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Campaign Finance Reform in NYS

The issue of money in politics has been a topic of debate for centuries. With the recent Supreme Court “Citizens United” landmark decision, unions, corporations, and wealthy individuals are now allowed to contribute unlimited funds to so-called “super” political action committees (PACs) which can support individual candidates running for office. Unfortunately for activists seeking to limit the influence of money in politics, campaign finance rarely receives much attention from American voters when they’re asked what they view as the most important problem or top election issue.^{1,2} In New York State, little progress has been made on the front of campaign finance reform outside of New York City. Governor Andrew Cuomo has twice ran on a platform which includes campaign finance reform, specifically a public matching funds system, but has not pursued the issue with the same eagerness he has other issues, like gun control and same-sex marriage. This paper will examine campaign finance reform in New York City as a possible model for campaign finance reform in New York State, and also look at the proposed campaign finance reform legislation that has stalled in the Republican-controlled New York State Senate.

In New York City, a public matching funds system exists which matches the first \$175 of a donation at a rate of 6-to-1.³ According to the New York City Campaign Finance Board, this system is intended to “increase the value of small contributions from individuals, making

¹ “Most Important Problem” via Gallup - <http://www.gallup.com/poll/1675/most-important-problem.aspx>

² “Economy, Government Top Election Issues for Both Parties” via Gallup - <http://www.gallup.com/poll/178133/economy-government-top-election-issues-parties.aspx>

³ “Public Matching Funds” via New York City Campaign Finance Board - <http://www.nycfb.info/candidates/candidates/publicmatchingfunds.aspx>

candidates less dependent on large contributions and assisting candidates who do not have access to large moneyed sources.”⁴ In order to be eligible for this program, you must opt in as well as follow the guidelines set forth. The guidelines include stricter and more transparent reporting requirements which should, in theory, make the candidates more accountable.⁵

Beyond that, these requirements encourage participating candidates to reach out to smaller donors since their \$100 donation is now worth \$700 to the campaign. Previously, candidates may have been more encouraged to spend time with one donor who would contribute \$1,000 rather than ten donors who can only contribute \$50, but now they will actually make more money by spending time with those ten \$50 donors (for a total of \$3,500). So the question becomes: is this kind of system feasible in New York State?

If this issue is going to be taken serious, it needs to be pushed by New York State Governor Andrew Cuomo. Cuomo has vocally supported robust campaign finance reform, and claimed on election night that it would be a top priority in his second term as governor.⁶ However, Republicans took control of the New York State Senate -- even beyond their coalition with the Independent Democratic Conference -- and have long opposed campaign finance reform, especially a public matching funds program.⁶

While Governor Cuomo supports campaign finance reform legislation, his own election fundraising raises doubts over his seriousness about making substantial changes. According to the New York Times, “Mr. Cuomo received 81 percent of his contributions from donors who

⁴ “Public Matching Funds” via New York City Campaign Finance Board - <http://www.nyccfb.info/candidates/candidates/publicmatchingfunds.aspx>

⁵ “Program Overview” via New York City Campaign Finance Board - <http://www.nyccfb.info/act-program/program-act.aspx>

⁶ “Is New York Campaign Finance Reform Dead?” - <http://www.gothamgazette.com/index.php/government/5433-is-new-york-campaign-finance-reform-dead>

gave him at least \$10,000, according to the Nypirg analysis. Donors giving less than \$1,000 accounted for only seven-tenths of 1 percent of his total haul.”⁷ It is easy to see how someone may question the Governor’s commitment to real, significant change with regard to campaign finance reform when he benefits so extraordinarily from large donors. If any real legislation on this matter is going to pass in New York State, it will need the support of the Governor. But looking at the numbers, even if Governor Cuomo did end up successfully pushing campaign finance reform legislation with a public matching funds system, it would be unlikely that he would himself opt-into the program if he were to seek a third term -- he simply has too many big donors.

In the 2014 elections, a pilot program for a matching funds system was used in the Comptroller’s election. While the incumbent Democrat and favorite to win Thomas DiNapoli did not opt-in to the program, his Republican challenger Robert Antonacci did.⁸ However, Antonacci failed to reach the required minimum donations in order to qualify for matching funds. Under the pilot program, Antonacci needed to fundraise \$200,000 from 2,000 individual donations of between \$10 and \$175 -- he fell about \$50,000 short.⁹ While \$50,000 may not seem like a lot in today’s money-driven political world, Antonacci commented on the gap saying, “When you sit there and say to yourself, what does that mean, well, that’s 500 people at \$100 a piece ... And that’s tough to do, it really is.”⁹

⁷ Awash in Campaign Cash, Cuomo Benefited From Big Donors and Loopholes via NYTimes.com - <http://www.nytimes.com/2014/11/05/nyregion/in-lopsided-money-race-cuomo-campaign-is-awash-in-cash.html>

