



Before the Pennsylvania Senate State Government Committee

Hearing on campaign finance legislation

Tuesday, August 17, 2010
1 p.m.

Written testimony of:

Laura Renz

Government Relations & Research Director
Center for Competitive Politics
124 S. West Street, Suite 201
Alexandria, VA 22314
www.campaignfreedom.org

Thank you for the opportunity to testify today. My name is Laura Renz, and I'm the Government Relations & Research Director at the Center for Competitive Politics, based 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 speech, assembly, and petition.

INTRODUCTION

The legislation being discussed today represents an understandable but misguided approach to campaign finance law. In fact, Pennsylvania's current status as one of only eleven states with minimal restrictions of contributions represents a celebration and affirmation of the First Amendment right to free speech.¹

In reality, overly complex campaign finance regulation discourages political participation and forces individuals, associations, and candidates to seek other ways of speaking out on important issues. At its core, campaign finance regulation should aim to be as simple as possible in order to encourage a plethora of voices, both in support of and in opposition to government and its policies.

My testimony today will focus on the real consequences of contribution limits as well as the importance and difficulty of appropriate disclosure requirements.

Senate Bill 1269 - Contribution Limits

The Center for Competitive Politics is involved with research and advocacy both on the federal level and in all 50 states, and it is clear from that experience that arbitrary contribution limits have little to no effect on other aspects of government. Most research finds little if any connection between campaign contributions and elected officials' decision making.

In 2002, several noted political scientists reviewed nearly 40 studies on the topic and found that in most instances, "campaign contributions had no statistically significant effect on legislation..."² From this analysis, these academics concluded:

Overall, our findings parallel that of the broader literature. Indicators of party, ideology, and district voting preferences account for most of the systematic variation in legislators' roll call voting behavior. Interest group contributions account for at most a small amount

¹ Six states - Illinois, Missouri, New Mexico, Oregon, Utah and Virginia - place no limits on contributions at all. Another seven states - Alabama, Indiana, Iowa, Mississippi, North Dakota, Pennsylvania, and Texas - have minimal contribution limits. [NOTE: Illinois and New Mexico passed contribution limits in the 2009 legislative session. NM's will take effect the day after the November 2010 elections, while IL's take effect on January 1, 2011.] Source: <http://www.ncsl.org/default.aspx?tabid=16594>.

² Stephen Ansolabehere, John de Figueiredo and James M. Snyder. "Why is there so little money in politics," 17 *Journal of Economic Perspectives* 105, 20 (2003).

of the variation. In fact, after controlling adequately for legislator ideology, these contributions have no detectable effects on legislation behavior.³

Further evidence that contribution limits do not have an impact on corruption can be seen in research comparing all 50 states' limits to public corruption. Not only do the results demonstrate no relationship between contribution limits and corruption – but, in fact, the three least-corrupt states in the country all have no limits on contributions.

Speaking to the larger issue of overall governance, Utah and Virginia, both with no limits on the size or source of contributions, consistently rank at the top of *Governing* magazine's ranking of the best governed states.

Their report showed that in 2008, Utah, Virginia, and Washington, tied for the top ranking with each state receiving an A- grade. Utah and Virginia were also at the top of the magazine's prior ranking, in 2005, again with A- grades. Utah and Virginia have no limits on the size or source of contributions – corporations and unions, for example, can contribute unlimited sums to campaigns, and are subject only to public disclosure.

More broadly, five of the ten best rated states for government management permit unlimited individual contributions while nine of the ten least well governed states include limits on the size of campaign contributions.⁴

Clearly, there is no reason for Pennsylvania to establish arbitrary contribution limits with the futile hope of somehow reducing corruption or undue influence by organized interest groups.

The commonwealth's current system allows constituents ample opportunities to support the candidate, party, or organization of their choice; limiting residents' ability to contribute without evidence of any proven results would not better the state's politics or its citizenry.

Perceptions that the legislature lacks diversity and is stagnated by incumbency have led some state policymakers to cite contribution limits as a way to encourage new candidates to run for office.⁵ Limiting contributions, however, exacerbates this concern by making it more difficult for challengers to raise funds to take on incumbents.

³ Ibid.

⁴ One can find all of *Governing*'s state report cards at <http://www.governing.com/gpp/index.htm>. Note that changes in methodology make comparisons of pre-2005 reports with 2005 and 2008 reports unreliable.

⁵ Associated Press, *Lack of campaign limits aids white, male candidates says State Sen. Joan Bray* (Jan. 27, 2010), available at <http://www.news-leader.com/article/20100127/NEWS06/1270404/1007/news01/Lack-of-campaign-limits-aids-white--male-candidates--says-state-Sen.-Joan-Bray>.

