c) provides that where an initiative statute does not  
23 expressly authorize legislative amendment, any proposed amendments by the Legislature “become  
24 effective only when approved by the electors.”

25 25. Since Senate Bill No. 1107 was not submitted to the electorate for approval, the purported  
26 amendments to section 85300 have no legal effect.

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1 26. The Political Reform Act contains permission for legislative amendment, but only if the  
2 amendment “furthers the purpose” of the Act and only if the Legislature follows a particular  
3 procedure in adopting the amendments.

4 27. Senate Bill No. 1107 does not further the purposes of the Political Reform Act, as amended  
5 by the people.

6 28. As originally enacted, the Political Reform Initiative added Government Code § 81002 to  
7 describe the purposes of the Act. Those purposes included full disclosure of receipts and  
8 expenditures in election campaigns, limiting the amount spent in statewide elections, regulation of  
9 lobbyists and disclosure, disqualification of public officials with financial conflicts of interest,  
10 converting the state ballot pamphlet into a useful document, abolition of laws favoring incumbents,  
11 and vigorous enforcement of the provisions of the Act.

12 29. After the enactment of the Political Reform Act, the United States Supreme Court ruled that  
13 limits on campaign expenditures violated the First Amendment. This ruling effectively eliminated  
14 expenditure limitation as a purpose of the Act.

15 30. In 1988, the electorate amended the Political Reform Act by adopting Proposition 73, which,  
16 among other things, added section 85300, prohibiting public financing of political campaigns.

17 31. Prohibition of public funding of political campaigns was part of the title of the Proposition.  
18 The arguments in the ballot pamphlet featured claims about the advisability of adopting a prohibition  
19 on public financing of election campaigns. That prohibition of public financing of political  
20 campaigns was a significant purpose of the initiative statute.

21 32. Proposition 73 was approved by 58 percent of the voters. It outpolled a competing measure  
22 that did not ban public financing of election campaigns by more than 300,000 votes.

23 33. As an amendment to the Political Reform Act, Proposition 73 made the prohibition of public  
24 financing of election campaigns one of the purposes of the Political Reform Act.

25 34. Proposition 34, adopted in 2000, emphasized this new purpose of the Political Reform Act.  
26 Section 1 of Proposition 34 titled the measure the “Campaign Contribution and Voluntary  
27 Expenditure Limits Without Taxpayer Financing Amendments to the Political Reform Act of 1974.”  
28

1 The ballot arguments in favor of Proposition 34 urged "VOTE YES ON PROPOSITION 34 if you  
2 don't want taxpayers to pay for political campaigns."

3 35. The authorization of public financing of political campaigns contained in Senate Bill No.  
4 1107's amendments to Government Code § 85300 does not further the purpose of banning public  
5 financing of political campaigns.

6 36. The purported amendment to Section 85300 by Senate Bill No. 1107 cannot take effect  
7 because the amendment was not presented to the electorate for approval and/or the amendment does  
8 not further the purposes of the Political Reform Act.

9  
10 **FIRST CAUSE OF ACTION**  
11 **PETITION FOR WRIT OF MANDATE**  
12 **(CCP § 1085)**

13 37. Petitioners and plaintiffs restate the allegations of paragraph Nos. 1 - 36 as if fully repeated  
14 here.

15 38. Respondent COMMISSION has a ministerial duty pursuant to Government Code § 83113 to  
16 publish a booklet not later than March 1 of each year setting forth the provisions of the Political  
17 Reform Act. Since the purported amendments that Senate Bill No. 1107 can never take effect, the  
18 COMMISSION has a ministerial duty to include the provisions of the prohibition on public  
19 financing of election campaigns originally enacted by Proposition 73 as part of the current  
20 provisions of the Political Reform Act that it is required to publish.

21 39. Respondent COMMISSION has a ministerial duty to vigorously enforce the provisions of the  
22 Political Reform Act. This includes the duty to vigorously enforce the ban on public financing of  
23 election campaigns originally enacted by Proposition 73.

24 40. On information and belief, respondent COMMISSION intends to publish materials without  
25 mentioning the ban on public financing of election campaigns and no longer intends to enforce that  
26 ban.

27 41. Respondent BROWN has the ministerial duty to faithfully execute the law of the State of  
28 California. On information and belief, respondent BROWN intends to rely on the provisions of

1 Senate Bill No. 1107 that have no legal effect and to cease any enforcement of the ban on public  
2 financing of political campaigns.

3 42. Petitioners have no plain, speedy, and adequate remedy at law to remedy these violations.

4 43. WHEREFORE, plaintiffs pray for relief as hereinafter set forth.

5 **SECOND CAUSE OF ACTION**

6 **TAXPAYER INJUNCTION**  
7 **(CCP § 556a)**

8 44. Petitioners and plaintiffs restate the allegations of paragraph Nos. 1 - 43 as if fully repeated  
9 here.

10 45. Plaintiff HJTA has members who pay tax to the State of California or who have been  
11 assessed or who are liable to pay a tax to the State of California.

12 46. Plaintiff KOPP is a taxpayer of the State of California and has paid tax to the state within one  
13 year of the commencement of this action.

14 47. On information and belief, defendants BROWN and COMMISSION intend to spend public  
15 funds illegally to implement and enforce the amendments made by Senate Bill No. 1107 to  
16 Government Code § 85300 that never took legal effect.

17 48. An injunction is necessary to prevent this illegal expenditure and waste of public funds.