⁸ “Republican New York state comptroller candidate to use public financing” via DailyFreedman.com - <http://www.dailyfreeman.com/general-news/20140507/republican-new-york-state-comptroller-candidate-to-use-public-financing>

⁹ “Antonacci fails in publicly financed campaign bid, but has no regrets” via WRVO - <http://wrvo.org/post/antonacci-fails-publicly-financed-campaign-bid-has-no-regrets>

This comptroller election highlights one of the flaws in the public matching funds system; in order to qualify you must first fundraise to a certain threshold. While the system may make it easier for some candidates to run for office, it is still extraordinarily difficult to fundraise \$200,000, *especially* from small donors. Even though he failed to meet the threshold, Antonacci remained positive on the overall system saying, “for a gentleman of my skill set to get into the race, I’m not a multi-millionaire, it gave me a chance to compete on a statewide scale and we just didn’t get there.”¹⁰

The eligibility threshold established in the proposed legislation could punish candidates who are not well-known by setting high standards to qualify for the matching funds program. For example, a candidate for governor must receive at least \$650,000 from “at least 6,500 matchable contributions made up of sums of up to \$250 per individual contributor who resides in New York State.”¹¹ If a candidate fails to raise at least \$650,000 then they do not qualify for the matched funds. This could, potentially, reward candidates who are well-known and directly punish candidates who have trouble fundraising money, which seems to be counterproductive to the sentiment of the legislation. Still, some action on this issue is better than no action. The proposed legislation also includes reporting requirements which will help elections become more open and transparent:

DISCLOSURE. (A) EVERY PARTICIPATING CANDIDATE SHALL FILE FINANCIAL DISCLOSURE REPORTS WITH THE STATE BOARD OF ELECTIONS AS REQUIRED BY TITLE ONE OF THIS ARTICLE. COPIES OF SUCH REPORTS SHALL ALSO BE SUBMITTED TO THE CAMPAIGN FINANCE

¹⁰ “Antonacci fails in publicly financed campaign bid, but has no regrets” via WRVO - <http://wrvo.org/post/antonacci-fails-publicly-financed-campaign-bid-has-no-regrets>

¹¹ Bill S4007-2015 via NYSenate.gov - <http://open.nysenate.gov/legislation/bill/S4007-2015>

BOARD CREATED PURSUANT TO THIS ARTICLE AT THE SAME TIME SUCH REPORTS ARE FILED WITH THE STATE BOARD OF ELECTIONS.¹²

Further, the law requires that matching funds only be distributed to “itemized” contributions so that it is clear who is donating what. These reporting requirements are essential to the legislation and reform, because while money in politics is certainly a problem, undisclosed donations or “dark money” is even more of an issue. If we don’t know who is contributing to politicians, then how do we know whose or what interests politicians representing? We’ve seen a slew of corruption charges in Albany over the last few years, so it seems more important now than ever to make our politicians accountable to the voters and not big business.

In examining whether or not I believe this would be an effective *and* efficient program, I’m torn between three main competing factors. The first, and perhaps most important, are open and fair elections for all, regardless of wealth. From this perspective, this legislation does a good job at allowing a more equal playing field. However, if you consider the second factor -- the fact that a certain threshold (hundreds of thousands of dollars) has to be reached -- then it is not as simple as it may originally seem. But eliminating this requirement brings in the third factor, which is wasting taxpayer dollars. If you have no threshold, then you’re going to waste significant funds on candidates who have no chance -- not because of their lack of funding, but because their views simply don’t match with most New York State voters. Should a member of the “Rent Is Too Damn High” party be receiving publically matched funds in his or her campaign for governor? Probably not.

The reform is clearly imperfect, but looking at New York City as a model, it seems to be somewhat effective. Malbin, Brusoe, and Glavin found that campaign finance reform in New

¹² Bill S4007-2015 via NYSenate.gov - <http://open.nysenate.gov/legislation/bill/S4007-2015>

York City worked in encouraging more small donations to city council elections.^{13, 14} There was a 55% increase in small donations between 2005 and 2009, and the number of small donations compared to large donations rose from 11% to 21% of the overall amount fundraised. This indicates that small donations in New York City elections have increased in number and importance, and one could imagine that a similar trend would occur.

Overall, I believe campaign finance reform is an important issue in American politics today. In order to pass significant reforms in New York State, Governor Cuomo would have to make a significant push for the legislation. In addition, I believe New York State should look to New York City as a model and consider what has been done right and perhaps what could be changed. With all the corruption in Albany, there has never been a more important time for campaign finance reform than right now.

¹³ Malbin, Michael J., Peter W. Brusoe, and Brendan Glavin. "Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States." *Election Law Journal* 11.1 (2012): 3-20.

¹⁴ Butler, Nick. "Campaign Finance Reforms in NYC." *RPOS* 322. (2013)