



STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
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**STATEMENT OF JEFFREY B. GARFIELD, EXECUTIVE DIRECTOR
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ENFORCEMENT COMMISSION**

Public Hearing of the Joint Committee on Government
Administration and Elections

February 25, 2008

My name is Jeffrey Garfield and I am the Executive Director and General Counsel of the State Elections Enforcement Commission, and am here today to urge your favorable and expeditious consideration of House Bill 5055 AN ACT CONCERNING THE CITIZENS' ELECTION PROGRAM. I want to express my gratitude to the Co-Chairs for expediting the hearing on this important bill, which is the only bill presented this session by the SEEC.

In general, this 20 section bill primarily contains certain fixes, some technical and some procedural, to the campaign finance reform legislation that you enacted in December 2005. I have attached a section by section summary of the bill to my written testimony to facilitate your understanding of the nature of these revisions, and why they are necessary, as time will undoubtedly not permit me to go over each section in the oral testimony. There is also a memo from our Director of the Citizens' Election program which provides further explanation of the provisions dealing directly with the CEP.

I would like to focus on several provisions which we feel are critical to the successful operation of the CEP in its first year. I am intimately aware of the amount of time and effort that has been expended in reaching consensus on campaign finance reform, and the investment that you have in the public financing program, and so we must continue to work together to make it succeed.

Existing law provides that the SEEC must make a determination within 3 business days from the date of receipt of any initial application for a grant from the CEF. In practice, we are likely to get many applications on any given day and on successive days due to the election calendar. Unlike the agencies in Maine and Arizona, the CT SEEC must do its own application verifications in house, and pour through hundreds of documents to advise the Commissioners on whether or not to approve or disapprove a single application. This "rolling" application deadline would require the Commissioners to meet virtually every day for more than six months to make such decisions. That is clearly unreasonable. Moreover, the SEEC is charged with protecting the integrity of the CEP. With such a compressed timeframe, we are concerned that candidates who haven't met their requirements may still get

paid, and that candidates that have met the requirements will not. Neither is acceptable. In short, this program will crash and burn unless these issues are immediately addressed. Section 18 of the bill provides for a weekly payment schedule. The way it would work is if a candidate submits his application by Thursday of week 1, he will get a decision by the SEEC by Wednesday of week 2. While it is still a challenge to meet such an aggressive schedule, the weekly schedule rather than a daily meeting, provides us with a reasonable opportunity to meet the candidates' demands and expectations, while protecting the integrity of the CEP. We have added an additional meeting to the weekly schedule in the height of the pre primary period beginning the 3rd week in June through the second week in July. We will post our commission meetings both on our website and with the Secretary of the State as provided under the FOI Act. I cannot overemphasize the importance of this section of the bill to the CEP.

There is some missing language for section 18 that we originally submitted that we would like re-inserted before the substitute bill is favorably reported. I have provided this and other missing language we are requesting to be re-inserted on a separate sheet.

There are other procedural aspects of the program which need to be addressed. Current law provides for supplemental grants to a participating candidate if his non participating opponent makes expenditures in excess of the voluntary spending limit, up to 100 % of the initial grant. However, the supplemental payment only applies to expenditures or obligations to make expenditures. As is done in Maine and Arizona, these supplemental payments should be awarded to the participant if the non participating opponent receives contributions or other funds in excess of the voluntary expenditure limit. If the nonparticipant has the war chest, it is likely that he will spend it; and if he spends it close to the election, the participant may not get the supplemental payments from the SEEC in time to counter the message. Concerns have been expressed by those in the building about this feature of the law, and we have responded to them in sections 19 and 20 of this bill. Another problem with current law is that if a non participating opponent spends 90% of the voluntary spending limit, the campaign must file a disclosure statement and report weekly. The SEEC must then put 25 % of the initial grant in escrow for the potential use of the participating candidate as a supplemental payment. When the non participant reaches the voluntary expenditure limit, the money is released to the participant but he still can't use it until the nonparticipant exceeds the spending limit and then only to the extent the non participant makes expenditures. In other words, the participant is required to constantly review his non participant opponents' weekly disclosure statements, which may be filed manually, before he can spend more. And then the participant may spend only what the non participant spends. This doesn't make sense and is bound to catch the unwary participants, interfere with their campaign strategy, and prevent them from having the funds they need to match the spending of a high spending non participating opponent.

Our fix is simple and logical. If your non participating opponent raises or spends funds equal to the voluntary expenditure limit, the SEEC will give you, the participant, 25% of the initial grant and you may spend it without concern for what your opponent raises or spends. If the non participating opponent reaches the 125% level of the spending limit, we will give you an additional 25% of the initial grant and so on until the maximum of twice the amount of the grant is provided. No escrow payments. No worries about altering campaign strategy or need to constantly view your opponents' disclosure reports. The supplemental reporting provisions are also revised, and triggered to the applicable expenditure limit rather than the initial grant amount. This makes more sense and is consistent with other jurisdictions. Again there is some language and brackets missing from our original draft which we would like re-inserted. See attached draft.

