



**CENTER *for*  
COMPETITIVE  
POLITICS**

*Congress shall make no law...*

**Statement of**

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**Before the Hearing of the**

**Maryland**

**Senate Education, Health & Environmental Affairs Committee**

**With Respect To**

**Senate Bill 663**

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**Annapolis, MD**

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I appreciate the opportunity to submit testimony with respect to Maryland Senate Bill 663 – the Public Campaign Financing Act for Candidates for the General Assembly. My name is Kristin Meade, and I am the Director of Government and Coalition Relations at the Center for Competitive Politics, headquartered in Alexandria, Virginia. The Center’s mission is to educate the public on the role of money in politics and to protect the First Amendment political rights of free speech, assembly, and petition.

Quite often, advocates of bills similar to this one call them “clean elections” legislation. They tout a variety of claims to legislators that by eliminating big money in politics you, as legislators, will get rid of “special interest” influence, make campaigns more competitive, reduce campaign spending, allow more women and others from “non-traditional” backgrounds to get elected, and improve public opinion of state government.

However, so-called “clean elections” legislation is simply a clever name for a bad idea. I hope the members of this Committee recognize that there will always be some who seek to gain illegitimately from government and will use corrupt means to attain those goals. Anyone who claims that a single solution would end the problems within the political system are either lying to you or, at best, in serious error. My goal today is simply to provide you with a bit of caution as you consider the legislation before you.

## **Trends in So-Called “Clean Elections” States**

### *Confidence in Government*

One of the main reasons states and some lawmakers have championed taxpayer funding for campaigns is the mistaken notion that it increases public confidence.<sup>1</sup> Research to date strongly suggests otherwise – that so-called “clean elections” are limited at best in their ability to increase public confidence in government, and may in fact erode the public’s confidence.

After Maine and Arizona first adopted full public financing for campaigns in 2003, the federal government published a study of both programs, finding that taxpayer funding did *not* increase the public’s confidence in government. In fact, many more citizens said that government-financed elections had no effect on their confidence in state government than those who did, with only one in five citizens saying their confidence in government had increased.<sup>2</sup>

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<sup>1</sup> New Jersey specifically stated in their pilot program that it would be a “significant step towards strengthening public confidence in this State’s democratic processes and institutions,” available at <http://www.nileg.state.nj.us/2004/Bills/PL04/121 .PDF>.

<sup>2</sup> United States General Accounting Office, “Campaign Finance Reform: Early Experiences of Two States That Offer Full Public Funding for Political Candidates,” May 2003, available at <http://www.gao.gov/new.items/d03453.pdf>.

Academic research has confirmed those findings. Research by Professors Jeffrey Milyo and David Primo examined taxpayer financing of campaigns to see if it led to increased confidence in government. Their conclusion was that taxpayer funding laws have a “negative effect on public views about whether ‘people have a say’ in their government or whether ‘officials care.’”<sup>3</sup>

This research is also validated by New Jersey citizens’ own skepticism of so-called “clean elections.” A recent report on the 2007 New Jersey clean elections pilot project found little confidence in so-called “clean elections” to diminish the influence of large donors.<sup>4</sup> While less than 10% of New Jersey residents said they were “very confident” taxpayer financed campaigns would reduce such influence, roughly 40% stated they were “not confident at all.”

Additional research by the Center for Competitive Politics indicates that voters’ perceptions of “corruption” and “undue influence” are strongly connected to partisan and ideological differences. We found that donors to taxpayer funded candidates in New Jersey who were represented by legislators of the opposite party were far more likely than others to believe their own legislators cared more about “special interests” and party leaders than constituents, even though their own legislators were elected with so-called “clean elections” money.<sup>5</sup>

### *Representation*

Another mistaken belief about taxpayer financed campaigns is that they will lead to different legislative and/or electoral outcomes, presumably more representative of the interests of the public. Political scientists Stephen Bronars and John Lott explored this belief in a 1997 study published in the University of Chicago’s *Journal of Law and Economics*.<sup>6</sup>

Their research revealed that campaign contributions are driven by ideology, and that legislators vote according to their own beliefs, their party loyalty, and the views of their constituents – not the contributions the legislators received.

Three professors at the Massachusetts Institute of Technology – in their own study which found that soft money contributions by corporations had no noticeable impact on public policy –

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<sup>3</sup> David M. Primo and Jeffrey Milyo, “Campaign Finance Laws and Political Efficacy: Evidence from the States,” Working Paper 0413, University of Missouri, Department of Economics, (June 2005): 17.

