

#19

Testimony by

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**Chairman – Connecticut Republican Party**

**Government Administration and Elections Committee**

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**Raised Committee Bill -5022**

In August of 2009 the United States District Court of Connecticut found the current law unconstitutional and while the State of Connecticut is currently appealing this decision, the court's findings are the reason we are here today.

As it stands, Connecticut's campaign finance law denies free speech, limits electoral competition and puts the burden of funding political campaigns on the citizens of this state at a time when revenues are down and deficits overflowing.

The proposed changes in HB 5022 being discussed today do nothing to address any of the issues I have outlined. The proposed legislation, while taking less from the pockets of taxpayers, misses the fundamental shortcoming of the Citizen's Election Program and the underlying premise for its inception. As the committee is aware, this problematic law was conceived behind closed doors, without a public hearing, little to no substantive input from Republican lawmakers and passed both chambers on a mostly partisan vote.

This is why the Connecticut Republican Party joined plaintiffs in the lawsuit against the state in a case now being reviewed by the Second Circuit Court of Appeals in New York. However the court rules, the Connecticut Republican Party will use every resource to overturn this unfair, unconstitutional act, which has discouraged debate and made our incumbent politicians more entrenched and unaccountable.

The current law and these proposed changes constrict political debate and violate the First Amendment of the U.S Constitution through arbitrary restrictions of freedom of speech for some while allowing others an almost unfettered ability to impact an election without transparent disclosure.

The law provides incumbents with even more protection since it punishes any candidate who decides not to participate in the CEP by providing his or her CEP opponent with equal funding paid for by the taxpayer.

While I am sure the taxpayers would appreciate the current attempt to minimize their financial obligation for political exploit, the effort being made to limit competition and protect incumbents, in both parties, is borderline criminal and does nothing to promote debate and open the political process.

If this bill becomes law, any candidates who choose to challenge an incumbent will only receive "supplemental grants" for additional funds being spent by or for

their opponents, if the incumbents have won by ten percent or less in two of the last three elections. Thus further exacerbating the advantage of taxpayer, subsidized incumbents over challengers from either party.

By continuing this taxpayer subsidized fraud, the proponents of public financing hope to glean some points from good government associations while using tax dollars to promote their personal agendas and prevent challengers from daring to run against them.

Incumbents, whether from the legislature or executive branch, Republican or Democrat, enjoy a tremendous advantage over any challengers that they do not pay for out of their own pockets or from their campaigns coffers. Taxpayer subsidized staff, constituent mail, telecommunications services, including web sites, emails and other personal messaging systems add up to a huge qualitative advantage before a challenger fills out the paperwork.

For these reasons incumbents generally start their re-election bid from at least the fifty-yard line. Under the current campaign finance law, that advantage puts incumbents at about seventy-five yards, the changes being proposed in this legislation put incumbents at nearly the goal line.

If a challenger decides to raise funds outside the CEP, the law and these proposed changes punish the challenger for raising and spending funds in excess of the grant given to the incumbent. The current law gives a dollar for dollar match up to one hundred percent of the original grant, the proposal limits these "supplemental grants" but either way, in a situation where incumbents already start with a significant advantage over any challenger, it is absurd that a candidate who opts not to fund their political campaign with tax payer dollars should be punished by having his or her opponent receive additional funds.

On January 21, 2010 U.S. District Court Judge Roslyn Silver found that the Arizona Clean Elections Law was unconstitutional for a similar provision saying the portion of the Clean Elections system that gives participating candidates extra public funds to match funds raised by their competitors violates the First Amendment, because it causes other candidates to limit their own campaigning, fundraising and the spending of their own money. I have attached a news article relating to this decision to my testimony.

While challenger candidates and taxpayers have suffered, it has been the damage to the political parties that has been the most. The strength of our Republic is derived in the ability of our political parties to thrive. Both the Democrat and Republican Parties in Connecticut are the keepers of the brand. It is the job of both parties to promote its principles, to recruit candidates, offer training and support and to promote those candidates for various offices.

The Democratic Legislature through the CEP has decided to create their own party – the Incumbency Party – by setting the rules to deny people their free

speech rights, to freely associate with either party and show their support. The CEP prohibits donations to both parties from lobbyists and people who do business for the state and limits the amount of direct and in-kind donations from the Parties to candidates and local town committees.

Since the CEP became law, countless examples from the Democratic and Republican camps have surfaced of long-time party loyalists and supporters and their families have been stripped of their ability to exercise their political beliefs.

Many in this forbidden class of donor have been prevented from even donating \$25 to attend dinners in their honor and cannot even attend events where candidates for state office will be. Many have left their local town committees after years of service and others are not allowed to make phone calls or put a lawn sign in their own yards – all in the name of good government.

How have any of these so-called “untouchables” been a pox on our representative democracy? Have any of them ended up on the docket for the various acts of corruption over the years? And how does preventing their participation, while allowing other groups, like various unions to use their resources without penalty or restriction benefit our political process?

