



Candidate PACs: Conclusion

By Ann Luther with the LWVME PAC Study Committee

At its December meeting, the League of Women Voter of Maine State Board announced the conclusion of its important study on candidate PACs in Maine. Here's the motion that passed unanimously at that meeting, constituting the League's new state position on candidate PACs:

LWVME supports reform in the financing of state candidate PACs consistent with the LWVUS position on Campaign Finance Reform.

This means that LWVME supports measures to improve the financing candidate PACs in order to ensure the public's right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office, and promote citizen participation in the political process. Applying these principles to PAC reform in Maine provides a basis for sound action in the changing constitutional context as the Supreme Court of the U.S. reshapes the landscape of permissible reform.

History of the Study

The League's study of candidate PACs in Maine was adopted at Convention 2007 to inform League members and the public about the issues involved with candidate PACs (political action committees).

The Maine Clean Election Act (MCEA) passed by citizen initiative in 1996 and went into effect in 2000. The MCEA eliminated large donations to the campaigns of candidates for state office. However, the laws governing candidate PACs were not changed in 1996, and by 2007, Maine was one of only fourteen states, and the only one in New England, which had no limits on the amount or source of contributions to PACs.

Especially because candidates and legislators who use the MCEA for their own campaigns continue to raise large private contributions to leadership and caucus PACs, this area of campaign financing has remained controversial and has undermined support in some quarters for the MCEA. Do large PAC donors exert undue influence over Maine's elected officials? Do unlimited contributions to PACs undermine the goals of our publicly funded system? Is there a conflict when publicly funded candidates, who pledge not to accept contributions for their own campaigns, are allowed to raise unlimited funds for PACs which they organize or control?

The League Study Committee involved numerous members at various times, including Nan Amstutz, Ruth & Ed Benedikt, Martha Dickinson, Polly Ferguson, Susan Mayer, Michelle Small, Sarah Walton, and Ann Luther. The Committee reviewed the law and the literature on



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campaign finance, interviewed more than 30 key political players, and wrote four seminal papers on how PACs work in Maine and where the money comes from. All the papers are online and available at the League of Women Voters of Maine web site at www.lwvme.org.

PAC Landscape

Candidate PACs are those that work for the election or defeat of one or more candidates for state elected office -- state legislative races or the race for governor. This includes caucus PACs, gubernatorial PACs, leadership PACs, and PACs formed by business & professional associations, corporations, unions, and others.

Gubernatorial PACs: Gubernatorial PACs are those typically set up by the major parties to raise money to support the election of their gubernatorial candidate. None of the money that gubernatorial PACs raised in 2006 (the period reviewed in our study) came from in-state donors; most of it (66%) came from out-of-state corporations.

Caucus PACs: Caucus PACs work to achieve or increase a majority for their party in one or the other chamber of the legislature. There is typically one PAC for House Democrats, one for House Republicans, one for Senate Democrats, and one for Senate Republicans. They help recruit quality candidates and target particular races where independent expenditures would have the greatest impact. Caucus leaders (Speaker of the House, President of the Senate, majority and minority leaders) are often key fundraisers for caucus PACs. Caucus PACs as a group were the largest recipients of contributions in 2006, raising over \$2 million altogether.

Leadership PACs: Leadership PACs are those other candidate PACs that have candidates or legislators as principle fundraisers or decision makers. Caucus leaders often raise money for both their caucus PAC and their own leadership PAC. While leadership PACs are sometime said to serve the purpose of paying the expenses of leadership candidates as they travel the state conducting their leadership campaigns, this was not the view most often cited among political insiders. Leadership PACs are typically formed to ensure the election of a majority in their chamber (House or Senate) by raising money through their leadership PAC for their caucus PAC. Leadership PACs contribute most of their money to their caucus PAC, and the caucus PAC supports independent expenditures in closely contested races.

If you're running for leadership in your caucus, the general expectation is that you'll have a leadership PAC. Leadership candidates gain credibility among their colleagues by raising money for their caucus through their leadership PACs – it helps their standing in the party, advances their own election to leadership in their caucus, and advances their personal power/influence in the legislature.

Some leadership PACs, though not most of them, are formed to support candidates of a particular profile – those with particular economic growth policies; those with conservative



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values; those with progressive values; or Democratic women, for example. Leadership PACs like these provide candidate recruiting, training, and campaign support.

Some leadership PACs provide a sort of personal slush fund for legislators to cover expenses not typically covered elsewhere: flowers for a funeral, attendance at conferences, political donations, legislator education & seminars, etc.

