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Testimony to GAE Committee on House Bill 5022

Run Off Voting

I hope you will consider including a provision for instant run-off voting in whatever bill you vote out.

Though not a legal limitation, our cultural tradition in the United States has been that of a two party system. That was probably originally based on the notion that elected officials, in order to have the confidence and support of the governed, should be placed in office by a majority of voters. It's hard enough to fulfill the role of an elected official even when you win by a majority; it would seem to me nearly impossible to lead effectively when a majority of voters is against you, before you even start.

Other countries do have multiple parties. That can work as well, since they have a system for coalitions to form, or for a run-off to occur for the top two highest vote-getters.

I believe that the emerging shift towards a multi-party culture in our state and country can and should be accommodated, but not without making other adjustments to assure that the ultimate winner of any election has the majority of people behind him or her.

When, for example, five different candidates are running for the same office, we risk having a winner who is supported by as little as 21% of the vote. That is a formula for a disgruntled populace and a dysfunctional government. And this is not out of the realm of possibility....in my own last election there were four candidates. In a recent New York election for city council and borough presidents, of the several individuals elected, all won with only pluralities, ranging from 25 to 48% of the vote, none got a real majority.

When I first was considering this problem, I thought the solution was to hold a run-off election in the event of an election where no candidate received a true majority. In doing

some research, I learned that at least 10 other states hold run-offs in such cases, but I was concerned about the expense, especially in this time of budget constraints.

Fortunately, I also learned that some countries and other American jurisdictions have started using "Instant Run-off Voting" (IRV), which adds nothing to cost, but enables voters to indicate their second and third preferences on the initial ballot. In case of an initial outcome where there is no majority winner, those preferences can be used to determine a "run-off" winner.

Here's how the mechanics work: Ballot counting in IRV simulates a series of run-off elections. Voters rank candidates in order of choice. If there is no majority winner in the first round, then the instant run-off takes place. The last place candidate is eliminated, and any ballots that had been cast for that candidate are re-counted for whichever candidate is their next choice. This process of eliminating the last place candidate and re-counting those ballots is repeated until there is one candidate who reaches a majority.

This system has several advantages. The research shows that:

- IVR does not diminish the number of candidates or discourage third parties.
- Voters feel better about indicating their true preference, even for someone they know will ultimately lose, because they are not "throwing away" their entire vote in this system by voting for a minor party candidate. They can indicate their real preference with their first ranked vote, and then indicate their second choice from among one of the two candidates whom they expect to finish among the top two vote-getters.
- This provides the candidates and the ultimate winner with better information about voter's true feelings.
- It is better than a real run-off because it not only costs less, but assures that voter turn-out will not diminish with a second round of voting. Real run-offs often have less voter turn-out for the second round, especially for "down ticket" races.

Petition signatures

This bill proposes a substantial reduction in the number of petition signatures required to qualify for state funding. I felt, after the last election, that even the gathering of the much higher threshold of petition signatures was too easy and a poor proxy for a real demonstration of public support. Reducing the threshold of signatures even further compounds the problem. **I'd suggest scrapping the petition signatures entirely and instead adopt a requirement that any party, regardless of minor or major, must show that they have attracted at least 5% of the vote either in the district or in a statewide election, in order to qualify for funding.** This treats all the parties equally, as required by the court, and helps to conserve grant money so it is not wasted on candidates who are not really viable.

If petition signatures are retained, I suggest making it clear what they are truly for...i.e. to qualify for state funding.

I can tell you from personal experience in my last election, the use of petition signatures as a sign of local support was demonstrated to be a poor indicator in my race. The third party candidate hired staff from outside the district (since she had no local support from which to draw volunteers) and obtained over 1650 signatures. However, she only got 340 votes. The signatures obviously far exceeded the votes.

We have another petitioning candidate, who runs every year and gets between 40-50 votes each time. He meets his threshold 1% of voters in an afternoon, standing in front of a local shopping center. So meeting the 3% threshold will not be much of a barrier for him either.

Indeed, often people didn't even know what they were signing when they signed a petition. Some told me they thought they were signing so that I could run, and were horrified to learn that they had just helped my opponent. Others signed without knowing anything about the party or candidate and were unhappy to learn that they had signed for a candidate whose views were diametrically opposed to their own.

