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SB 663

The Pinsky/Miller/Cardin Bill

LEGISLATION TO CREATE A VOLUNTARY, PUBLICLY FUNDED CAMPAIGN FINANCE OPTION FOR GENERAL ASSEMBLY CANDIDATES *MODELED ON SUCCESSFUL, PROVEN LAWS IN MAINE, ARIZONA, AND CONNECTICUT*

In Maryland's 2006 election, the total dollar amount of campaign contributions to candidates running for state office jumped to a shocking \$93,629,572 – a 69% increase over the 2002 election. This accelerating campaign inflation rate gives wealthy individuals and special interests an overweening role in the election process.

Less than 3% of Marylanders give a campaign contribution of any kind; and dollars contributed by organizations come overwhelmingly from business interest groups with a financial stake in what they are pushing, not public-interest nonprofits. As a result, opinion polls show majorities believe lawmakers listen more to deep-pocket contributors than to regular voters. The current campaign finance system undermines voter confidence in government.

Many lawmakers, too, dislike the current system. To remain competitive, they feel obliged to spend ever more time fundraising, sometimes even accepting money from interest groups whose agenda they might not support. Many lawmakers would rather spend that time talking to voters, crafting legislation – or with their families and friends.

THE SOLUTION: VOLUNTARY, PUBLIC FUNDING OF CAMPAIGNS

Strict limits on fundraising and expenditures seem to offer the straightest path to reform. But the Supreme Court refuses to countenance all but trivial expenditure limits, calling lower limits a violation of free speech.

It is futile to tinker around the edges of a campaign finance system whose main features the courts declare sacrosanct. We need to adopt a proven and *voluntary* alternative to the status quo. That alternative is *optional* public funding of campaigns as practiced in Arizona, Maine, and Connecticut. SB 663, sponsored by Sen. Paul Pinsky, Senate President Mike Miller, and Del. Jon Cardin, is the result of an official, bipartisan study commission that recommended in favor of such a system for Maryland General Assembly races.

Here's how the voluntary, publicly funded system in SB 663 works:

- **Seed Money.** A citizen contemplating a run for Senate or House as a publicly funded candidate can spend up to \$3,500 of privately raised “seed money” to test the political waters and to qualify for the publicly funded system (see bullet directly below).
- **Qualifying Contributions.** Individuals seeking to run for Senate as publicly funded candidates qualify by collecting “qualifying contributions” of \$5 or more from approximately 350 registered voters in that district. Those running for the House of Delegates in a three-member district qualify the same way. House candidates running in a two- or one-member district collect proportionately fewer qualifying contributions. A candidate must also raise \$1,000 under normal rules.
- **Disbursement Amounts.** If an applicant clears these two qualifying hurdles, a Senate candidate then receives \$50,000 from the state for a contested primary or \$8,000 for an uncontested primary; \$50,000 for a contested general election or \$4,000 for an uncontested general election. A House candidate receives \$40,000 for a contested primary in a three-member district (\$35,000/\$20,000 for smaller districts) or \$8,000 for an uncontested primary (\$6,000/\$5,000 for smaller districts); \$40,000 for a contested general election (\$35,000/\$20,000 for smaller districts); \$4,000 for an uncontested general election (\$3,500/3,000 for smaller districts). A candidate may elect to receive 70% of the total disbursement in either the primary or the general election.
- **Private Fundraising.** In return for the public money, the participating candidate may not accept any private contributions at all to run for the office while in the system (except the “seed money” and “qualifying contributions” described above). Candidates who opt into the voluntary system may keep any pre-existing private campaign account, but while in the system they may not raise money for it or expend from it. The bill does nothing to interfere with normal party-building activities by political parties that are not candidate-specific.
- **Supplemental Public Funds.** If a privately financed opponent outspends the publicly funded candidate, the latter receives matching grants to keep pace, up to 50% of the initial disbursement. So that these expenditures can be monitored, non-participating candidates must report their expenditures once they pass this threshold.
- **Administration/Enforcement.** The money is disbursed to participating candidates from a newly created Public Election Fund administered by the State Board of Elections. This body has the power to levy fines.
- **Flexibility.** A participating candidate spends the public funding during a defined election season on yard-signs, mailings, or in any other way allowable under current law.
- **Slates.** A participating candidate may not belong to a slate or benefit from a slate expenditure while in the publicly funded system.
- **Cost.** The Fiscal Note from past years estimates that the Public Election Fund will need to collect approximately \$7 million per year in order to finance the expected number of candidates who qualify. SB 663 provides a funding source of a tax checkoff beginning in 2011, which will generate approximately \$1 million per year, as well as a one-time transfer of the approximately \$5 million now unused in the defunct gubernatorial publicly funded system. Thus, the system will start with a down payment of approximately \$9 million for its first use in the 2014 election. To fund the system entirely up to the approximately \$28 million it will need per cycle, the bill sponsors will continue to advocate for a dedicated funding source in future years and/or yearly appropriations from General Revenue.
- **Implementation.** The system will be used for the first time in the 2014 election and start with funding of at least \$9 million (see bullet directly above). The bill sponsors will continue to advocate for a dedicated funding source in future years and/or yearly appropriations from General Revenue to reach the estimated \$28 million the fund will need by 2014 to accommodate all the candidates expected to qualify as participants. To the extent there is not enough money to fund all qualified aspirants, candidates will qualify for funding on a first-come-first-served basis.

