POLITICKERNJ

LOOMING FLOOD OF INDEPENDENT SPENDING CREATES NEED FOR LEGISLATIVE CHANGES

BY JEFF BRINDLE | 03/21/16 10:05 am

A staggering $80 million to $100 million is likely to be spent this year by special interest groups operating independently of candidates and parties.

The reason: ballot questions involving casino gambling, the Transportation Trust Fund, and public worker pensions.

These ballot initiatives will drive spending by special interest groups to heights never before seen in New Jersey. The previous record for a ballot question was the $5.6 million spent (in inflation adjusted dollars) on the 1976 referendum to permit casino gambling in Atlantic City.

Between 2009 and 2015, independent special interest groups spent $67 million on gubernatorial and legislative elections in New Jersey.

If 2016 spending reaches expected levels, it would top seven years of independent spending!

And that's just the beginning. After this year's election follows the 2017 gubernatorial and legislative contests. They too are certain to witness record spending by independent, often anonymous groups.

A flood of independent spending over the next two years is all but certain unless the state's campaign finance laws are overhauled to strengthen political parties, require disclosure by outside groups, and to simplify pay-to-play.

For six years, we at the Election Law Enforcement Commission have been stressing the need for reforms to counter the influence of independent groups.

More recently, I have written several columns that place special emphasis on strengthening the political party system. Now, several well-respected organizations are joining the chorus.

Some academics have long recognized the merits of parties. But now groups like the Brennan Center and the Brookings Institution are also spotlighting the importance of political parties.

In Stronger Parties, Stronger Democracy: Rethinking Reform, Ian Vandewalker and Daniel I. Weiner of the Brennan Center for Justice, wrote the following on September 16, 2015:

“Here, we conclude that targeted measures to strengthen political parties, including public financing and a relaxing of certain campaign finance regulations, could help produce a more inclusive and transparent politics. Party fundraising should not be entirely deregulated due to corruption risks, but 2010’s Citizen United ruling, and the torrent of outside spending that followed, raise important questions about whether diverting money back into the parties can benefit democracy.”

While I do not agree that Citizens United is solely to blame for the “torrent of outside spending,” in that the 2002 McCain-Feingold reforms were the true catalyst for this development, it certainly is good to have the Center look at the need to strengthen the parties.

Besides the Brennan Center, Raymond J. La Raja and Jonathan Rauch of the Center for Effective Public Management at Brookings this month published a report focusing on the importance of state parties.

In their report, they point out that “State party officials generally regard the 2002 Bipartisan Campaign Reform Act (commonly known as McCain-Feingold) as a serious blow. McCain-Feingold blocked national parties from raising large-dollar contributions and sending them to the states, and it also imposed complex federal restrictions on state parties’ fundraising and electioneering activities.”

It might also be said that McCain-Feingold served to divert millions of dollars to independent groups. After special interest groups and individuals were prevented by the law from making unlimited contributions to the national parties, they started spending more money directly on elections. In other words, they started operating independently of candidates or parties.

In their very comprehensive report, La Raja and Rauch make numerous recommendations for strengthening the parties, arguing “that state parties provide political public goods; yet, like many providers of positive externalities, they cannot readily capture all the value they create and so tend to be under-resourced relative to candidates and outside groups.”

Numerous past columns have included proposals for comprehensive campaign finance reform in New Jersey.

With an eye toward strengthening the political party system and offsetting the influence of outside groups, the following have been proposed:

For Parties

A. Raise contribution limits to adjust for inflation.

B. Exempt party entities from pay-to-play contribution limits.

C. Allow state parties to spend directly on gubernatorial campaigns.

D. End the ban on party transfers during primaries.

For Pay-to-Play
A. One state law.

B. Eliminate fair and open provision.

C. Raise contractor contribution limit from $300 to $1,000.

D. Enhance disclosure by contractors by requiring reports if they have at least $17,500 in public contracts. They current disclosure threshold is $50,000.

E. Impose the new $1,000 contribution limit by contractors on special interest PACs.

F. Require disclosure of contractor contributions to independent groups and all contractor contributions, including those under $300.

Independent Groups
A. Registration as required for parties and PACs.

B. Disclosure of contributions and expenditures.

Without question, some of these proposals could meet with opposition from both sides of the ideological spectrum. So it will take political will to enact a comprehensive package like this.

However, doing nothing will result in a further erosion of candidate and political party control over campaigns and elections. Instead, independent and often anonymous groups will continue to increase their influence over all aspects of the state's electoral system.

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.