The current petition used to get onto the ballot as an unfunded petitioning candidate is no different than the petition used to obtain state funding. Having talked with dozens of folks who signed a petition for the third party candidate, not one understood that their signature would help the candidate get state funds. And when they were given that explanation, hardly any wanted to keep their signature on the petition. Many were, in fact, angry that they had not been told the truth about the purpose for the signature.

My suggestion is to require **the use of a different petition for obtaining funding than for getting onto the ballot, and to require that the petition carrier read the petition purpose in full to each potential signer.** That petition should clearly state that the signature will be used to help the candidate qualify for state funding, and that the more signatures obtained, the more funding the candidate will get. In my district, the third party candidate's canvassers, when asked, either denied that the signatures were for the purpose of obtaining funds or stated that they didn't know. **Last, the petition should require the signer to attest that they are likely to vote for the candidate,** since this is meant to be a substitute method for ascertaining voter support in the absence of adequate prior year votes.

If a candidate has run in the previous election and documented by real votes that they have inadequate support to meet the 3% threshold in the bill, they should not be allowed to use petition signatures to get funding. The very real data of the election should not be trumped by the very unreliable data of petition signatures.

Threshold for Gubernatorial candidates

In addition, I would urge you to lower the threshold for gubernatorial candidates, as the current threshold is probably unachievable. We currently have 13 candidates for governor and not one of them has reached the threshold for that office. The current threshold is at least 2,500 donations, but realistically it will be closer to 4,000, since many will give far less than \$100, and qualifying donations thus far are averaging around

\$50-60. This threshold is unrealistic: In the 2006 gubernatorial election there were only 6,758 donors for the Democratic candidate and 8,754 for the Republican candidate. We are now expecting multiple candidates in each race to tap these same limited few thousand people. The math just doesn't add up. I am concerned that the only candidates who will be able to run for governor will have to be multi-millionaires, who do not need the citizens' election fund at all.

Reductions in grants

As a person who is very concerned about the state budget, I support cuts in the grant amounts. However, I must also say that the proposed amount is inadequate to mount a really successful campaign in my district. Each district is different. In my district, virtually every resident adult is a "prime voter." Consequently, mailing costs are very high because I have to send mail to every household in the district...all 9,300 of them. This is not the case in a district where voter turn-out is very low and a candidate can reach every prime voter with a mailing of 1-2,000 pieces.

Therefore I urge you to **allow candidates to raise funds above and beyond the threshold amount, up to the former grant amount.** In other words, if you cut the grants by \$7,000, from \$25,000 to \$18,000, you should then allow candidates to raise the additional \$7,000 in donations from within the district.

I'd like to make several other points about the citizens' election program. I know you are focused on a limited scope of reforms in this bill, but there are several other items that I believe should be addressed in this or another bill:

Lobbyists

As much as I may disagree with the Supreme Court's decision to give a corporation or union the same free speech rights as an individual, that is now the law of the land. Given that new legal landscape, I cannot see how an individual working in a corporation or union as a lobbyist or state contractor should have a lesser right to free speech than the corporation for whom they work. I would submit **they should have the same rights as other real individuals – with the same \$100 limit.** We should address this issue of equality in the bill. They should have neither the same unlimited spending authority as the corporations and unions nor the current total limitation. As long as everyone – corporations, PACs, and other individuals all are limited to the same small donation of \$100, then there is little likelihood of a candidate selling their soul for the sake of campaign donations. Furthermore, lobbyists should not be prohibited, as they are now, from advising their clients about which candidates to support or not support, since that is the very nature of their paid work and the lobbyists know each politician's voting record far better than anyone else in their clients' employ.

"Buyers remorse" period for Qualifying donations

The process for obtaining qualifying in-district donations should be made more transparent and there should be a process for allowing donors to request a refund within a reasonable period of time. Here are the experiences of some donors to the third party candidate in my district: One thought he was donating to a charity. A few

indicated that the person at their door or in their house was intimidating and they felt pushed into donating. One told me the only way she could get the canvasser out of her house, when she was busy trying to feed her kids, was to give the canvasser money. The canvassers were paid professionals from out of the district. Of the half a dozen donors I spoke to, none of them intended to vote for the candidate even as they gave money, but intended to vote for either me or the Republican candidate.

