

It's time for real pay-to-play reform

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In early April, the Commission will release its annual pay-to-play report.

Last year's report, covering public contractor activity in 2012, revealed that donations had dropped by 23 percent from the previous year.

The report showed that public contractors made \$7.6 million in political contributions. It noted that they received \$5.7 billion in public work, an increase of seven percent over 2011.

In general both donations and public contract dollars have declined since 2006, when the law went into effect.

My guess is that because of the tragedy of Hurricane Sandy, this year's report probably will show public contracts increasing.

Donations by public contractors to candidates and political parties, however, may continue to decline.

Undoubtedly, well meaning reformers will welcome the news. Less money to candidates and political parties is a good thing, right?

Maybe. But there is another side to that story. There is no less money going into the electoral process. It is merely being redirected.

And where is it going? It's going to independent groups, which spent \$42 million during the recent gubernatorial and legislative elections, and to party-affiliated PACs.

Neither group is subject to pay-to-play. Moreover, independent, outside groups often operate in secrecy. So the public is unaware of who is contributing to them and how much they are spending to influence the election.

In a word, the current pay-to-play law, though well intended, has resulted in less transparency.

What's worse, the law is self defeating. Rather than making it easier to connect the dots between contributions and contracts it has made it harder.

The problem with the pay-to-play law is that it is too complicated. There is the state law and there are about 176 local ordinances.

In some instances, the state law applies not only to state contracting but also to county and municipal contracting. But even when local governments remain subject to state law by not adopting their own ordinance, they can still escape it by invoking the fair and open provision.

Fair and open allows local governments to evade the pay-to-play law by simply advertising the bidding process.

In addition there are several executive orders that further serve to complicate the law.

The complexity of the law has resulted in contractors either discontinuing their participation in the electoral process altogether or more likely going outside of the system and donating to PACs and/or unregulated independent groups.

So what can be done? The pay-to-play law should be simplified and strengthened.

The Election Law Enforcement Commission (ELEC) has proposed commonsense reforms that if enacted would accomplish these twin goals.

ELEC has proposed one state law to apply across the board, meaning that the pay-to-play law would encompass both the state and local levels of government. The reforms would eliminate the fair and open loophole and require all contracts of \$17,500 to be disclosed.

Finally, the recommendation calls for the contribution limit to be raised for public contractors from \$300 to \$1,000. This limit would not even be half of the current \$2,600 limit applying to individuals.

These reforms would make the law understandable, strengthen disclosure, end an egregious loophole, and help to offset the influence of outside groups by redirecting money back to candidates and parties.

Governor Christie has endorsed the concept of one state pay-to-play law, as have Senators James Beach (D-6) and Linda Greenstein (D-14). The Senators have introduced legislation that includes many of the provisions included in ELEC's pay-to-play proposal.

It is time for solid pay-to-play reform to move forward so that the public can better follow the flow of money in order to judge the relationship between contributions and contracts. Moreover, it's time for reforms that will help stem the tide of money flowing to independent groups and redirect it back to candidates and parties.

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.