

Un-Fair Elections by Dan Jacoby

On March 31, a bipartisan group of House members introduced H.R. 1826, and a similarly bipartisan pair of Senators introduced S. 752. Both bills are entitled the "Fair Elections Now Act," and each bill provides for partial public funding of elections in its respective house of Congress. These bills are an attempt to reduce the prevalence of large donors in congressional elections, the need for elected officials and candidates to spend enormous amounts of time fundraising, and the power large donors have over the legislative process.

Unfortunately, these bills not only fail to achieve their objectives, but in several ways they will actually make things worse.

The plan these bills create would set up a fund that disperses money to congressional candidates who qualify by raising enough money in small donations (between \$5-100). Any candidate who participates in the plan would be limited to donations of \$100 or less, rather than the current limit of \$4,600 (\$2,300 for a primary, and another \$2,300 for a general election).

A participating candidate who raises enough money from enough small donors would qualify for a lump sum in public money, with the possibility of doubling that sum through "matching funds" for extra money raised. Qualifying candidates would not be allowed to spend their own or their family's money (except for \$100 per person), would not be allowed to accept large donations to their "Leadership PACs," and would be required to debate their opponents.

On its surface, this plan sounds like a method for getting rid of large donors (and large fundraisers who raise huge sums for a candidate). It also seeks to end the constant money chase – currently, both major parties have large phonebanks in Washington, DC, and expect their elected officials to spend a lot of time there, calling donors to raise money for the next election; this plan tries to end that practice.

Dig beneath that surface, however, and it turns out that the endless fundraising, and the large donors, will not be eliminated or even diminished. Instead, the focus will shift slightly, and that shift will make things even worse for truly independent voices.

Looking at the House bill, the key sentence is found on in Section 513, on page 17.¹ It reads, "For purposes of this subsection, a payment made by a political party in coordination with a participating candidate shall not be treated as a contribution to or as an expenditure made by the participating candidate." In other words, political parties, and their various committees, can continue to raise and spend all the money they can get their greedy hands on.

Under this bill, it becomes obvious to anyone who has been involved in campaign fundraising that instead of a candidate trying to raise \$4,600 directly, the candidate will ask for \$100 for his or her campaign, and have the other \$4,500 donated to the candidate's political party committee. The money won't disappear; it will merely shift from a candidate's campaign committee to the party's campaign committee.

Meanwhile, in a complete waste of taxpayer money, the government will be dumping hundreds of millions of dollars into campaigns to replace money that will still be raised and spent on campaigns and elsewhere.

¹ General Printing Office (GPO) print version of H.R. 1826, available online at:
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1826ih.txt.pdf

In addition to wasting taxpayer money and getting nothing for it, this system will strengthen the power of political party machinery. There are two ways this will happen.

First, since the \$4,500 that currently goes to candidates will go fill the coffers of party committees, the political parties will be able to spend far more on chosen races than the candidates – which means that a candidate had better be a loyal party machine cog (including spending a lot of time raising money for the party committees), or the party won't help.

Second, Section 201(a)(1), on page 47 of the bill, requires broadcast stations to offer advertising time to political parties at the lowest rate available. Candidates are already given this preferred rate, but now political parties will get more bang for their advertising buck as well, allowing them to wield even more power.

Finally, the bill will result in ever-increasing use of tax money every election cycle. Section 522(c), on page 24, sets the "base amount" of public funding per candidate based on the average amount spent by "winning candidates in the last two election cycles." A candidate can get up to 200% of the "base amount" in public funding (80% for a primary, and 120% for a general election, but only one-fourth of the maximum in an uncontested race), and winning candidates will almost certainly qualify for at least 120% of "base amount," the maximum allowed in a general election, plus 10% of "base amount" in public funding for an uncontested primary election. In addition, a candidate receiving 120% of "base amount" will also have raised at least 50% of "base amount" in direct private contributions.

This number will be larger if there are primary challenges, and smaller if there are a lot of uncontested general elections. In 2008, there were 56 uncontested House races, out of 435. Even assuming no primary contests, the uncontested general election winners will have spent at least 40% of "base amount" (15% in public funding, plus 25% in private donations). The average amount spent by the winners will then be at least 144% of "base amount." As a result, by the third cycle, the "base amount" will be increased by at least 15%, and will go up at an even faster rate every cycle after that.

A 15% increase in four years is a compounded inflation rate of just over 3.5%, about twice the actual inflation rate. In other words, the cost of mounting a successful campaign (and the amount of taxpayer money being spent) will increase at least twice as fast as the inflation rate. That's assuming no primary contests, and minimal spending by the winners – the actual numbers will be a lot higher.

In short, these bills do nothing to reduce fundraising or large donations, they strengthen party machinery at the expense of individuality, they throw taxpayer money away, and they will become very expensive very quickly. They were written with the best of intentions; unfortunately they have gone down the road paved with those intentions.