

FIVE PRIORITY ELEC RECOMMENDATIONS

A. SIMPLIFY AND UPDATE PAY-TO-PLAY LAW

a. COMBINE PAY-TO-PLAY RESTRICTIONS INTO A SINGLE LAW THAT APPLIES STATEWIDE. CURRENTLY, COUNTY AND LOCAL GOVERNMENTAL BODIES CAN SET DIFFERENT PAY-TO-PLAY STANDARDS THAN THE STATE

- Rationale: A thick layer of laws and executive orders have created a bewildering maze for trying to limit pay-to-play abuses. It creates confusion and difficulty for both the regulated community and regulators along with needless legal costs.

b. REQUIRE CONTRACTORS TO FILE ANNUAL DISCLOSURE REPORTS WITH ELEC IF THEY HAVE AT LEAST \$17,500 IN PUBLIC CONTRACTS; CURRENTLY, THE DISCLOSURE THRESHOLD IS \$50,000

- Rationale: Disclosure is one of the simplest, cheapest ways of keeping official abuses in check.

c. REQUIRE CONTRACTORS TO DISCLOSE ALL CONTRIBUTIONS MADE TO 527 AND 501C COMMITTEES AS WELL AS SUPERPACS

- Rationale: These federal political non-profit groups are becoming a dominant force today in national and state campaigns. Requiring contractors to list their contributions to these groups will put a spotlight on efforts to get around pay-to-play contribution limits.

d. ALLOW CONTRACTORS TO CONTRIBUTE UP TO \$1,000 BEFORE THEY RISK LOSING A CONTRACT; CURRENT CONTRIBUTION THRESHOLD IS \$300

- Rationale: Efforts to curb contractor influence over candidates and parties have seriously constrained fundraising for both groups. Raising the contribution limit will help provide more funds to them while still keep contractor contributions well below those of other political donors.

e. END "FAIR-AND-OPEN" LOOPHOLE THAT ALLOWS CONTRACTORS TO MAKE MUCH LARGER CONTRIBUTIONS IF A COUNTY OR MUNICIPALITY ADVERTISES THE CONTRACT

- Rationale: This loophole gives contractors a legal end-run around pay-to-play contribution limits while creating an illusion that the law is still being fully enforced. Extending the prohibition that applies to state contractors to counties and municipalities should greatly reduce the "pay-to-play" influence of business entities.

f. REMOVE PAY-TO-PLAY RESTRICTIONS FROM STATE, COUNTY AND LOCAL POLITICAL PARTIES WHILE IMPOSING THEM ON CONTINUING POLITICAL COMMITTEES (PACS)

- Rationale: The rapid rise of independent groups has seriously weakened political parties, which are more accountable and transparent because they have long been required to file detailed disclosure reports. Letting contractors give more to parties within regular contribution limits will help ease party funding woes. Today's fast internet era-disclosure should help discourage contractors from trying to use party committees to improperly influence government officials. Continuing Political Committees, commonly known as PACs, often have been used by contractors to get around pay-to-play contribution limits on candidates and parties. Tighter contribution limits on PACs along with allowing larger contributions to parties should curb this trend.

B. ENACT LEGISLATIVE CHANGES TO STRENGTHEN POLITICAL PARTIES

a. RAISE CONTRIBUTION LIMITS TO ADJUST FOR INFLATION

- Rationale: The law allows ELEC to raise contribution limits for gubernatorial candidates every four years to offset inflation. But contribution limits that apply to other candidates, parties and PACs have not been adjusted for inflation since a legislative freeze took effect in 2004. Adopting ELEC's latest inflation adjustments will ease the fundraising squeeze.

b. ALLOW PARTIES TO SPEND DIRECTLY ON GUBERNATORIAL ELECTIONS

- Rationale: Current state law forbids state parties from spending directly on gubernatorial campaigns. ELEC now believes this ban weakens parties while at the same time further strengthens independent groups that can spend millions attempting to influence gubernatorial contests.

c. END BAN ON COUNTY PARTY TRANSFERS DURING PRIMARIES

- Rationale: Though well-intentioned when it was first adopted in 2004, ELEC now believes this ban weakens parties.

