

# Fixing N.J.'s pay-to-play law is crucial for honest elections



Friday, 21 October 2011 |

14:44 |



**BY JEFF BRINDLE**

## **COMMENTARY**

Two key trends have emerged from the first round of disclosure reports prior to this year's legislative general elections.

First, for both individual candidates and the six major party fundraising committees, fundraising is down from four years ago when

both houses were up for election.

Thus far, candidates have raised 7 percent less than in 2007 and spent 10 percent less. Combined "Big Six" fundraising has decreased by 26 percent and spending by 25 percent.

Perhaps even more interesting is the fact that the funds gap between incumbents and challengers has widened significantly from just a few years ago. Incumbents have raised 84 percent of the funds to 16 percent by challengers.

Both developments have occurred within the last five years. Both mark a sharp departure from anything seen before the five-year period.

Between most legislative cycles prior to 2007, financial activity by legislative candidates grew substantially. Between 1997 and 2001 legislative candidates raised 34 percent more funds and between 2001 and 2003 fundraising increased by 38 percent.

Since 2007, however, the trend has tended downward. Receipts increased by only 6 percent from 2003 to 2007, decreased in the Assembly campaign of 2009 by 18 percent, and declined again in 2011 by 7 percent.

"Big Six" committees have followed a similar path. While fundraising by Republican committees has improved substantially

since the party wrested control of the Governor's seat nearly two years ago, it hasn't been enough to offset a large decline in fundraising by Democratic "Big Six" committees.

During this same period of time that overall financial activity declined, the gap in fundraising between incumbents and challengers widened. In 2009, the differential between incumbent and challenger receipts was 80 percent to 20 percent. This year it is 84 percent to 16 percent. In previous elections it was always closer to 60-40.

So what changed in the last five years to account for these trends?

For one thing the economy, since the 2008 recession, has been continually sluggish. But there have been other periods of slow growth in the economy yet fundraising continued to climb.

Other factors could be that the emergence of independent, outside groups and a proliferation of party-oriented PACs at the local level are siphoning off money from candidates and parties. As yet, the independent groups- 527 and 501(c) issue advocacy groups- have not become pervasive in this legislative year. And some independent groups like these have participated in legislative elections in the past, yet fundraising nevertheless increased.

So the remaining variable is the enactment of the pay-to-play law and the subsequent amendments, executive orders, and pay-to-play ordinances at the local level. All this has occurred since 2006, the exact same period wherein the slowdown in financial activity has taken place.

No one doubts the importance of a strong pay-to-play law. But at the same time, most support the idea of competitive elections. And competitive elections are nurtured by adequate funding that allows candidates to run effective campaigns. A strong pay-to-play law and sufficiently funded campaigns are not mutually exclusive.

At a joint press conference recently involving State Comptroller Matthew Boxer and I, the Comptroller unveiled a report that highlighted the deficiencies in the current pay-to-play law.

In addition to citing the Fair and Open loophole, the report noted that New Jersey's pay-to-play law is confusing and meaningless in stopping the practice of no-bid contracts.

This confusion, combined with the fear that contracts could be forfeited, is primarily responsible for the decrease in campaign

financial activity witnessed during the last three legislative election cycles.

Some contractors who previously were major contributors have simply stopped participating in state elections. Others have drastically scaled back their activity.

In the interest of both a strong public contracting law that protects the public interest and of competitive elections, the Election Law Enforcement Commission has set forth proposals for reforming the law.

They are: one state law applying across the board, elimination of the Fair and Open loophole, disclosure on contracts of more than \$17,500, and a modest increase in the contribution limit applicable to public contractors.

The importance of strengthening, simplifying, and standardizing the pay-to-play law cannot be overstated. The public deserves to know that contributions are not unduly influencing the awarding of public contracts. It also deserves vigorous, honest, and informative campaigns that in this day and age can only be underwritten by adequate funding.

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