
**State Government & Tribal
Affairs Committee**

HB 3336

Brief Description: Providing public funding for supreme court campaigns.

Sponsors: Representatives Schual-Berke, Hunt, Cody, Chase, Roberts, Green, Appleton, Sommers, Dunshee, Williams, Moeller, Pedersen, Lantz, Pettigrew, Kenney, Darneille, Kagi, Loomis, Hasegawa, Sells, Dickerson, Wood and Ormsby.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Establishes a pilot program of public financing for the office of Supreme Court justice.
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Hearing Date: 2/20/08

Staff: Marsha Reilly (786-7135).

Background:

The Fair Campaign Practices Act was enacted following passage of Initiative 134 in 1992. The initiative imposed campaign contribution limits on elections for statewide and legislative office, further regulated independent expenditures, restricted the use of public funds for political purposes, and required public officials to report gifts received in excess of \$50. In 2006 contribution limits were expanded to include elections for certain county and special purpose district office, and for judicial office.

A series of court decisions have identified a number of constitutional limitations on the regulation of campaign financing. Certain constitutionally permissible restrictions on such financing have also been identified in those decisions. In those cases, the courts found the following to be permissible:

- limitations on contributions by individuals or organizations to candidates;
- limitations on contributions by individuals or organizations to political action committees;
- limitations on contributions by political action committees to candidates;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- limitations on total contributions by individuals in a calendar year to candidates and political committees;
- prohibition of the use of corporation and labor organization general treasury funds to support or oppose the nomination or election of a candidate through contributions to political action committees, independent expenditures, or electioneering communications;
- public financing of campaigns; and
- reporting and disclosure of independent expenditures and electioneering communications.

Found to be impermissible were ceilings on candidate expenditures or on "independent expenditures," that is, campaign expenditures not subject to the control of a candidate. Upheld, however, were ceilings on a candidate's expenditures which become effective only as part of a public financing agreement under which a candidate agrees to abide by the limits in exchange for public financing.

Arizona and Maine have enacted public financing programs for statewide and legislative offices. North Carolina has enacted a public financing program for candidates for supreme court and court of appeals.

Summary of Bill:

A pilot program for public financing is established for candidates for the office of Supreme Court justice. The program is administered by the Public Disclosure Commission (PDC), and the PDC is authorized to adopt rules for this purpose.

To participate in the program, a candidate must agree to the following:

- accept contributions only from individuals;
- expend only \$1,000 of the candidates personal money and only during the qualifying period;
- accept and expend seed money in accordance with the act;
- collect a minimum of 500 qualifying contributions;
- after certification, expend only funds received from the Judicial Election Reform Act fund (fund); and
- sign a joint statement with the candidate's committee treasurer promising to comply with the provisions of the act.

Qualifying Period

The "qualifying period" is defined as the period beginning February 1 of the year of the election and ending on the close of the regular filing period for the office sought.

Seed Money Contributions

A publicly financed candidate may accept seed money contributions of no more than \$100 and only from individuals. Seed money is limited to no more than \$25,000 and may be raised and spent only during the qualifying period and used only for the purpose of raising qualifying contributions. Seed money not spent at the end of the qualifying period must be paid to the fund.

Qualifying Contributions

Candidates participating in the program must obtain at least 500 qualifying contributions. A qualifying contribution must be in the amount of exactly \$10 and must be:

- made by a registered voter of the state;
- made by a person who is not given anything of value in exchange for the contribution;
- received during the qualifying period by or on behalf of the candidate; and

- made by check, money order, or credit card.

Certification

A candidate who wishes to receive public campaign funds must file an application with the PDC before the end of the qualifying period and affirm to the conditions for receiving public funding. The candidate must submit a report itemizing the qualifying contributions received, including the name, address, telephone number, and county of residence for each contributor; a check or money order equal to the total amount of qualifying contributions received; and affidavits signed by persons collecting qualifying contributions attesting that the contribution was made by a registered voter.

