

Simplify Pay-to-Play with one state law

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BY JEFF BRINDLE

A lone PAC contribution to Trenton Mayor Eric Jackson's campaign highlights the need for pay-to-play reform in New Jersey.

During the recent mayoralty election in Trenton, newly elected Mayor Eric Jackson received an \$8,200 campaign contribution from Initiate Civic Empowerment PAC (ICE).

What raised the eyebrows of some in Trenton was the fact that one of the partners in the law firm Long, Marmero and Associates served as treasurer of the PAC.

In turn, the firm was granted a public contract worth \$20,000.

A local blogger, Kevin Moriarty, charged that if the law firm received the contract it would undermine the city's pay-to-play ordinance.

The blogger told the Trenton Times, "the firm should be barred from doing business with the city because the principals are able to influence and select the recipients of the PAC dollars."

City attorney David Minchello, after reviewing the matter, determined that no violation of Trenton's pay-to-play law occurred.

Trenton's ordinance prohibits public contractors from contributing to PACs that in turn contribute to candidates participating in the city's election.

ICE, the city attorney found, did not violate the city ordinance in that none of the partners of Long, Marmero and Associates donated to the PAC.

Legally speaking, city attorney Minchello is correct. No violation occurred. However, as blogger Moriarty points out, letting a partner serve as treasurer may violate the spirit of the law, thus giving the appearance of a conflict.

Pay-to-Play law not only appears confusing, it is confusing. It is a panoply of a dizzyingly complex array of statutes, ordinances, and executive orders.

For example, local governments can comply with state law, adopt their own ordinances, which can be stronger or weaker than state law, or bypass pay-to-play altogether by invoking the "fair-and open loophole."

Fair and open allows for local governments to publicly advertise their bids and thereby opt out of the law's restrictions.

At last count, 176 local governments have adopted their own ordinances, which can come in various shapes and sizes. What's more, when local policies change- often ordinances change as well.

So what needs to be done?

Legislation needs to be enacted that would simplify pay-to-play by establishing one state law that would apply across the board to state contracting as well as to local contracting.

In other words, every governmental entity in New Jersey should comply with the same law.

The Election Law Enforcement Commission has made this proposal along with several other accompanying recommendations that would reform pay-to-play and strengthen disclosure.

Besides one state law, the Commission recommends that all contracts of more than \$17,500 be disclosed. This would enhance transparency in government.

It also proposes eliminating the fair-and-open loophole that allows local government to opt out of pay-to-play.

Finally, the Commission recommends raising the contribution limit applicable to public contractors from \$300 to \$1,000. This small step would discourage public contractors from attempting to circumvent the law by establishing PACs or giving to independent groups.

These commonsense reforms would go far toward making a well intentioned law more understandable and enforceable. It would also help to offset some of the increasing influence of independent groups over our electoral system.

Further, it would help to dispel the confusion that often reigns at the local level of politics as evidenced by the situation in Trenton.

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.