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Amended Disclosure Bill Still Worthy of Passage

JEFF BRINDLE • February 13, 2019, 12:56 pm

Legislation (S-1500) sponsored by State Senator Troy Singleton (D-7th), which requires registration and disclosure by independent groups, is awaiting a floor vote in the Senate.

So far, there has been unanimous, bi-partisan support for the bill.

The Senate Budget and Appropriations Committee on January 17, 2019 voted 12-0 in favor of the legislation, though it did further amend the bill – again unanimously- on the 28th of January.

In a move that had Trenton’s political class buzzing, the Senate then voted 31-0 on January 31 to add a floor amendment. At this writing, no date had been set for a final vote on the bill.

The revision, which flatly prohibits officeholders from serving as chairpersons of independent organizations, may have stirred some political controversy. But it represented legislative action that was in the best interest of the public.

The amendment simply extended to independent groups the same ban that applies to political parties and continuing political committees (aka PACs). Officeholders are not permitted to be chairpersons of political parties or PACs.

Under the State’s “Campaign Contributions and Expenditures Reporting Act,” officeholders are considered candidates and are not allowed to participate in any other committee other than their candidate and/or joint candidate’s committee.

The floor amendment merely clarified that fact for independent organizations.

During the bill’s path toward a full vote in the Senate, one amendment adopted in Committee, while not diminishing the legislation’s main purpose of bringing sunshine to the activities of independent groups, was unfortunate.

When Senate bill 1500 was first introduced, the bill contained a provision that would have repealed an antiquated law that bans county political party committees from donating to each other during primary elections.

Seemingly at the urging of well-intended, reform-minded individuals and groups, the bill was amended to reinstate the ban on county party organizations aiding each other.

Granted, there has always been antipathy toward political parties in this country. This angst about parties dates back as early as President George Washington’s farewell address through the age of machine politics in the 1800’s to reform efforts during the latter part of the 19th century and the early years of the 20th century.

In his final address at Congress Hall in Philadelphia, Washington warned in 1796 of “the baneful effects of the Spirit of Party. He feared “a small but artful and enterprising minority” might “put, in the place of the delegated will of the Nation, the will of a party.”

But the progressive crusade against political party control of American politics appears out of date in a period when independent organizations are consuming political parties and are ever-increasing their influence over elections in New Jersey and throughout the nation.

For example, independent groups in New Jersey totally outflanked parties in the 2017 legislative election and again in last year's congressional election, spending \$47 million and \$49 million, respectively.

There has been an increase in independent group spending of over 1100 percent since 2005 whereas political party spending at all levels of government has declined significantly since then.

Removing the ban on county party donations to each other would be a step in the direction of redirecting the flow of money away from more secretive independent groups and toward open, accountable political parties in New Jersey.

While there is a ban on county parties giving to each other during primary elections, there is no comparable prohibition on state party committees donating money to their respective county party committees or municipal party committees.

Likewise, there is no ban on municipal party committees contributing to county party committees or vice versa. Moreover, municipal party committees can help each other out if they so desire. Finally, all local party committees can help fund the state party committees.

Plus, even county parties can make donations to each other during the general election.

To what end, then, does a ban on county organizations contributing to each other make any sense? If the concern is over circumventing contribution limits, then why doesn't this concern extend to all other party organizations?

It is important to point out that all county party financial activity is disclosed. Unlike many independent groups, county parties cannot keep their donations secret.

In many ways, the ban on county party activity just defies common sense.

The concern also is outdated. It is like fighting the last war against an old enemy rather than recognizing the new nemesis- independent special interest groups.

Perhaps the biggest problem is that the ban may be unconstitutional.

An Eight Circuit Court of Appeals ruling last year struck down a Missouri prohibition on transfers between two special interest PACs. It is not too much of a legal stretch to believe that outright bans on donations between party organizations also may violate First Amendment Speech and Assembly rights.

Through the years, the idea of county party committees giving to each other earned the pejorative-sounding label "wheeling." In fact, it simply constitutes county party committees donating money to sister organizations.

While at one time there may have been reasons for the ban, concern about the clout of independent groups has supplanted those reasons.

In fact, given how much competition from outside groups has pinched the coffers of county parties, most would be hard-pressed today making huge primary transfers.

Despite the fact that the Senate bill was amended to leave in the ban on county party-to-party donations, it nevertheless is a great piece of legislation and needs to be enacted into law. It requires disclosure of contributions and expenditures by independent groups that seek to influence elections and public policy in New Jersey.

Requiring disclosure by these groups, a goal long sought by the New Jersey Election Law Enforcement Commission (ELEC), is a very positive step in the direction of bringing balance between these groups and political parties and candidates.

The legislation will move the playing field closer toward the goal of offsetting the ever increasing influence of independent groups over the State's electoral system. It will also establish parity in terms of reporting requirements between outside organizations and more accountable parties and candidates.

Though there seems to be a pause in the momentum toward passage of this important legislation, hopefully those efforts will resume soon.

Jeff Brindle is the Executive Director of the New Jersey Election Law Enforcement Commission.

The opinions presented here are his own and not necessarily those of the Commission.