

Texting campaign contributions is easy fundraising but lacks full disclosure



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BY JEFF BRINDLE

COMMENTARY

It's been said that the states are laboratories of democracy. Experiments in public policy occur in one state and, if successful, are adopted by other states or even by the federal government. One such experiment is brewing in California. The California Fair

Campaign Practices Commission, which oversees campaign finance regulation, may allow texting of contributions.

Undoubtedly, this policy would make fundraising easier. On the other hand, it would make it more difficult to determine the source of funds, potentially hurting disclosure.

CTIA – The Wireless Association has asked both California and the Federal Election Commission whether contributions could be raised via text messages. While the FEC has put off the issue, at least for now, California regulators are moving forward.

Roman Porter, spokesperson for the California Commission recently told Politico “my hope is that...we can develop a model that other states see as useful,” according to Politico reporter Michelle Quinn.

Texting contributions is the latest twist from new media that is changing the electoral landscape. It already is being used by relief organizations to help disaster victims. The American Red Cross has set up a specific number where people can provide a \$10 contribution by simply texting “redcross” to that number. At one point in January 2010, when the National Football League promoted the number, Red Cross was receiving \$500,000 an hour, according to a New York Times story entitled “A Deluge of Donations via Text Messages.”

Regarding campaign fundraising, new media presents candidates with novel and potentially lucrative ways of raising money. Like various forms of online fundraising, text messaging lends itself to cultivating the fields of small donors. That's good.

Yet, while texted contributions may open the door to a new way of political participation, it represents another in a long line of challenges facing disclosure agencies.

As I mentioned in an earlier column on online fundraising, by discarding the traditional direct contribution arrangement between donor and candidate, accurate disclosure may be impaired. Especially in the final days of a campaign, incomplete or erroneous reporting may occur.

These issues are serious enough that they made the nation's major campaign finance regulator, Federal Election Commission, hesitate to approve texted contributions. When CITA-The Wireless Association asked the agency to issue an advisory opinion on this question, the FEC said no, at least initially.

According to Quinn, the Politico reporter, "the FEC said it was concerned that text contributions would make it more difficult to determine whether corporate funds were being used for political contributions or to keep anonymous donors from exceeding the \$50 reporting thresholds."

A spokesperson for the FEC told her the question could be revisited because the opinion was in response to a specific set of questions.

Despite the initial thumbs down reaction by the FEC, the California Commission seems poised to act. And who knows when ELEC will face a similar request?

There is no doubt that new media, as well as the Wild West atmosphere hovering over campaign finance law in general, is keeping regulators on their toes.

While we at the Commission will be interested to see how California goes about regulating texting, we are not going to sit around waiting. Texting of contributions is sure to present a challenge to disclosure at some point in New Jersey. Therefore, staff at the Commission already is looking at ways to insure that texted contribution activity gets the same light shined on it as all other forms of fundraising.

While the issues presented by texting are challenging, they are not necessarily insurmountable. ELEC already allows New Jersey candidates to collect contributions through credit card companies and PayPal. But transparency in the area of campaign financing is an essential ingredient in a democracy that is both responsive and vibrant. While new ways of raising money to encourage participation should be encouraged, it should also be free of any hint of secrecy or inaccuracy.

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.