Challengers are faced with a need for larger contributions to get their campaigns off the ground, and higher overall campaign spending tends to benefit challengers more than incumbents.⁶ This is primarily because incumbents typically possess what is referred to as the “incumbency advantage,” as they have both existing donor networks and significant name recognition. Challengers historically must rely on a smaller number of donors, similar to a “start up” company that must rely on a small number of venture capitalists.

Research on this subject finds that the Federal Elections Campaign Acts of 1971 and 1974, which imposed a \$1,000 contribution limit on federal candidates, have “silenced non-wealthy challengers, enabling even more incumbent and wealthy candidates to win and win by larger victory margins.”⁷ Research also shows that the success rates for challengers against incumbents have plunged by 50% since the federal limits were put in place.⁸

Contribution limits also divert money away from candidate’s campaign committees and into independent groups like 527 organizations. A recent study by the California Fair Political Practices Commission found that independent expenditures in California increased by 6,144% after their imposition of contribution limits on state legislators.⁹

The Supreme Court has also made it clear that the First Amendment clearly protects the rights of individuals to support their own candidacy with their own funds.¹⁰ Imposing arbitrary contribution limits would not affect a candidate’s right to do this, and would only further complicate an already complex web of campaign finance laws.

The Court has been just as straightforward in reaffirming the right of outside interest groups to raise money without restriction and run ads in an election as long as they do not engage in expressly advocating the election or defeat of a candidate or its functional equivalent.¹¹

The desire of a candidate to self-finance, or the motivation that results in a group of citizens organizing and speaking out on issues that affect them, are not problems in need of a solution. Rather, both indicate an engaged citizenry with a clear desire to participate in the democratic process.

⁶ See Bradley A. Smith, “Faulty Assumptions and Undemocratic Consequences of Campaign Finance Reform,” 105 *Yale Law Journal* 1049, 1072-1075; 1081-1082 (1996).

⁷ Smith, Rodney A. Money Power and Elections: How Campaign Finance Reform Subverts American Democracy. Baton Rouge: Louisiana State University Press, 2006. 124-128.

⁸ *Ibid.*

⁹ “Independent Expenditures: The Giant Gorilla in Campaign Finance,” p. 9, California Fair Political Practices Commission, May 2008.

¹⁰ See, e.g., *Davis v. Fed. Election Comm’n*, 128 S. Ct. 2759, 2771-74 (2008); *Buckley v. Valeo*, 424 U.S. 1, 51-54 (1976).

¹¹ See, e.g., *Federal Election Comm’n v. Wis. Right to Life, Inc.*, 127 S. Ct. 2652, 2666-74 (2007); *Buckley v. Valeo*, 424 U.S. 1, 39-51 (1976).

There are also practical issues which would make implementation of Senate Bill 1269 difficult. For example, the restrictions in the legislation would increase the burdens on candidate committees and political organizations by increasing the amount and type of disclosure, while increasing penalties for doing so incorrectly.

Adjusting from a system of unlimited individual contributions to a complex maze of individual and aggregate limits that differ depending on the organization and office is not only more difficult for individuals to understand, but hampers organizations as well.

As I've stated, rather than attempt to navigate the system, instead individuals often choose to opt out entirely.

The provisions regarding out of state contributions also place large burdens on the state to interpret and enforce not only Pennsylvania's campaign finance laws, but other states as well, in order to ensure that out of state political organizations are complying with the language outlined in the bill.

Senate Bill 576 – Disclosure and Reporting Requirements

Disclosure of government activities is good and essential to allowing a vigilant public to monitor their elected officials – and this includes disclosure of direct contributions to candidates.

Senate Bill 576 outlines appropriate measures for ensuring that citizens can root out any potential corruption, as well as provides a way for constituents to educate themselves further on their elected officials.

Too often, the issue of disclosure is simplified under the belief that more is better. While some disclosure is necessary and important, it is equally important to balance the interests of privacy with the public's "need to know."

A common sense approach to disclosure, as Senate Bill 576 seems to adopt, is the best way to guarantee citizens access to information that will help inform their decision, as well as be respectful of their privacy in such a way that they continue to be involved in Pennsylvania's political process.

Conclusion

I hope this information has been valuable as you continue to debate these important issues. As I said at the start of my testimony, the attempts to improve campaign finance systems and protect the integrity of the legislature are understandable and important.

What cannot be forgotten, however, is that the more complex and restrictive the campaign finance landscape is, the less people will be able to participate, and the more likely it is that the legislation will be challenged in court. Any proposals should be crafted with this reality in mind.

Solutions to curbing corruption can't be legislated. The best ideas are common sense: providing transparency, making it easier, not harder, to unseat corrupt incumbents, and encouraging a vigilant press and an engaged citizenry that does not tolerate corruption.

I look forward to working with the legislature and am happy to answer any questions or provide additional information on these or other campaign finance related issues.