

FOR STATE, COUNTY COMMITTEES

BY JEFF BRINDLE

The legal fight over the constitutionality of the McCain-Feingold law has begun in federal court. A three-judge panel is hearing arguments by teams of lawyers on both sides of the issue. Regardless of the decision, the case will ultimately be heard by the U.S. Supreme Court.

While not predicting what that decision will be, suppose the Supreme Court overturns *Buckley v. Valeo*, its 1976 decision upholding contribution limits but prohibiting expenditure limits, and finds McCain-Feingold to be constitutional? What then are the ramifications for New Jersey?

McCain-Feingold contains many provisions. Among them are a ban on soft money, a ban on corporate and union communications within 30 days of a primary and 60 days of a general election, and an increase to \$2,000 of the limit on contributions to candidates. All apply, of course, to federal elections and federal candidates.

There is another provision that has received less attention, although it is significant in terms of its potential impact on New Jersey electoral politics. McCain-Feingold creates a new fund-raising category known as "Levin funds," under which state, county, and municipal party committees are authorized to receive heretofore soft money dollars. In fact, national party operatives are allowed to direct soft money specifically to these committees.

This soft money is subject to certain conditions. Party committees may set up special accounts for Levin funds. Contributions directed to these accounts are limited to \$10,000 or, if limits to parties under state law are less than \$10,000, to the state limit. And finally, any communication underwritten by this money cannot refer to federal candidates.

Despite these restrictions, these accounts will be conduits for soft money that previously went to national parties, but will now flow into state, county, and perhaps even municipal

COMMENTARY

party organizations. In New Jersey, the immediate impact will be a further strengthening of these entities, already empowered by the 1993 Campaign Finance Reform Law.

This reform followed a 1989 U.S. Supreme Court decision (*Eu v. San Francisco Democratic Central Committee*) declaring California's Open Primary Law unconstitutional. A New Jersey Superior Court subsequently nullified the State's Open Primary Law as well. Political parties are now free to endorse candidates in a

Changes in campaign finance laws have resulted in money and power flowing to the parties, particularly the state and county party committees. This "repartyization" has transformed politics in New Jersey.

primary, fund them, and provide the party line on the ballot.

What the 1993 reform did was to make the party system stronger. Like a phoenix rising from the ashes, political parties, marginalized in the 1980's, were reborn.

The campaign finance reform amendments of 1993 changed the way campaigns are financed in New Jersey. The most important changes involve the enactment of limits on contributions to candidates and parties. By establishing a contribution limit scheme that promotes political parties, the electoral landscape was abruptly altered.

Under the scheme, individuals could contribute a maximum \$1,800 per election to candidates. Political

action committees (PACs) could contribute up to \$5,000 per election. Political parties, however, could receive up to \$25,000 annually regardless of source. Moreover, they were unlimited in terms of spending on their candidates.

Though the gap between candidates and state parties has narrowed slightly due to periodic inflationary adjustments to candidate limits and a recent statutory change setting the state party limit at \$25,000, the differential is still wide. And it is wider still when comparing limits on candidates with limits on county party organizations. Due to the inflationary adjuster, contributions to county party organizations can reach \$37,000 per year.

These changes have resulted in money and power flowing to the parties, particularly the state and county party committees. In effect, "repartyization" has taken place in New Jersey.

For example, in 1990, the Democratic State Committee (DSC) and the Republican State Committee raised a combined total of \$2.7 million. In 1997 they raised \$10.7 million. By 2001, though, the state party committee receipts totaled \$24.6 million. During this period of "repartyization," state party fundraising increased by over 800 percent.

County party committees were likewise transformed during this period. A report published by the New Jersey Election Law Enforcement Commission showed that between 1986, a low point in party strength, and 1996, fundraising by county party organizations rose from \$2 million to \$9.4 million, a 370 percent increase. In 2001, this figure was \$13.8 million. In 15 years, these once dying entities have increased their fundraising by a robust 540 percent, by far exceeding the rate of inflation.

A MCCAIN-FEINGOLD WINDFALL

A recent Wall Street Journal editorial pointed out that one of the unintended consequences of McCain-Feingold is the redirecting of soft money into "shadow committees" like "Empowerment for a New Century" (Democratic) and the "American Spirit Fund" (Republican). It suggests that the money might therefore be harder to track.

A *Star-Ledger* editorial rightly made the same point recently. It stated "The soft money spigot—through which corporations, unions, and wealthy individuals poured unregulated millions into the coffers of both national party organizations, up to \$500 million, this year—was officially shut off after the November 5th elections by McCain-Feingold. Washington's wise guys winked when the law was enacted; no way, they said, would either party let that kind of campaign

grease get away so easily. Were they ever right?"

Both of these editorials are correct. What is being overlooked, however, is the impact on New Jersey and other states of the provision authorizing Levin funds. For New Jersey, in particular, a state that permits corporate and union contributions, the directing of soft money dollars to state, county, and municipal party committees will result in an even stronger party influence over the electoral process. In fact, the flow of these dollars may well jack up their fundraising totals by as much as 20 percent per year. And in a system where money has been called "the mother's milk of politics," McCain-Feingold's provision for Levin funds promises to ensure the continuance of a very strong role for the parties.

Of course, this result is not necessarily bad. In fact, political scientists

have for years urged laws that would restore party strength. It is very expensive to run a campaign in New Jersey and, to the extent that parties are important players in the process, a more informed electorate and higher voter turnout may result.

What is important, though, is for the new political and electoral landscape in New Jersey to be clearly understood. Understanding the effect of McCain-Feingold, and past reforms, is a step in that direction and may help in the evaluation of what, if any, changes in the campaign laws need to be made.

Jeff Brindle is the Deputy Director of the New Jersey Election Law Enforcement Commission and an adjunct instructor of political science at the College of New Jersey. The opinions presented are his own and are not necessarily those of the Commission or the College.



Trenton's newest place to meet.

Revolutionary meetings will happen starting in early April 2002 at the new Lafayette Yard Marriott Conference Hotel. You'll find first class meeting space in an exquisitely designed environment for conferences, enhanced by state-of-the-art facilities, with a dedicated professional staff all at exceptional value. When it comes to planning your next meeting, ask for our Complete Meeting Package and we'll provide the ultimate meeting experience by streamlining all the details for your meeting agenda.

- 197 guest rooms and 4 hospitality suites
- 10 meeting rooms
- 16,000 square feet of meeting space
- 6,015 square foot ballroom divides into three sections
- 10,800 square feet of meeting space in the hotel
- Access to 10,700 square feet of meeting space and 1,800 seat Amphitheater in the War Memorial

**Lafayette Yard
Marriott
Conference Hotel**

1 West Lafayette Street • Trenton, NJ 08608 • (609) 421-4000
www.conferencecenters.com