

IE spending: Filtering down to the local level with a BANG

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First nationally, next in the states, and now municipal.

That's the trend. Outside group independent spending became noticeable during the Clinton administration, accelerated following McCain/Feingold, and climaxed after Citizens United.

During the 2012 presidential primary and general election cycle, independent spending by Super PACs and other outside groups reached a record \$1 billion.

In the 2013 statewide elections in New Jersey, independent spending surpassed anything imaginable just one year before. Independent groups spent over \$41 million attempting to influence the gubernatorial and legislative elections, as well as ballot questions.

Now, outside group spending is filtering down to the municipal level, not with a whimper but with a bang.

Primarily in the Newark mayoral election, but also to an extent in Trenton, independent groups are making their presence known.

In this tale of two cities, \$2.7 million dollars is estimated to have been spent by independent groups so far. The bulk of this spending has been in Newark, \$2.6 million, with approximately \$100,000 spent in Trenton.

These numbers, of course, do not take into account Trenton's runoff election which could increase the amount spent independently.

These numbers far outdistance that which was spent just last year in Jersey City's May election for mayor, when \$251,000 was spent by outside groups.

This represents a tenfold increase in just one year. So the trend experienced at the state level is now being duplicated at the local level.

So what's the problem? It's not that money is being spent to influence an election. It's not even that this money is being spent by groups and individuals participating independently in the election

The problem is that these groups and individuals often operate anonymously, making them considerably less accountable than traditional political parties and candidates.

It's that the line between political parties, regulated by statute, and outside groups is being blurred, with outside groups even assuming many of the traditional roles performed by the parties.

Moreover, whereas it is more difficult for citizens to link these outside groups to particular candidates, it is infinitely easier for these groups, acting as surrogates for candidates, to undertake personal attacks whose credibility often comes into question.

Independent groups are not required to report their financial activity in New Jersey unless the group expressly supports or opposes a candidate.

“Expressly supports” means calling for citizens to “vote for” or “vote against” a named candidate. And even when the group expressly supports or opposes a candidate only the amount spent is required to be disclosed.

So much of independent spending is beyond disclosure because it’s easy to design messaging that is clearly in support or opposition to a candidate despite the fact that the above magic phrases are not used.

In remarks made recently, Governor Christie supported greater transparency in the electoral process.

In the Senate, Bill Number 938 has been introduced by Senator James Beach. This bill would simplify the Pay-to-Play Law, require 48-hour real time reporting of contributions and expenditures of more than \$300, and importantly, require registration and disclosure by outside groups.

Groups spending independently cannot be limited in terms of the contributions made to them, nor can they be restricted in terms of how much they spend. But, under Citizens United, which came out strongly for disclosure, they can be made to provide information about their activities.

Passage of this bill would not only be in the best interest of a public that clamors for transparency, but certainly in the interest of the electoral process in New Jersey.

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.