The PDC must verify that a sample of the qualifying contributions made were made by registered voters. If the minimum number of qualifying contributions is confirmed, the candidate is certified to receive public funding. Any candidate who is denied certification may reapply one time within 14 days by submitting the required information or the number of qualifying contributions needed to complete the certification.

Public Forums

Publicly financed candidates in contested races must participate in one public forum during the primary election period and one public forum during the general election period. Nonparticipating candidates may be invited to participate. The PDC shall seek sponsorship of the forums with a nonpartisan organization active in providing information to voters on candidates or encouraging informed participation in voting.

Return of Funds

Candidates who withdraw from the program or are disqualified from the program must return all money received from the fund. In addition, an attempt must be made to return qualifying contributions to the individual donors. With a donor's permission, or if a donor cannot be located for purposes of returning the contribution, qualifying contributions may be paid to or remain in the fund.

Revocation

A publicly financed candidate may revoke a decision to participate in the program within five calendar days of certification. Within 24 hours of revocation, the candidate must return all money received from the fund. A candidate who chooses to revoke after the established time period must return all money received from the fund and pay a fine of \$1,000 per day for each day beyond the allowed revocation period.

Campaign Funding

Within five business days of a publicly financed candidate's name being approved to appear on the primary or general election ballot in a contested race, the PDC shall distribute funds equal to 50 times the filing fee for the primary and 100 times the filing fee for the general election. If uncontested, the PDC shall distribute an amount equal to four times the filing fee.

Within 10 days of election certification, a publicly financed candidate must return any funds that are unspent and uncommitted as of the date of the election or at the time the individual ceases to be a candidate.

Fair Fight Funds

The PDC may authorize fair fight funds in the event that a publicly financed candidate is being outspent by a nonparticipating opponent. Independent expenditures and electioneering communications made by persons other than the nonparticipating opponent are considered for purposes of fair fight funds. A publicly funded candidate may receive up to 500 times the filing fee. These amounts are a total for both the primary and general elections, and the candidate may determine when to access fair fight funds.

Reporting Requirements

Nonparticipating opponents of a publicly financed candidate are required to report income, expenses, and obligations to the PDC electronically within 24 hours after the total amount exceeds 80 percent of the amount authorized for the publicly financed candidate. Any person making an independent expenditure or electioneering communication in excess of \$3000 in support of or opposition to a publicly financed candidate, or in support of a candidate opposing a publicly financed candidate must file a report with the PDC within 24 hours of the date the expenditure or communication is contracted for, agreed to, or otherwise obligated.

Participating candidates shall report expenditures in accordance with rules adopted by the PDC.

Disqualification From Program

A publicly financed candidate may be disqualified from the program if it is found that he or she is accepting and expending money outside the limits of the program. In this instance, all money must be returned to the fund and the disqualified candidate is subject to a civil penalty.

Civil Penalties

A publicly financed candidate who violates the contribution or expenditure limits is subject to a penalty of 10 times the amount by which the expenditure or contribution exceeds the applicable limit, or 20 times that amount if the violation occurs within five days of an election. A publicly financed candidate found to have knowingly committed a violation of these limits must pay the applicable fines, turn over all money in the candidate's account to the fund, and shall cease to be a publicly funded candidate.

The civil penalty for a reporting violation is \$100 per day, but may not exceed twice the amount of the contribution or expenditure not reported. The civil penalty for a violation of the revocation requirements is \$1,000 per day for each day beyond the period allowed for a timely revocation.

Contributions received and expenditures made by nonparticipating candidates and persons making independent expenditures or electioneering communications in support of or opposition to a publicly financed candidate, or in support of a candidate opposing a publicly financed candidate that are made but not reported as required under the act are subject to a civil penalty of 10 times the amount of the contribution or expenditure not reported.

All civil penalties collected under the act must be deposited into the fund.

The PDC is required to report to the Governor and the appropriate committees of the Legislature on the effectiveness of the act by January 1, 2013. The act expires January 1, 2014.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.