

Pay to Play Reforms

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COMMENTARY

For the second time since 2009, the Moorestown Township Council voted August 19 to weaken its once stringent ordinance limiting contractor donations.

In doing so, it not only diluted its own local ordinance, but passed a new one that is weaker than the state's pay-to-play law.

Nothing symbolizes the need for one state law better than the action taken by the Moorestown governing body.

Legislation enacted in May 2006, enables counties, municipalities, boards of education, independent authorities and fire districts to adopt local pay-to-play ordinances.

Custom holds that in permissive legislation like this, locally adopted ordinances are equal to or more stringent than state law.

That certainly appeared to be the intent of the cosponsors. "It is the intention of the Legislature to encourage counties and municipalities to enact tough pay-to-play ordinances," said then-Assemblyman Michael Panter (D-12th).

The problem with Chapter 271 is that its language is vague, and doesn't stipulate that local pay-to-play laws must be at least as stringent as the state law.

Even without separate local laws, the state's law is overly complex. Permitting local governing bodies to pass their own ordinances creates an even bigger quagmire. Especially when they can change them after every election.

Moorestown Council previously scaled back its law in 2009 because it was considered "too broad." Several local entities in places like Bergen, Monmouth and Gloucester counties recently have moved to ease tough restrictions enacted in previous years.

The recently passed ordinance in Moorestown raises the annual amount local contractors can give candidates from \$300 to \$2,600. It also allows contractors to give \$7,200 to local party committees, or to PACs.

The state pay-to-play law limits contractor donations to \$300 per election. This limit also applies to local contractors, unless local governing bodies invoke the so-called “fair and open” loophole, which waives the \$300 limit if the contract is publicly advertised, or if they adopt their own ordinances. About 183 local government bodies have adopted their own ordinances.

The fact that municipalities and counties can bypass state law in these ways is a stinging indictment of existing pay-to-play laws.

The New Jersey Election Law Enforcement Commission recognized early on that the law needed to be simplified and strengthened.

It recommended legislation be enacted that establishes one state law, enhances disclosure, abolished the fair and open loophole, and raises contractor limits to \$1,000.

Governor Chris Christie has endorsed similar proposals.

Most of ELEC’s recommendations have been included in legislation introduced by Senator James Beech and Linda Greenstein. The bill generally would impose a \$1,000 contribution limit on contractors. But it would raise the contractor contribution limit to \$3,000 for state, county and local political parties for contracts awarded through a “fair and open” process.

To avoid confusion and complexity, to strengthen disclosure and to avoid the pitfalls represented by Moorestown’s recent action, legislation should be enacted that will incorporate these proposals and reform New Jersey’s pay-to-play statute.

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The opinions presented here are his own and not necessarily those of the Commission.***