Other Components of SB 663:

- **Official state study commission** to examine how the system performed in the 2014 election and make recommendations for improvements if necessary.
- **Enabling legislation for all counties in Maryland** to enact their own respective, voluntary publicly funded systems for county-level elections if they so wish.
- **Partial closure of the “LLC loophole”**, by which private contributors create fake LLCs to evade private dollar contribution limits.
- **Increase in private contribution limits for privately funded candidates.** Maryland’s aggregate private contribution limit and private contribution limits to individual candidates have not been raised in many years. Both are below national averages, especially Maryland’s aggregate limit. SB 663 raises the aggregate private contribution limit allowed for individual or corporate donors from \$10,000 per election cycle up to \$15,000 per cycle; it raises the private contribution limit per candidate for an individual or corporate donor from \$4,000 up to \$4,400 (i.e., 10%) per election cycle; it raises the private contribution limit per candidate for a PAC from \$6,000 up to \$6,600 (i.e., 10%); and it raises the committee-to-committee transfer limit from \$7,000 to \$7,700 (i.e., 10%) per cycle. Analysis by the Brennan Center at NYU and by Public Campaign finds that these modest increases will not result in much new private money in Maryland elections and will not swamp the publicly funded system with private dollars.

Advantages of voluntary, public funding of campaigns

- **Voluntary.** Participation in the publicly funded system is voluntary. A candidate may run with private funding under existing rules. Moreover, by leaving the private campaign finance system alone, the Act is immune to judicial challenge.
- **Affordable.** The system needs about \$7 million per year to operate – i.e., only 0.03% of the state’s annual budget. Moreover, if you believe that big contributors do in fact receive wasteful subsidies and tax breaks, public funding of campaigns, by reducing that undue influence, will help promote fiscal prudence.
- **Improved Voter Confidence in Government.** It frees candidates and lawmakers from ever more fundraising, making their jobs more rewarding and removing the appearance of undue influence by big contributors.
- **Incumbent-Neutral.** Each election in Maine, Arizona, and Connecticut, more and more incumbents opt into the system. In 2008, more than half of all incumbents in these states used the publicly funded system. And in these states 90% of incumbents still win re-election (as they do in Maryland). Why? Because incumbents enjoy plenty of other advantages over challengers besides a fundraising edge, such as superior name-recognition, more contacts, more experience, a proven track record, etc. Incumbents in AZ, CT, and ME like the system because it eliminates the worst aspect of their job (fundraising) while not hurting their chance of re-election. And after the election, many incumbents report that they feel freed from the suspicion that they listen more to deep-pocket contributors than to regular constituents.
- **Popular.** An October 2007 Gonzales poll found that 72% of Marylanders favor this reform. In 2006, the Pinsky/Cardin bill passed the House of Delegates. In 2007, it fell but one vote short on the Senate floor. It is endorsed by the *Baltimore Sun*, *Washington Post*, Progressive Maryland, Common Cause, League of Women Voters, Sierra Club, AFL-CIO, NAACP, Maryland PIRG, Md. Assoc. of Nonprofits, SEIU, Baltimore Jewish Council, and many other organizations.
- **Tested and Proven.** Through multiple election cycles in Maine, Arizona, and Connecticut, the system has proven to be effective as well as popular with the public and candidates.

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