

STATE LEGISLATION NEEDED TO CLOSE LOOPHOLES IN PAY-TO-PLAY LAWS

BY JEFF BRINDLE | 05/03/16 10:04am



Senator Linda Greenstein, and ELEC's Jeff Brindle and Joe Donohue

Government purchasing agents from throughout the State gathered in Atlantic City last week for a conference sponsored by the Rutgers Center for Government Services.

At the invitation of the Center, which holds seminars for State and local government professionals and produces useful studies on New Jersey government, I spoke about the need to reform the state's pay-to-play law.

As would be expected, the focus of my remarks involved the easiness by which the law is circumvented.

One of the ways mentioned was for party operatives or friends of public officials to set up a political action committee (PAC) that would, supposedly, operate independently of candidates or parties.

Under these circumstances, public contractors, their families, associates, and employees could legally contribute up to \$7,200 each to the PAC, which would then go on to attempt to influence the outcome of the election.

All of this, of course, is perfectly legal under the existing pay-to-play law. Nevertheless, it is difficult to see how the officeholder or candidate in question can possibly be oblivious to the support given his or her candidacy by such a PAC, which to a significant extent is backed by contractor donations.

Ironically, a recent article by Matt Friedman of Politico NJ provides an example of how this tactic is used to effectively, but legally, get around the pay-to-play law.

A PAC termed "American Future Leaders," was recently established by the former campaign manager of the current Mayor of Orange. Associated with the PAC are a couple of Orange employees.

The Mayor maintains that the PAC is independent of him and his campaign for re-election. However, the Mayor was recently honored at a fundraiser run by the PAC and the PAC shares a post office box with the Mayor's campaign account.

According to Friedman, "most of the PAC's fundraising has come from city employees and contractors."

The State's pay-to-play law is inordinately complicated. The State and local governments are subject to it.

However, under the law, municipalities and counties can opt out of the law by writing their own ordinances or invoking the "Fair and Open" bid advertising loophole.

Whether or not the City of Orange is under State law, its own ordinance, or invokes the "Fair and Open" loophole, it is clear that establishing this PAC is a legal way around a very porous pay-to-play scheme in New Jersey.

It also represents a way around the contribution limits under New Jersey's campaign finance law.

To be sure, this situation in the City of Orange isn't unique. It is just the latest example of similar activity throughout the state. It represents a prime example of how the law can be legally skirted and why it is so necessary to reform the law if anyone is to take it seriously.

The New Jersey Election Law Enforcement Commission has set forth a commonsense proposal for improving the pay-to-play law, which, at the same time, would contribute to a stronger political party system.

Moreover, in simplifying the law, these proposals would enhance transparency and make it easier for citizens to connect the dots between a contribution and a contract.

The proposal contains the following:

- One State law to apply across the board;
- The elimination of the “Fair and Open” loophole;
- The inclusion of PAC’s under pay-to-play;
- The exclusion of parties from pay-to-play;
- An increase in the contribution limits applicable to contractors from \$300 to \$1,000;
- Enhanced disclosure; and,
- Disclosure of contractor donations to independent groups.

A recent Pew research study taken last November shows that only 19 percent of Americans trust government. This figure compares with 73 percent of Americans who trusted government in 1958.

Though no data exists for New Jerseyans per sé, in all likelihood a similar pattern exists in the Garden State.

Commonsense and enlightened reform of the state’s complicated pay-to-play law would contribute to enhancing trust in government in New Jersey as well as to greater transparency regarding contributions and public contracting.

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.