<sup>4</sup> Peter Woolley and Tim Vercellotti, *Public Attitudes Toward the Clean Elections Initiative*, Fairleigh Dickenson University’s Public Mind Poll and Rutgers University’s Eagleton Institute of Politics, November 27, 2007.

<sup>5</sup> Sean Parnell, Laura Renz, and Sarah Falkenstein, “Special Interests, Partisan Pouts, and the Usual Suspects,” February 2009, available at [http://www.campaignfreedom.org/docLib/20090223\\_SR1NJ.pdf](http://www.campaignfreedom.org/docLib/20090223_SR1NJ.pdf)

<sup>6</sup> Stephen G. Bronars and John R. Lott, *Do Campaign Donations Alter How a Politician Votes? Or, Do Donors Support Candidates Who Value the Same Things That They Do?*, 40 J. LAW & ECON. 317, 346-47 (1997).

also noted that “The large majority of studies find no significant effects of hard money contributions on public policy.”<sup>7</sup>

The Goldwater Institute in Arizona analyzed the voting records of legislators elected with taxpayer dollars compared to legislators who relied on private contributions. The study concluded that legislators funded with taxpayer dollars “voted no differently from legislators who accepted private contributions.”<sup>8</sup>

Taxpayer funding advocates also claim that taxpayer financed campaigns result in more diverse legislatures, or that so-called “clean elections” allow nontraditional candidates to run for and get elected to office.<sup>9</sup> However, research shows that in Maine and Arizona – the two states with the longest history of publicly funded elections – there has been no significant change in the occupational categories or in the number of women represented in the legislatures.<sup>10</sup>

The percentage of legislators categorized as having “traditional occupations” of law and business remained static overall in both states. In Arizona, lawyers made up 10% of the legislature on average before taxpayer funded campaigns, and have remained the same percentage of the legislature since. Legislators with business backgrounds rose slightly, averaging 39% before the 2000 election and 42% in the sessions since. In Maine, the number of legislators coming from “traditional” occupations (i.e., law and business) remained flat at 32%. A slight 2% reduction in the number of legislators with business backgrounds was offset by a 2% increase in legislators from legal occupations.

In both Maine and Arizona, the number of women serving in the state legislature has actually declined slightly since the states began financing campaigns with taxpayer money.<sup>11</sup>

### *Wasteful Spending*

Taxpayer funding advocates often promote the idea that, despite subsidizing political campaigns with public dollars, these programs actually save taxpayer money because legislators

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<sup>7</sup> Stephen Ansolabehere, James M. Snyder, Jr., Michiko Ueda, MIT Departments of Political Science and Economics, *Did Firms Profit from Soft Money?*, January 2004 (later in: *Election Law Journal*, Spring 2004).

<sup>8</sup> Robert J. Francosi, *Is Cleanliness Political Godliness?*, p. 16, November 2001, Goldwater Institute.

<sup>9</sup> Public Citizen, “Fair Elections Action Week!”, available at [http://action.citizen.org/t/5489/content.jsp?content\\_KEY=4050](http://action.citizen.org/t/5489/content.jsp?content_KEY=4050).

<sup>10</sup> Center for Competitive Politics, “Legislator Occupation – Change or Status Quo after Clean Elections?”, April 2008, available at [http://www.campaignfreedom.org/docLib/20080506\\_Leg\\_Occ..pdf](http://www.campaignfreedom.org/docLib/20080506_Leg_Occ..pdf); see also “Do ‘Clean Elections’ Laws Increase Women in State Legislatures?”, August 2008, available at [http://www.campaignfreedom.org/docLib/20080826\\_Issue\\_Analysis\\_3.pdf](http://www.campaignfreedom.org/docLib/20080826_Issue_Analysis_3.pdf).

<sup>11</sup> See id.

will no longer feel obligated to earmark funds or approve contracts in order to reward campaign contributors.<sup>12</sup> This argument also has not been borne out by the research.

Continuing to use Maine and Arizona as the time-tested examples of the failures of so-called “clean elections,” the Center recently analyzed spending patterns and tax burdens in both states for the periods before and after they adopted their taxpayer financing programs.<sup>13</sup>

The research showed that the total tax burden on residents in both states has actually increased since implementation of taxpayer funded political campaigns. In Arizona the burden rose from an average of 10.35% of income in the years 1996 to 2001 to approximately 10.40% in the years after. Between 2002 and 2007, Maine’s tax burden averaged 13.35%, compared to 13.17% in the six years before taxpayer funding of political campaigns.<sup>14</sup> The tax burden in Maine is now at an all-time high of 14%.