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C. REQUIRE INDEPENDENT SPECIAL INTEREST SPENDERS TO DISCLOSE CONTRIBUTIONS AND EXPENDITURES JUST LIKE CANDIDATES AND PARTIES

- a. **CURRENT NEW JERSEY LAW REQUIRES INDEPENDENT CAMPAIGN SPENDERS ENGAGED IN "EXPRESS ADVOCACY" TO DISCLOSE ONLY THEIR EXPENDITURES. EXPRESS ADVOCACY MEANS EXPLICITLY URGING VOTERS TO SUPPORT OR OPPOSE CANDIDATES USING TERMS LIKE "VOTE FOR" OR "VOTE AGAINST."**
- b. **SIMILAR DISCLOSURE ALSO WOULD APPLY TO ANY COMMUNICATION THAT IS THE FUNCTIONAL EQUIVALENT OF EXPRESS ADVOCACY BECAUSE IT CAN BE INTERPRETED BY A REASONABLE PERSON ONLY AS ADVOCATING THE ELECTION OR DEFEAT OF A CANDIDATE, TAKING INTO ACCOUNT WHETHER THE COMMUNICATION INVOLVED MENTIONS A CANDIDACY, A POLITICAL PARTY OR A CHALLENGER TO A CANDIDATE, OR TAKES A POSITION ON A CANDIDATE'S CHARACTER, QUALIFICATIONS OR FITNESS FOR OFFICE.**
- c. **ELEC PROPOSES THAT INDEPENDENT GROUPS THAT SPONSORS EXPRESS ADVOCACY ADS OR THE FUNCTIONAL EQUIVALENT THEREOF IDENTIFY ALL CONTRIBUTIONS OF \$5,000 OR MORE.**
 - Rationale: Since the landmark case *Buckley v. Valeo* in 1976, New Jersey has had the legal authority to require disclosure of contributions by independent groups that engage in express advocacy. Since the more recent *Wisconsin Right to Life v. FEC* in 2007, it has had the authority to require disclosure for functionally equivalent ads. In both cases, it has failed to do so, largely because independent spending was not a major factor in state campaigns until the last decade. With independent spending up 11,458 percent since 2005, it is more important than ever to expand express advocacy disclosure rules for independent spenders.
- d. **CURRENT LAW DOES NOT REQUIRE DISCLOSURE REPORTS FROM INDEPENDENT GROUPS THAT RUN ISSUE-ORIENTED CAMPAIGN ADS KNOWN AS "ELECTIONEERING" ADS. ELEC PROPOSES THAT INDEPENDENT GROUPS THAT SPEND \$10,000 OR MORE ON CANDIDATE-FOCUSED ADS BE REQUIRED TO FILE REPORTS**

LISTING CONTRIBUTIONS ABOVE \$5,000 AND ALL EXPENDITURES IF THE ADS RUN AFTER JANUARY 1 OF AN ELECTION YEAR. DISCLOSURE WOULD APPLY TO COMMUNICATIONS BY NETWORK OR CABLE TELEVISION, RADIO, INTERNET, DIRECT MAIL, OTHER PRINTED LITERATURE, TELEPHONE AND BILLBOARDS.

- Rationale: New Jersey currently does not regulate electioneering ads by independent groups even though the federal government and about 23 other states have such disclosure rules. Disclosure rules do not limit contributions going to independent spenders. They simply require independent groups to follow the same rules as candidates and parties.

D. CANDIDATES WHO SPEND CAMPAIGN FUNDS ON DINNERS OR OTHER MEETINGS MUST KEEP DETAILED RECORDS, INCLUDING WHO ATTENDED THE EVENT, WHAT WAS PURCHASED AND WHY IT WAS CONSIDERED "ORDINARY AND NECESSARY."

- Rationale: More disclosure for the public means less chance that a candidate will misuse campaign funds for personal use.

E. ENACT LEGISLATION TO AUTHORIZE PUBLIC FINANCING IN THE EVENT OF A SPECIAL GUBERNATORIAL ELECTION

- Rationale: Ensures that candidates involved in special elections can avail themselves of public financing just like candidates in regular election years.

F. (FOR A COMPLETE LIST OF ALL RECOMMENDATIONS, SEE LEGISLATIVE SECTION OF LATEST ANNUAL REPORT AT WWW.ELEC.NJ.GOV).

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