

SECRET INDEPENDENT INFLUENCE ON ELECTIONS AT 'ASTOUNDING' LEVELS

BY JEFF BRINDLE | 11/02/15 12:09 pm

There is no better illustration of the dominant role in elections undertaken by independent groups in New Jersey than this year's Assembly contest.

For some time now, this column has described how independent groups like Super PACs and 501(c)4 organizations are assuming the traditional roles once played by political parties and even candidates themselves.

Activity in this year's election certainly underscores this point.

As shown in ELEC's recent analytical press release, financial activity by the Big Six party entities continues to decline.

In comparing this year's totals to those in 1999, the last time only the Assembly ran for election, spending as adjusted for inflation, is down an amazing 47 percent.

As of the third quarter, the two state parties and four legislative leadership committees have spent a combined \$3.6 million. Moreover, the state's 42 county parties combined had spent about \$4.1 million through September. The total for party and leadership committees- \$7.7 million.

Compare that to the \$8.5 million spent by independent groups in the general election alone.

Spending by these outside groups equals 42 percent of total spending in the general election by 160 candidates for Assembly.

These are astounding figures. They undoubtedly point to the growing influence of often secretive independent groups over New Jersey's electoral process.

As in other states, New Jersey faces an important decision. Does it want to continue down this path toward an electoral future dominated by independent group spending that is often anonymous and secretive? Or does it want to change state law and return to a system whereby political parties and candidates thrive in an atmosphere of transparency?

Recent New Jersey history offers several examples of how changing the law alters the electoral landscape.

In the 1980's, the political party system in New Jersey, for a variety of reasons, was very weak.

Reform legislation enacted in 1993, coupled with a U.S. Supreme Court decision in 1989 that allowed parties to endorse candidates, changed that situation. Political parties in New Jersey, particularly the county parties, were greatly strengthened.

Following other reform legislation enacted in 2004, which instituted the state's pay-to-play law, the electoral landscape changed again.

The pay-to-play law, together with the McCain/Feingold reforms of 2003 and the U.S. Supreme Court ruling in Citizens United, ushered in the era of independent group influence and waning political party strength.

Without new reforms, voters could be faced with a future where they have little idea who is spending the money to elect public officials. The new legislation would remake the parties and require disclosure by independent groups. It would alter the electoral landscape in New Jersey again- this time for the better.

Under those reforms, political parties should be exempt from the pay-to-play law while special interest PACs should be included in it. Further, limits on contributions to political parties and candidates should be raised somewhat.

Independent groups should be subject to registration and disclosure requirements and public contractors that contribute to these groups should be required to disclose their contributions.

The U.S. Supreme Court has consistently upheld registration and disclosure requirements for political parties and candidates despite First Amendment free speech and Assembly rights. Politically active independent groups, which unlike parties and candidates face no contribution limits, should at least submit to these milder forms of regulation.

Political parties in New Jersey should also be able to contribute to gubernatorial candidates or spend independently on their behalf.

Finally, the Supreme Court should reconsider Citizens United and allow reasonable limits on contributions to independent groups.

Individual citizens themselves would still enjoy First Amendment protections to spend as much of their personal funds as they want independently. But no longer would the spending be filtered through an often anonymous group.

These commonsense reforms would go far toward promoting the public good.

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.