18 49. Plaintiffs have no plain, speedy, or adequate remedy at law to restrain these illegal  
19 expenditures.

20 50. WHEREFORE, plaintiffs pray for relief as hereinafter set forth.

21 **THIRD CAUSE OF ACTION**  
22 **DECLARATORY RELIEF**  
23 **(CCP § 1060)**

24 51. Petitioners and plaintiffs restate the allegations of paragraph Nos. 1 - 50 as if fully repeated  
25 here.

26 52. On information and belief, an actual controversy exists between plaintiffs and defendants.  
27 Plaintiffs believe that the amendments to Government Code § 85300 made by Senate Bill No. 1107  
28 cannot take legal effect unless and until the Legislature presents those amendments to the electorate  
and obtains their approval. Defendants, by contrast, contend that Senate Bill No. 1107 made



1 effective amendments to Government Code § 85300 and effectively overturn the ban on public  
2 financing of election campaigns imposed by Proposition 73 of 1988.

3 53. On information and belief, an actual controversy exists between plaintiffs and defendants on  
4 whether the Legislature has any authority at all to amend Government Code § 85300 as enacted by  
5 Proposition 73 without approval by the electorate. Plaintiffs believe that the repeal by the electorate  
6 of the authorization for legislative amendments to Proposition 73 revoked any authority of the  
7 Legislature to adopt amendments to the provisions of Proposition 73, whether or not those  
8 amendments furthered the purposes of the initiative statute. Defendants, by contrast, contend that  
9 the Legislature had power to amend Government Code § 85300 by the enactment of Senate Bill No.  
10 1107 without submitting the measure to the electorate for approval.

11 54. A declaration of this Court is required to resolve the controversy.

12 55. WHEREFORE, plaintiffs pray for relief as hereinafter set forth.

13  
14 **PRAYER FOR RELIEF**

15 Petitioners and plaintiffs pray for relief against respondents and defendants based on the  
16 allegations stated herein as follows:

17 1. That a peremptory writ of mandate issue compelling respondent FAIR POLITICAL  
18 PRACTICES COMMISSION to publish the provisions of Government Code § 85300 as enacted by  
19 the people in Proposition 73 of 1988 rather than the purported, ineffective amendments made by  
20 Senate Bill No. 1107, in the annual publication of the provisions of the Political Reform Act as  
21 required by Government Code § 83113 and any other publications produced by the COMMISSION  
22 referencing the provisions of section 85300;

23 2. That a peremptory writ of mandate issue compelling respondent Governor EDMUND G.  
24 BROWN, JR. to continue to enforce the provisions of Government Code § 85300 as enacted by the  
25 people in Proposition 73 of 1988 rather than the purported, ineffective amendments made by Senate  
26 Bill No. 1107;

27 3. That an injunction issue restraining respondents FAIR POLITICAL PRACTICES  
28 COMMISSION and Governor EDMUND G. BROWN, JR. from spending any public funds to

1 implement or enforce the provisions of Senate Bill No. 1107 purporting to amend Government Code  
2 § 85300;

3 4. That this Court issue a Declaration ruling the provisions of Senate Bill No. 1107 purporting  
4 to amend Government Code § 85300 to be void and of no legal effect;

5 5. That this Court issue a Declaration ruling that the Legislature has no power to amend  
6 Government Code § 85300, as adopted by the electorate in Proposition 73, without submitting those  
7 amendments to the electorate for approval;

8 6. That this Court award petitioners and plaintiffs their costs of suit, including reasonable  
9 attorney fees; and

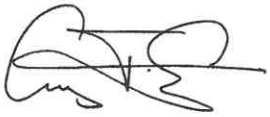
10 7. That this Court grant such further relief as it determines is just and proper.

11 DATED: December 12, 2016.

12 JOHN C. EASTMAN  
13 ANTHONY T. CASO

14 CHARLES H. BELL, JR  
15 BELL, McANDREWS & HILTACHK, LLP

16 ALLEN DICKERSON

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By ANTHONY T. CASO  
19 Attorneys for Petitioners and Plaintiffs

1 **VERIFICATION**

2 I, Timothy A. Bittle, am the Legal Director for the HOWARD JARVIS TAXPAYERS  
3 ASSOCIATION, one of the Petitioners and Plaintiffs in this matter. I am authorized to speak on  
4 behalf of the HOWARD JARVIS TAXPAYERS ASSOCIATION in this matter.

5 I have reviewed the **VERIFIED PETITION FOR WRIT OF MANDATE AND**  
6 **COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**. I swear under penalty of  
7 perjury that the allegations stated in the Petition are true and correct, except as to those matters stated  
8 on information and belief, and as to those matters, I believe them to be true.

9 Executed on \_\_ day of December, 2016, at Sacramento, California.

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14 Timothy A. Bittle,  
15 HOWARD JARVIS TAXPAYERS  
16 ASSOCIATION  
17 Petitioner and Plaintiff  
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VERIFICATION

I, CHARLES H. BELL, JR., declare that I am the attorney for Petitioner/Plaintiff, QUENTIN L. KOPP; that he is currently out of the county in which my office is located and in which this action is filed or is currently unavailable to sign this verification; that I make this declaration on his behalf.

I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE/COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.

The foregoing is true and correct and of my personal knowledge, or if stated on information and belief, I believe it is true and correct. If called as a witness, I could and would testify competently thereto.

Executed under penalty of perjury under the laws of the State of California this 12rd day of December 2016 at Sacramento, California.

  
CHARLES H. BELL, JR.