After the enactment of taxpayer funded political campaigns, expenditure growth in both Maine and Arizona exceeded that of the rest of the nation.<sup>15</sup> By FY 2006, Arizona’s expenditures totaled \$25.376 billion, an increase of 46.25% over the state’s 2001 budget.<sup>16</sup> Maine’s spending grew at almost exactly the same rate as before, rising 34.75% to \$7.100 billion by FY 2006.<sup>17</sup> At the same time Arizona’s spending growth increased dramatically and Maine’s remained relatively constant, however, the national average for state spending growth fell to 30.81%.<sup>18</sup>

Clearly, neither Arizona nor Maine citizens have experienced any savings as a result of having their tax dollars diverted into the campaign coffers of political candidates.

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<sup>12</sup> See, e.g., U.S. PIRG, “Breaking Free with Fair Elections: Executive Summary,” March 2007, available at <http://www.uspirg.org/home/reports/report-archives/campaign-finance-reform/campaign-financereform/breaking-free-with-fair-elections>; Common Cause, available at <http://www.commoncause.org/site/pp.asp?c=dkLNK1MQlwG&b=4104619>.

<sup>13</sup> Center for Competitive Politics, “Do Taxpayer-Funded Campaigns Actually Save Taxpayer Dollars?,” September 2008, available at [http://www.campaignfreedom.org/docLib/20080930\\_Issue\\_Analysis\\_4.pdf](http://www.campaignfreedom.org/docLib/20080930_Issue_Analysis_4.pdf)

<sup>14</sup> These figures are based on the author’s calculation from data at [www.taxfoundation.org/taxdata/show/441.html](http://www.taxfoundation.org/taxdata/show/441.html) and [www.taxfoundation.org/taxdata/show/458.html](http://www.taxfoundation.org/taxdata/show/458.html).

<sup>15</sup> Population growth in both states was essentially identical over both periods studied, and does not explain the increased spending growth relative to other states. Arizona’s population grew 15.57% between 1996 and 2001, and by 16.31% between 2001 and 2006; while Maine’s population expanded 2.87% in the earlier period, and by 2.34% in the period after taxpayer funded campaigns began. Author’s calculations, based on the U.S. Census Bureau’s annual population estimates available at: <http://www.census.gov/popest/states/>.

<sup>16</sup> National Association of State Budget Officers, 2006 State Expenditure Report, Table 1, published Fall 2007, available at <http://www.nasbo.org/Publications/PDFs/fy2006er.pdf>. Calculations by author.

<sup>17</sup> See id.

<sup>18</sup> See id.

## *Special Interests*

Quite often, supporters of so-called “clean elections” claim that these taxpayer funded political campaigns bring an end to the influence of “special interest” groups. First, it is important to remember that what some claim to be special interests are actually concerned citizens organized to petition their government. Indeed, these advocates of so-called “clean elections” are themselves clearly spending millions of dollars to influence the government and sway the public to their own cause.

Second, taxpayer financing of campaigns has been shown *not* to decrease or eliminate special interest involvement in politics. In 2008 the Center conducted a survey of \$10 donors to “clean elections” candidates in New Jersey. Using the results of nearly 800 returned surveys, the Center found that virtually half of the contributions to these candidates came from citizens affiliated with interest groups – particularly two unions, a pro-life and a pro-choice group, the National Rifle Association, and the Sierra Club.<sup>19</sup>

Arizona shows us another case of continued special interest involvement in elections despite taxpayer financing of campaigns. In her election, Governor Janet Napolitano relied upon labor unions to collect nearly one quarter of the required signatures and \$5 contributions needed for her to qualify for millions of dollars in taxpayer funding for her campaign.<sup>20</sup>

When asked, more citizens in Arizona thought that taxpayer financing increased the influence of “special interest groups” than thought taxpayer financing decreased the influence of those groups.<sup>21</sup> In Maine, merely 25 percent of residents thought that government financing decreased special interest influence.<sup>22</sup>

Third, taxpayer funding of campaigns simply cannot eliminate the involvement of independent advocacy groups which are part and parcel of elections and which finance political ads because such speech is protected under the First Amendment.<sup>23</sup> All that these so-called “clean elections” can do is channel money from the candidate campaigns to independent groups which have the right to associate together and speak out during election season. And that is not only fine, but also good – as Thomas Jefferson once said, “Information is the currency of democracy.”