My suggestion is that **all candidates, regardless of minor or major party, should be required to give the donor a written explanation of the purpose of the donation – i.e. to qualify for a state grant.** This explanation should be left with the donor to peruse even after a canvasser has left. And it should include instructions for how to request, within a reasonable time period, a refund if they conclude, after quiet reflection, that they don't really want to support that candidate.

My third party opponent spent over \$5,000 on paid staff to raise the required 150 qualifying donations. The balance of her \$5,000 qualifying amount came from donors outside the district. That the amount spent exceeded the amount raised strikes me as evidence that there was a major lack of local support.

Exploratory Committees

The trigger event for having to convert an exploratory committee to a candidate committee should be defined more clearly. Any statement in a public forum (including on any printed material) to the effect that you are running, should result in the immediate termination of an exploratory committee. One of my opponents handed out thousands of leaflets clearly stating that "I am running for state representative" and "I hope you'll support my campaign for state rep." In addition, her canvassers told anyone who would listen that she was running, not that she was exploring a run. Never-the-less, the SEEC somehow concluded that she was only exploring the option to run, and allowed her to operate under an exploratory committee with no penalty.

Primaries and funding

Although a primary creates a lot of extra work for a candidate, I observed that there is an advantage to having a primary. The primary serves to significantly increase name recognition for the primary candidates. The victor of the primary then starts out ahead of the other party opponent in name recognition and in total spending because of the primary.

It doesn't take a genius to figure out that a sham primary would be a way to boost a candidate over the opposition party candidate. In other words, a smart town committee would help two candidates obtain state funding for their primaries, and then would instruct one not to do a very good job running in the primary. The "victor" could claim an easy win with relatively little effort, but would be several steps ahead of the opposition party candidate, having had lawn signs, mailings and press boost his or her name recognition.

Perhaps extra funding should be allowed for a candidate who is not primaried, but is running against someone who did have a primary. This is especially true because under the current rules, a primaried candidate can re-use all of the lawn signs purchased with funds for the primary, while their incumbent opponent cannot re-use lawn signs from their previous election.

Lawn Signs

Candidates should be allowed to re-use lawn signs. Not only is this better for the environment, but the current prohibition on doing so is unenforceable. There is nothing to stop our supporters from keeping signs from one year to the next and putting them out again on their own. I discovered that a few of my friends and neighbors had done exactly that without my knowledge. How am I supposed to claim these re-used signs as expenses, even though I don't know about them?

Indeed, what if a campaign never bought signs, but rather made them available to supporters at cost. Obama sold signs on the internet, and people bought them in droves. If a state candidate simply gave a company the authority to sell signs, then they would never show up as an expense (or revenue) for the candidate at all.

Define the term "Advisor"

What exactly is an advisor, for purposes of an acceptable organizational expense from a leadership PAC or town committee? Do they really have to provide skilled services or is a teenager, who is paid to stand in front of a grocery store and collect petition signatures an "advisor," even though they've never met the candidate, they don't give advice, and can't answer a single question about the candidate or his/her campaign?

Simplify the rules for "Qualifying" donations

The inspection of qualifying donations resulted in the disqualification of several checks for reasons that don't really make sense. Here are some examples:

- Checks written from a trust account in the name of the donor were disqualified, even though the trust fund belongs to the donor and is his/her personal money.
- One check from a joint account to cover the donations of both spouses should be allowed, since they do have to individually complete the donor forms.
- Checks written on the account of the donor, but signed by their accountants, were disqualified. Some people have a bill paying service write out all their checks to pay bills as instructed by the account holder.
- Checks from "sole proprietors" were rejected because their checks said "John Doe dba John Doe Consulting." Sole proprietors do not have a legal entity or corporation set up for their company. All business revenue to a sole proprietor is treated as income. They often do not keep a separate personal checking

I apologize for the length of my testimony, but I think we need to make this system function as best as possible. As with any major new system, the initial design will have inevitable flaws that can and should be corrected. There is no shame in not having been

able to anticipate every possible snafu, but it would be a shame to let known flaws go unaddressed.

Thank you for your consideration,

Linda Schofield
State Representative, 16th District

