



CIVITAS INSTITUTE
LEGISLATIVE POLICY BRIEFING
2007 General Assembly

**“VOTER-OWNED” ELECTIONS:
CLEANING UP CAMPAIGN FINANCING OR LIMITING FREE SPEECH?**

By Brian Balfour, Policy Analyst

Supporters of HB 1517 gathered in Raleigh yesterday to lobby for the “Voter-Owned Elections Act,” which would appropriate \$4.58 million over the next two years to expand publicly-funded elections in North Carolina. The proposed legislation would allow candidates for three Council of State offices (Auditor, Superintendent of Public Instruction, and Commissioner of Insurance) to use tax dollars to finance their campaigns.

While advocates of the bill claim it will rid the election process of the corrupting influence of special interests and level the playing field for candidates who are not personally wealthy, reality paints a different picture. Publicly-funded elections do not accomplish its stated goals, violates citizens’ free speech rights and forces taxpayers to subsidize candidates and ideas they oppose.

About the Act

HB 1517 is being backed by a coalition of left-leaning groups who want to gradually introduce public funding for all state elections in North Carolina. The ostensible idea behind the movement, as voiced by Robert Morgan of North Carolina Voters for Clean Elections, is to “reduce special-interest influence over elections.” North Carolina previously authorized public funding for campaigns for judicial positions beginning with the 2004 election. The bill includes the following provisions:

- Voter-Owned Election (VOE) candidates would agree to finance their campaigns with money from the Voter-Owned Election Fund. In exchange, candidates would abstain from private fundraising, agree to a predetermined spending cap, spend VOE funds exclusively on campaign-related expenditures, and return any unused funds to the VOE Fund. Candidates would be free to choose whether to participate in the VOE program or to run their campaign with private funds.
- To become eligible for public money, candidates must first demonstrate public support by obtaining at least 750 contributions between \$10 and \$200 each. The total amount of contributions must be equal to or exceed 25 times the amount of the filing fee for the specified office (filing fees in the last election for these positions was \$1,045). Contributions must be from registered North Carolina voters. Money collected during this qualification period can be used during the campaign.
- Once qualified, candidates are no longer allowed to accept or spend any private money. The amount of VOE funds the candidate can receive is based on the average amount of campaign-related expenditures made by all candidates who won the immediately preceding three general elections for the specific office, with a minimum amount of \$300,000.
- If a nonparticipating candidate, or an outside advocacy group (such as a “527”), opposing a VOE candidate spends campaign money in excess of the limit established for the VOE candidate, then the VOE candidate will be entitled to receive a matching amount from the VOE Fund to remain competitive. These so-called rescue funds will be limited to two times the original grant in general elections, and to an amount equal to the qualifying contributions in a primary.

As of 2006, only six states provide public financing to candidates. Four of these states have publicly-funded elections for all statewide positions, with two others (including North Carolina) providing funding only for select positions.(see chart on reverse side)

States with Publicly-Financed Elections

Connecticut	Maine	New Mexico	North Carolina	Vermont	Arizona
All state officials	All state officials	Corporate regulators only	Judicial positions only	All state officials	All state officials

Purpose of the Act

HB 1517 includes several noble-sounding objectives. States the language of the bill:

The purpose of this Article is to ensure the vitality and fairness of democratic elections in North Carolina to the end that any eligible citizen of this State can realistically choose to seek and run for public office. It is also the purpose of this Article to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent in North Carolina to influence the outcome of elections. It is essential to the public interest that the potential for corruption or the appearance of corruption is minimized and that the equal and meaningful participation of all citizens in the democratic process is ensured.

In short, advocates of the bill believe it will eliminate the corrupting influence of special interest groups, encourage more candidates to run for public office, and help citizens feel that their vote matters.

The Reality

Maine and Arizona implemented so-called clean elections in 2000. These elections were very similar to what is being proposed in HB 1517. The reality is that the elections had the opposite effect of what was intended:

- **Publicly-financed elections led to further entrenchment of incumbents.** According to a 2003 study of “clean” elections by the U.S. General Accounting Office (GAO), access to public funding in 2000 and 2002 did not affect incumbent reelection rates. Subsequent data on Arizona’s 2004 elections demonstrated that incumbent reelection rates actually rose for House seats in Arizona. Additional research in Maine also showed that more incumbents decided to run for reelection than in previous elections, meaning there were fewer open races across the state.
- **Publicly-financed elections do not increase the number of candidates running for public office.** In Arizona, from 2002 to 2004, the number of statewide candidates fell from 39 to 7; the number of legislative candidates fell from 208 to 188.
- **Publicly-financed elections do not change the behavior of lawmakers.** HB 1517 decries the “detrimental effects of increasingly large amounts of money ... to influence the outcome of elections.” Research does not support any claim that public-financed elections would change elected officials’ behavior. A study by MIT professors Stephen Ansolabehere and James Snyder examined more than 40 academic studies on this topic and concluded that private contributions have little influence on the voting behavior of politicians. Likewise, a 2002 article in the *Arizona Republic* noted that “analysis of the actual performance of Clean Elections legislators in Arizona suggests that they do not vote differently than privately funded legislators from the same party.”
- **Publicly-financed elections do not create more competitive races.** Election results in Maine showed no difference in victory margins after the public financing option was introduced.