The truth is these restrictions and the CEP do nothing to limit political corruption and no amount of playing around the edges will make an unfair, unconstitutional system legal and effective.

What we do need are reasonable guidelines with disclosure requirements that can be met with campaign volunteers, not professional accountants or an army of actuaries.

With a half billion budget shortfall and \$3 billion deficit awaiting the next Legislature and Governor, how can any reasonable person ask the taxpayer to fork over between \$30 and \$60 million to pay for political welfare?

The Connecticut Republican Party will continue its fight against any plan that discriminates or prevents the free and open exercise of political speech and action. We would hope the committee would agree the answer lies in more competition and not a taxpayer subsidized bureaucracy where the outcomes are preordained and fixed by those who know little about free speech and the competition of ideas.

## U.S. judge: End part of Clean Elections

by Allia Beard Rau and Mary Jo Pitzl - Jan. 21, 2010 12:00 AM  
The Arizona Republic

A U.S. District Court judge has declared a portion of an Arizona program that gives candidates public money for their campaigns unconstitutional - and she has given the system's defenders 10 days to convince a higher court otherwise.

Judge Roslyn Silver ruled Wednesday that a portion of the state's 12-year-old Clean Elections system should be shut down. But her 10-day delay in implementing the ruling gives the Arizona Citizens Clean Elections Commission time to appeal.

Unless the U.S. Court of Appeals for the 9th Circuit issues a delay of its own, the ruling could throw races now under way for 2010 elections into chaos.

Silver said a portion of the Clean Elections system that gives participating candidates extra public funds to match funds raised by their competitors violates the First Amendment, because it causes other candidates to limit their own campaigning, fundraising and the spending of their own money.

Attorney Grant Davis-Denny, who represents the state commission in the case, said he will ask the court to allow the system to continue unchanged through this year's elections.

"The rules of the game should not be changed once the election cycle has begun," he said.

Arizona voters approved the Clean Elections system in 1998. It gives a lump sum of public funds to participating candidates who get a required number of \$5 donations and agree not to accept money from special-interest groups. If the non-participating opponents of a Clean Elections candidate collect more - through private donations or from their own money - than what the Clean Elections candidate was allocated, the Clean Elections candidate gets a matching amount of public funds.

It is those matching funds that became the focus of the lawsuit filed by the Goldwater Institute on behalf of several Republican candidates, including state Treasurer Dean Martin, Sen. Robert Burns of Peoria, Rep. John McComish of Ahwatukee Foothills and Rep. Nancy McLain of Bullhead City. The candidates argued they limited their own campaigns to avoid triggering additional public contributions to opponents.

Martin, who is running for governor, has filed as a Clean Elections candidate.

Gov. Jan Brewer is among the 70 candidates that have so far raised the required number of \$5 donations and been verified as a Clean

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Elections candidate in this election cycle. Her campaign spokesman, Doug Cole, said the court's ruling will not change how Brewer runs her election campaign.

"This is far from over," he said. "We will continue to operate our campaign as we have planned, and I'm certain other publicly funded candidates will do the same."

John Munger, who is also running for governor, released a statement late Wednesday.

"I am confident that the Court of Appeals, and if necessary, the Supreme Court, will agree with this decision and that it will be upheld in every respect," he said.

Secretary of State Ken Bennett, who is running for re-election as a Clean Elections candidate, released a statement saying that the ruling may have "dire consequences" for program participants.

"While I share some of Judge Silver's concerns regarding the fairness of matching provisions under the Clean Elections system, I am disappointed at her granting of an injunction at this late date in the election cycle," he said.

Lawmakers who are running with public financing offered varying responses to the ruling.

Sen. Rebecca Rios, D-Apache Junction, said she's sticking with her plans to use public financing, at least for now.

If her opponents appear to have access to deep pockets, which could provide more money than the Clean Elections system does, Rios said she might need to switch to private

"I think everybody's going to go through the same process," she said, adding that it "throws a monkey wrench into people's campaigns."

Rep. Steve Court, R-Mesa, said he'll stick with public financing because it should be sufficient to win re-election in his heavily Republican west-central Mesa district.

"In my district, it won't make a difference," he said.

Rep. Kyrsten Sinema, D-Phoenix, said that she decided to run with private financing in her state Senate bid this fall because she anticipated the drawn-out court battle.

Citizens Clean Elections Commission Executive Director Todd Lang said he is confident that an appeal will be successful and prevent any disruption to this election cycle.

"Statewide candidates have been running for months," he said. "Changing the rules in the middle would be a disservice to the candidates, the voters and the integrity of the results."

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Rep. Rick Murphy, R-Peoria, predicted that even a ruling by the 9th Circuit won't be the end of the Clean Elections debate.

"I suspect that whichever side wins, it won't be over until the (U.S.) Supreme Court rules."

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