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<sup>19</sup> See note 5, *supra*.

<sup>20</sup> Chip Mellor, “Three Lessons from Arizona,” in *Welfare for Politicians* 31, 37-8 (John Samples, ed., Cato Institute, 2005).

<sup>21</sup> See note 3, *supra*.

<sup>22</sup> See *id.*

<sup>23</sup> See, e.g., *Buckley v. Valeo*, 424 U.S. 1 (1976); *FEC v. Nat’l Conservative PAC*, 470 U.S. 480 (1985); *FEC v. Wis. Right to Life, Inc.*, 127 S. Ct. 2652 (2007)

## *Matching Funds*

Maryland's bill contains a "matching funds" provision – meaning that if a candidate participating in the public financing program is opposed by a non-participating candidate, the state will give the participating candidate additional funds when or if the nonparticipating candidate receives contributions exceeding the taxpayer funded amount.

Last year in *Davis v. Federal Election Commission*, the Supreme Court ruled a similar mechanism aiming to "equalize races" on the federal level was unconstitutional.<sup>24</sup> In the first post-*Davis* case, a federal judge in Arizona, relying on *Davis*, has ruled that such so-called "rescue funds" in Arizona's law are unconstitutional and violate the First Amendment, although the judge has yet to issue a final judgment.<sup>25</sup> In fact, going all the way back to the Supreme Court's seminal campaign finance decision in *Buckley*, the High Court has always held that "the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment."<sup>26</sup>

## **Conclusion**

*Governing* magazine periodically grades all 50 states on the quality of their management. Despite having adopted so-called "clean elections" over a decade ago, the grades for Maine and Arizona have declined since 2005. In 2008, these states received, respectively a B- (Arizona) and a C (Maine).

Even proponents of taxpayer financed campaigns have acknowledged that the claims made in an effort to sell these programs are often overpromised. Bob Bauer, President Obama's campaign attorney and legal counsel for the Democratic National Committee, as well as the Democratic Senatorial and Congressional campaign committees, himself a supporter of taxpayer funded political campaigns, noted recently that the benefits of such programs are modest at best, and that advocates of so-called "clean elections" make unrealistic claims such as that they can "deliver transformative changes in government" in order to sell a program that is often rightfully met with legislative and public resistance.<sup>27</sup>

In conclusion, I would like to share with you a thought on why so many of the promises of campaign finance "reform" have failed to be realized. The core assumption of most "reform" is that the public-at-large generally shares identical perspectives and priorities on important public policy issues, and that absent the campaign contributions of narrow self-interest groups

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<sup>24</sup> *Davis v. FEC*, 128 S. Ct. 2759 (2008)

<sup>25</sup> *McComish v. Brewer*, No. CV-08-1550-PHX-ROS, slip op. (D. Ariz., Oct 17, 2008).

<sup>26</sup> *Buckley v. Valeo*, 424 U.S. at 48-49; accord *Davis v. FEC*, 128 S. Ct. at 2773.

<sup>27</sup> Bob Bauer, "More Soft Money Hard Law Web Updates," February 24, 2009, available at [http://www.moresoftmoneyhardlaw.com/updates/election\\_administration.html?AID=1422](http://www.moresoftmoneyhardlaw.com/updates/election_administration.html?AID=1422)

the government would be able to quickly and cleanly implement measures the whole general public supports and demands.

More than simply being incorrect, this charge is fundamentally anti-democratic. It requires a belief that the United States is a homogenous society, populated by citizens who all share roughly identical ideologies and interests, and that there is no real disagreement among citizens about what constitutes good public policy.

This, obviously, is not the case, as can be seen by the fact that we are well into our third century of competitive politics with two major political parties and several smaller ones, compromised of citizens with genuine disagreements about the best role of government. This is, in fact, the nature of political freedom, and to suggest that much of government action is determined by campaign contributions rather than the best efforts of elected officials is to ignore this reality.

The solutions to curbing corruption cannot be legislated, and the best ones are simply common sense: enforcing bribery laws, providing transparency and merit-bidding in government contracting, making it easier, not harder, to unseat corrupt incumbents, and encouraging a vigilant press and an engaged citizenry that does not tolerate corruption.

I hope that this legislature recognizes both the general failure of taxpayer funded campaigns to deliver on their stated promises and the fundamentally flawed premise that such programs are based on.