- **Publicly-financed elections do not increase voter turnout.** Analysis of voter turnout in Arizona elections before and after “clean elections” were introduced showed no sign of increased voter participation.
- **Publicly-financed elections do not improve the public’s confidence in government.** Professors Jeffrey Milyo and David Primo studied a variety of state-level election laws – including public financing – and found that public funding laws actually have a negative effect on the public’s opinion of whether or not their voice is heard by government officials. The authors offer this explanation: “Public financing may be predicated on false promises for a better democratic process. When the smoke clears and ‘politics as usual’ returns after reform, individuals may become even more disenchanting with their government.”

Flaws

In addition to not being an effective means of accomplishing its stated goals, the “voter-owned” elections bill may also create a number of unintended consequences:

- **“Voter-Owned” Elections Force Taxpayers to Support Candidates and Ideas they do not Agree with.** In a free society, citizens should not be forced to fund candidates they do not support. Any financial support should be voluntary.
- **Incumbents will enjoy an even wider advantage.** Many incumbents will choose to finance their campaigns via VOE so as to limit their opponents’ spending. Meanwhile, the incumbent will enjoy the advantage of his position and the free publicity and media attention that goes along with it.
- **Campaigns will drown in red tape.** Strict and complicated rules restricting the use of campaign funds on both participating and nonparticipating candidates could become a burden and a cause for invasive financial investigations. Arizona Governor Janet Napolitano, the first publicly financed governor, was investigated for elections violations in 2006. Napolitano’s attorney stated publicly that the law’s guidelines were vague and “not artfully crafted.” If Arizona’s top elected official and a major supporter of public-financed elections can’t understand the law, how can we expect other candidates to do so? Complicated campaign finance regulations may very well keep some worthy candidates from running at all.
- **Publicly-financed candidates may lose accountability to constituents.** Because they no longer need to rely on voluntary campaign contributions, VOE candidates will be less constrained by the wishes of their constituents. In a 2001 *Arizona Republic* article, state Representative Henry Camarot mentioned that he was able to discount the views of his constituents on a very controversial issue, in large part because he no longer was held accountable for his actions by the potential loss of election money.
- **The influence of certain special interest groups may increase.** From an *Arizona Republic* article from 2003: “It’s no secret that labor unions mined their member list to come up with the 4,000 \$5 contributions Janet Napolitano needed to be eligible for clean elections money.” This process could take place with any number of special interest groups that enjoy a large enough membership, dispelling the hope that VOE legislation would eliminate special interest influence. Instead, special interest groups would be able to leverage smaller amounts of private money to open public coffers for their chosen candidates. One can easily envision teacher’s unions hand-picking the candidates for Superintendent of Public Instruction by mining the union members for the qualifying contributions.
- **The process will be unfair to nonparticipating candidates.** Non-VOE candidates will be bogged down with rigorous reporting requirements and spending restrictions. Additionally, spending by outside groups, such as 527s, will channel “rescue funds” into the hands of their opponents. Meanwhile, if the VOE candidate is endorsed by outside groups, the nonparticipating candidate receives no additional funds - but still must adhere to the spending cap established by the Act’s guidelines.

VOE Act Limits First Amendment Rights

The First Amendment guarantees Americans the right to speak freely and to spend money on political speech just as freely. The decision to become a VOE candidate may be optional for the candidate, but it will limit free speech rights for North Carolinians. When a candidate chooses to become publicly financed, citizens who want to donate money to his campaign will be unable to do so.

Moreover, a stipulation to HB 1517 states that no private contributions are allowed for 21 days prior to a general election if it would trigger the “rescue funds.” Three weeks prior to an election is a very critical time. Banning voluntary contributions because of a prearranged spending limit stifles the exercise of free speech when such speech would be most influential.

Conclusion

The Voter-Owned Elections Act is an attempt to rid the political process of the influence of big money, encourage more candidates to run for office, and restore the public’s faith in government. But experience in other states shows that publicly financed elections simply will not accomplish these goals. As a 2003 op-ed article in the *Arizona Republic* concluded: “Here’s the bottom line. ... We’re left with a system that limits free speech, unfairly favors certain candidates, keeps powerful special interests in the game and drains funds from state priorities.”

Most importantly, as mentioned above, the VOE bill would force taxpayers to fund the campaigns of candidates they do not support. Yet, as Thomas Jefferson reminds us, “To compel a man to furnish funds for the propagation of ideas he disbelieves and abhors is sinful and tyrannical.”



© 2007 JWP Civitas Institute