

PCOL – Process Committee Recommendation on Campaign Finance

Background

The role of money in politics has long been the most critical issue in American democracy, including legislative elections. A generation of reformers as well as practical legislators has wrestled with this issue, while costs for a contested two-year term in Oregon's legislature have multiplied ten-fold or more with no sign of slowing.

Once, daily life provided many occasions for citizens to meet others who might represent them in public office, voters would actually attend public meetings to hear candidates' speeches and debated, and competing newspapers provided both news and editorial assessments of legislative campaigns. This left room for few paid intermediaries between candidates and voters. The television age radically changed the nature of elections, forcing campaigns to raise and spend large sums to reach voters in their homes by printed or electronic advertising produced by professional consultants, while it reduced the space that print media devoted to local public affairs and candidates, further increasing the dependence of elected officials on well-heeled financial backers and reducing genuinely competitive elections. How can these adverse effects be reversed?

Distinct Problems

Testimony as well as published reports show three distinct but connected problems with existing funding practices. One is the sheer magnitude of funding a modern, professionally produced campaign. A second problem is the direct link between leaders of the competing legislative parties in each house, who direct their parties' positions on the agenda and the substance of legislation, and staffs who are charged with raising funds to recruit and elect candidates to gain majority control. The third problem is the practice of diverting funds that ostensibly are raised for one member's campaign, either to a different candidate's campaign, or to support the member's office or living expenses.

The committee calls on the Legislative Assembly to undertake specific reforms with respect to these related problems.

Recommendations

1. The 2007 Legislative Assembly should appoint a special commission, with outside advisers, to consider campaign finance reform including financing alternatives and disclosure procedures.

Many well-meaning reformers continue to seek legal limits on campaign contributions, although First Amendment protections for political expression either invalidate such limits or drive them instead into direct political advertising independent of the candidate's own campaign. Nor do limits aid challengers to mount competitive campaigns.

For a half-century, the logical and liberating solution has been to offer qualifying campaigns some degree of public financial support for essential campaign needs, **on condition** that the campaign limits its overall spending accordingly. Fifty years ago, Oregon's U.S. Senator Dick Neuberger, a former state senator, introduced the first such bill in the U.S. Congress. Years later the U.S. House and Senate passed more detailed versions of such plans, though they did not agree on the same bill. Partial funding, however, has been available to presidential candidates for many years. Other states and cities now offer experience with public campaign subsidies.

In 1975, Oregon's Legislative Assembly passed and referred to the voters a carefully limited plan, introduced by Representative Hardy Myers. This plan provided no tax money directly to political

candidates or their campaign staffs. Instead, it provided payments only for expenditures for communication with the voting public (regardless of the chosen media), and to do so only after a determination that the campaign had observed the corresponding limits on total campaign spending. At the time, the bill was opposed on grounds that no need for real reform had been shown. Given the vast and continuing growth of campaign costs, this is not a plausible argument today.

2. The 2007 Legislative Assembly should adopt rules that a legislator who takes responsibility for raising campaign funds for others beyond his or her own campaign may not also serve as a presiding officer, majority or minority leader, or chairman of a legislative committee.

Oregon's legislative houses presently give their presiding officers and majority leaders dominant power over the progress and ultimate fate of every item on the state's legislative agenda. This places decisive weight on the ability to win a partisan majority of members, which in turn requires getting interested sources to provide the necessary funds to attract and to elect promising candidates.

In principle, one could argue that this political function should be performed by parties or other organizations that are kept wholly separate from those who are engaged in doing the public's business, but one cannot ignore the legislators' stake in the election of like-minded candidates to further their own goals. Partisan campaign committees have long been fixtures in state legislatures as well as in the Congress. But the latter's recent dramatic excesses in mixing fund-raising with specific legislative favors, little short of bribery or extortion, remind us of the danger of combining fund-raising with exercising official authority over the priorities and progress of legislative measures. Realism demands breaking the link between fund-raising and legislative leadership.

3. Affirm the principle that campaign contributions are not the candidate's property and adopt the recommendation under consideration by the Oregon Law Commission on the legal disposition of such funds when of no further use to a candidate's campaign.

Present Oregon law leaves room to divert supposedly "excess" funds, ostensibly collected for a legislator's election campaign, to other uses, including expenses incurred in the performance of his or her office. The practice is unacceptable. It shows ignorance or misunderstanding of the principle that campaign funds are not gifts to the candidate; they are contributed for campaign purposes to the designated campaign committee and its treasurer, who are legally responsible for their use.

Some defend the practice because it permits lower-income citizens to serve in Oregon's low-paid legislature. The better answer is to increase legislative pay and expense allowances, but only after the legislature reforms the role of money by the steps set out here. Collection of "excess" campaign funds for a candidate with little serious opposition would be an obvious device to circumvent the legal restrictions on gifts to public officials. The Oregon Law Commission, in its two-year review of Oregon's public ethics laws, is considering tight restrictions on the disposition of funds unspent when a candidate's political campaigns end.

4. Make necessary improvements in legislative salaries and expense allowances only after adoption of the foregoing reforms.