The revisions sought by the SEEC in section 1 of the bill are in many respects technical, and for consistency, and in other respects are necessary to clarify our powers and duties extend to the provisions of all of chapter 157, which is the Citizens' Election Program. In re-reading the language inserted in lines 139-141, I recommend their deletion as unnecessary. The two month blackout period for SEEC auditing pertains to a candidate committee of a previous election, and would not interfere at all with our ability to inspect or audit a candidate committee during a pending campaign for purposes of compliance with the CEP requirements.

I would now like to briefly address the provisions of the bill dealing with campaign finance law generally. Section 16 of the bill will bring Connecticut into the fold of model states that emphasize transparency in political campaign funding, and would secure our position as a national leader in campaign financing reform. Amongst the states, CT has been ranked in the bottom third in campaign finance disclosure since rankings began in the late 1990s. Recently, we were a woeful 35th. There were several reasons for this poor performance. With the launching of our new and improved e-filing system known as eCRIS, we have responded to the criticisms of the former e-filing system. We have designed the state of the art system that affords users warnings and prompts that identify reporting errors and potential violations of campaign laws and notify campaign treasurers that filed reports have been received. The system provides e-mail alerts reminding filers when reports are due and providing the most up-to-date compliance advice from the SEEC. The system allows for uploading data from Excel and campaign management software; and in the near future will be fully searchable, sortable and downloadable. These are but a few of the features of eCRIS that we are confident will improve CT's ranking amongst the states. But our campaign funding will not be fully transparent, and our ranking will never be in the top ten until the threshold for mandatory use of the system is lowered substantially and applicable to most candidates and other committees. Section 16 accomplishes this by lowering the threshold to \$10,000 and applying it to all candidates filing with the SEEC, not just statewide candidates. The bill contains a \$5,000 threshold for PACs and party committees. It is effective January 1, 2009 to afford time for users for get used to the new system, and not put too much on the plate for General Assembly candidates to contend with in this

year's election. In recognition that even the delayed effective date may not win over the non supporters, we ask that you sever this section from the bill and insert it into a stand alone bill. This bill will result in state cost savings and real transparency. Our system allows for your appointment of a data entry person to enter data, and therefore you may retain your longtime and trustworthy treasurers who are not computer savvy. Together, let's make CT #1 in campaign finance reform.

I want to briefly comment on some other provisions of the bill, and then take your questions. Section 3 addresses the content of the PAC registration statement. Due to the vast changes in the law, the SEEC has had to draft new registration forms for PACs and other committees. Section 9-624 already provides the SEEC with explicit authority to prescribe content of forms, and Section 9-605 (b) contains a detailed list of many important items; however, the list is under inclusive. To facilitate the SEEC general authority to prescribe the form we have added a more general grant of authority in lines 289-292. This change should eliminate the requirement for continuous amendment of the statute and will conserve precious legislative time.

Section 4 of the bill is very important as it cures a void in the law regarding payment of expenses to maintain or contest an election, which refer to the court and legal expenses a candidate must incur when he brings or is brought to court concerning an election outcome. First, this clarifies that the law applies to primaries as well. Second, it addresses the situation as it relates to the participants in the CEP.

Section 12 of the bill transfers the responsibility for conducting a study of subcontractors from the SEEC to the State Contracting Standards Board, which is better equipped to conduct the study. This is a jointly sponsored provision, with the board signing off in it. You may wish to consider placing this provision in your bill implementing state contracting reform.

Finally, section 14 of the bill is worth mentioning. It deals with the attribution requirements on campaign communications. First, it cures a void in the law by applying the paid for by requirements to communications which are organization expenditures conducted by party and legislative caucus and leadership committees. Second, it eliminates the burdensome photograph requirement on mailings, and applies it only to printed mailings that are made by a candidate committee to defeat the opponent's campaign. I believe that this was the original intent of the photo requirement. And it codifies the SEEC standard that the attribution be clear and conspicuous so that the ordinary reader can read it.

Again, I appreciate your expeditious and favorable consideration of our bill, and urge you to send to the floor a substitute bill with the additions and deletions requested, at your next meeting so that we can get this into place before the applications start arriving in May.

Thank you.

Sec. 20. Section 9-713; supplemental payments to participating candidates when nonparticipating opponent makes excess expenditures; *To acknowledge the spending ability of nonparticipating opponent and change supplemental grant eligibility to include opponent's contributions or other funds received. Currently, Connecticut's statute only provides for supplemental grants if a nonparticipating opponent makes an excess expenditure. In contrast, Arizona and Maine provide supplemental grant money if the opponent makes excess expenditures or receives contributions that exceed the applicable spending limit for a participating candidate. A.R. Stat. § 16-952; Ar. Reg. § 2-20-113; 21-A M.R.S.A. § 1125(9). To allow participants to spend the supplemental grant when he receives it without reference to the amount that the nonparticipating opponent has spent. To eliminate the need for the SEEC to place the supplemental payment in escrow and instead make the supplemental payment directly to the participating candidate's candidate committee when his opponent has reached the spending levels which trigger supplemental payments.*