Other Key Findings

Candidates and legislators are key fundraisers for caucus PACs and leadership PACs. In their work for these PACs, even candidates running for office under the MCEA are allowed to solicit unlimited contributions to their PAC from private donors, corporations, unions, and businesses.

Overall, corporations and businesses were far and away the largest donors to candidate PACs in our study, far outstripping individuals, unions and professional associations. Not surprisingly, money received by candidate PACs was dominated by contributions from large donors.

Caucus PACs, leadership PACs, and gubernatorial PACs are part of an interconnected network of political fundraising linking politically affiliated PACs, 527s, party committees, and candidate campaigns. In particular, caucus PACs and leadership PACs serve as conduits for fundraising on behalf of their respective parties, and money moves fluidly between national party affiliates, state party committees, and caucus and leadership PACs with a significant loss of transparency.

With both caucus and leadership PACs, questions arise regarding donor influence over subsequent legislation when candidates and legislators raise money for PACs. Leadership PACs tend to be even more controversial than caucus PACs because it is thought that the donor-legislator relationship is more direct and because it is perceived that the personal advancement of the legislator is more directly affected by the success of his or her leadership PACs than it would be by the success of the caucus PAC.

This controversy is heightened when the leadership PAC is sponsored by a legislator whose own campaign for office is being run with Clean Elections money. Some believe that if a Clean Elections candidate accepts public money for his or her own campaign in the interest of remaining free from obligation to special interests, that public money is wasted if he or she incurs obligations to special interests through fundraising for his or her leadership PAC. However, the same concern might be raised for legislators who raise money for their caucus PAC or for their party committee. These legislators are aspiring leaders in their respective political parties, and it is understood to be the duty of party and caucus leaders to do fundraising for their party or caucus.



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While Maine has disclosure laws requiring reporting of money in and money out of all candidate PACs, Maine's disclosure laws are inadequate to a complete public understanding of where the money comes from and where it goes. Some potentially useful information is not required to be reported (e.g. a contributor's industry sector or donor type -- business or professional association, corporation or business, union, individual, etc.); and some information that is reported is not reported in a standard format (e.g. donor name), with endless variations on name (Zeneca Services, AstraZeneca Services, Astra Zeneca, Astra Zeneca-Zeneca Services) and address (physical address, PO box, home, or office). Although reported data is available for query online, the online data is not easily aggregated. As a result, it is difficult and time-consuming for citizens or members of the media to use the information disclosed to draw overarching conclusions about trends, patterns, or aggregate giving and spending.

Lawyers and lobbyists were significant donors to candidate PACs. It is sometimes said that PAC donations from lobbyists are billed back to clients. If lobbyists contribute to PACs as part of the cost of doing business and factor that cost into their billing structure, so be it. If lobbyists contribute to PACs on behalf of particular clients, bill those contributions back to those clients, and report the contributions as coming from the lobbyists themselves, then the intent of disclosure has been subverted.

Summary

Some of the reforms we might have contemplated as this study began in 2007 are no longer possible under the SCOTUS' new constitutional framework. It is probably no longer possible to consider banning corporate or union contributions to candidate PACs; nor is it likely that contribution limits to candidate PACs will pass constitutional muster as long as those PACs limit their campaign activity to independent expenditures and make no contributions directly to candidate campaigns.

It still may be possible to place some restrictions on the ability of candidates and legislators to raise unlimited money into candidate PACs for which they are key fundraisers and decision-makers.

Maine's current PAC laws focus on disclosure. To be effective, disclosure depends on diligent observation by interested citizens and timely public scrutiny during the campaign cycle. Disclosure alone has few meaningful consequences unless questionable practices are widely noted in time to have political or electoral effects. Citizen and media engagement is essential. Some of the weaknesses in the currently required disclosures make it difficult for the average citizen or even for media professionals to access meaningful data in a timely way.

There is a continuing tension between political freedom and freedom of speech on the one hand, encouraging people and perhaps other entities, as well – corporations, unions, associations – to be active in the political process, permitting legitimate political activity by people joined together with a common political interest, and on the other hand, regulating



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money to curtail corruption and undue influence. In order for any future reform of PAC law to be successful, it will need to balance these tensions.

Maine has special considerations because of its public financing law. Any future reform also will have to find a way to give political leaders the tools they need to lead their caucus and their party while reducing the appearance of hypocrisy for those leaders using the MCEA, and it will have to do so without forcing leaders to choose between leadership and public funding. Without such reform, the true spirit and intent of public financing in Maine may be compromised.

The LWVME State Board wished to thank all of those League members and others who contributed to this important study. The Board believes that the knowledge gained from this study together with the principles set forth in our new position on PAC reform provide a sound basis for future advocacy in this important area.