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NJ Political Parties Have Been Down Before. They Can Come Back Again

JEFF BRINDLE | July 13, 2020, 11:47 am | in [The Diner Booth](#)

Recent legislative and judicial trends in campaign finance law have weakened the political party system in New Jersey, which is bad for transparency and accountability.

The good news is that parties have faced similar challenges before and rebounded due to legislative changes that helped revive them. It could happen again if lawmakers adopt pending Election Law Enforcement Commission (ELEC) recommendations.

Some may think the main purpose of campaign finance reform in New Jersey is simply to reduce spending on elections. In reality, many changes have a broader impact because they can affect the entire political structure in the state. For good or ill.

A prime example is the pay-to-play reform movement in the mid-2000s.

A series of bills and executive orders intended to discourage pay-to-play scandals had the effect of drastically curtailing money from public contractors to political parties. The intention was noble and probably has checked some abuses while also requiring far more disclosure by contractors with ELEC.

But party coffers quickly shrank, making them weaker.

Further compounding their woes was the fact that special interest groups, due to federal legislation and court rulings, began spending more of their election money independently instead of sending checks to parties or candidates. Independent spending by these groups has soared since that time. They now often have more influence than parties.

During the period roughly equivalent to the onset of pay-to-play, 2005-2017, independent group spending spiked by almost 11,500 percent. Meanwhile state and county party spending decreased by an average of 29 percent.

Spending by outside groups peaked in 2017 and 2018, years when gubernatorial, legislative, and congressional elections were held, at \$47.5 and \$49 million. Those amounts were expected to be

surpassed this year with congressional seats and a marijuana referendum on the ballot. However, the Covid-19 virus crisis puts that in doubt.

Changes to campaign finance law, sometimes combined with a significant judicial ruling, have altered the flow of money in politics before in New Jersey. Parties sometimes have been the beneficiaries.

Much like today, political parties in New Jersey were virtually on life support in the 1980s. There were numerous reasons but important among them were judicial rulings in the 1960s and reform in the 1970s and early 1980s.

Reapportionment decisions by the U.S. Supreme Court that ultimately would lead to legislative districts apportioned on the basis of one-person-one-vote rather than on the basis of county lines weakened parties, particularly at the county level.

Moreover, gubernatorial public financing in the general election of 1977, which was extended to the primary in 1981, limited party involvement in gubernatorial elections. Further, the enactment of the Open Primary Law in 1981, which denied parties the right to endorse candidates in the primary or give them the party line, worked to weaken the parties. Taken together these events contributed to the enfeeblement of the political party system in New Jersey during the 1980s.

Like today, these actions caused a shift in the flow of money and thereby influence over New Jersey elections. For example, while candidates for State Senate and Assembly spent \$11.5 million in the 1987 general election, PAC contributions for those candidates amounted to \$2.8 million, an 87 percent increase over the amount they contributed in 1983. County parties, traditionally heavily involved in legislative contests, spent only slightly more than PACs in 1987, at \$2.9 million.

In late 1980s and early 1990s, a judicial ruling along with campaign finance reform, again would change the trajectory of campaign dollars, this time toward political parties and away from special interest PACs.

An ELEC White Paper written by me in 1997 stated, “On February 22, 1989, the United States Supreme Court made a landmark decision that would impact the role of party organization in New Jersey The decision (*Eu vs. San Francisco County Democratic Central Committee*) held that a ban on primary endorsements violated the First Amendment . . .”

New Jersey’s Open Primary Law was therefore affected. It was determined that the *Eu* decision applied to New Jersey. It lifted the ban on primary endorsements by parties, and in turn strengthened them by putting parties back in the nomination process.

Following the 1989 Supreme Court decision, the Legislature established the Rosenthal Commission, chaired by the late Eagleton Institute Professor Alan Rosenthal. The Commission ultimately would recommend reforms to campaign finance and lobbying laws, some of which were proposed earlier in ELEC White Papers.

Among the changes that took effect in 1993 were those that strengthened political parties. One such change gave parties a significant advantage in raising funds subject to contribution limits while the other allowed parties to contribute unlimited amounts of money to their candidates.

This built-in advantage enabled parties to dominate the electoral process by becoming flush with money as special interest PACs inevitably were diminished in terms of spending and influence.

But party dominance didn't last long.

As noted above, political parties would once again fall prey to lessened importance and influence following the enactment of pay-to-play reforms in 2006, a development that would be reinforced by *Citizens United v. FEC* in 2010, which set loose more independent spending by unions and corporations.

The aforementioned examples show that the flow of money in politics and elections is dictated by changes to statutory law. Sometimes judicial rulings accelerate the changes.

Understanding these patterns can better equip decision makers in New Jersey to fashion laws that better serve the public good by directing money in ways that bring greater accountability to the electoral process. ELEC has set forth recommendations that would help create that accountability by strengthening political parties and putting them in better position to offset the growing influence of independent groups, which often operate in secret with little public oversight.

These recommendations include: electioneering communication disclosure by outside groups, inclusion of PACs under pay-to-play and exclusion of parties under the law; party participation in gubernatorial elections; increased contribution limits for parties; and, pay-to-play disclosure by independent groups. As a personal recommendation, I would add tax credits for contributions to parties and candidates.

It is hoped that the Legislature will consider these common sense recommendations.

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