

CAMPAIGN FINANCING IN MONTGOMERY COUNTY

INTRODUCTION

At the 2008 LWVMC Annual Meeting, the League approved a study of the financing of campaigns for office in Montgomery County. In part, the study was a response to legislation proposed in the 2008 session of the General Assembly to authorize the use of Montgomery County funds to subsidize campaigns for public office. In the 2009 session of the General Assembly, legislation was introduced to authorize Montgomery County to require the disclosure of additional information about campaign contributions. Both of these bills failed to pass. The Maryland League's response to these proposals was guided by the position of the LWVUS that calls for:

Improved methods of financing political campaigns 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 electoral process.

The Montgomery County League's study will enable us to be better prepared to address the specifics of these proposals in the event that they are introduced in a subsequent session of the General Assembly.

At the outset, the study committee decided to focus exclusively on campaigns for county offices, in particular on candidates for County Executive, County Council, and Board of Education. We omitted Sheriff and Clerk of Court, as these are not primarily policy-setting positions, for which the voters need to know the candidates' views, and the General Assembly because, as a unit of state government, it is not subject to county regulation. By limiting the study, the committee chose to focus on campaigns for offices that directly related to local government and could be regulated by county ordinances, provided that state law would authorize such regulations.

The committee studied three major questions:

- 1) How much does it cost to campaign for office in Montgomery County?
- 2) What forms of campaign advertising do voters use most frequently or find most reliable?
- 3) What are the policy options for ensuring that campaigns serve the voters by providing adequate information and also avoid undue influence of contributors?

To assess the typical costs of campaigns, the committee reviewed campaign finance reports filed with the State Board of Elections for the period leading up to the 2006 elections (*i.e.*, from January 1, 2006 to December 31, 2006).¹ Because a special election was held in 2009 to fill a vacancy in County Council District 4, the study committee (with the help of many League volunteers) was able to conduct

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¹Campaign finance website: www.elections.state.md.us/campaign_finance/index.html

a survey in which voters were asked to identify the sources of information on which they relied to choose candidates for that election. The study committee also reviewed existing campaign finance regulations in Maryland and studied a range of campaign financing systems in use in counties and cities across the country.

INFORMATION SOURCES

To make a choice among candidates for office, voters need information about the candidates and their views; “the public’s right to know” is the first principle identified in the LWVUS position on campaign financing. There are currently more than half a million registered voters in Montgomery County, so communicating information to even a portion of those voters is an expensive undertaking.

Most voters do not actively seek out information about candidates, so it is necessary to push information out to the voters. In its survey of voters in the April 21, 2009 special Primary Election to fill the seat in Council District 4 left vacant by the death of Don Praisner, the study committee found that the vast majority of voters relied upon newspaper reports about the candidates (231 of 437 responding) or mailings from the candidates (208 of the 437 respondents). Far fewer voters sought information through attending a candidates’ forum (52 respondents) or seeking information from Websites (60 respondents). A large number of respondents (114) indicated that they used sources of information not specified in the survey, usually referring to a spouse, other family member, neighbor or neighborhood listserve.

Although the League’s *Voters’ Guide* was posted only on the Website rather than printed and mailed as in a regularly scheduled primary and general election, 65 voters (14.9%) said that they had used it to inform their decision, and 58 said that they found it the most reliable source of candidate information.

SOURCES OF CAMPAIGN FUNDING

For this study, we reviewed campaign finance reports from candidates for County Executive, County Council and Board of Education for the 2006 election cycle. The total amounts reported, and the sources from which they were raised, differed significantly. For example, we noted that campaign funding was affected by the candidate’s status as an incumbent, whether the office was at-large or a district race and the competitiveness of particular contests.

For County Executive, the two main Democratic candidates each raised over one million dollars while the third highest vote getter, the Republican candidate, raised less than \$10,000. One Democratic candidate raised \$1.3 million, receiving 71% from individuals and 20% from businesses, while his opponent raised \$2.8 million, receiving 51% from individuals and 46% from businesses.

For County Council, the average raised was approximately \$100,000, and the majority of candidates’ principal source of contributions was from individuals (ranging from 53% for the smallest proportion to 95% for the largest). However, two candidates received contributions fairly evenly distributed between individuals and PACs or individuals and businesses.

The Board of Education candidates raised much less in contributions, averaging \$24,800 and all received the major portion from individuals, ranging from 68% to 99% of all contributions received.

Political Action Committees (PACs) are established by organizations (such as unions, business groups or non-profits) to advocate for particular issues or candidates. While the funds raised for the 2006 elections were primarily from individuals, some candidates received from 1% to 15% from Maryland PACs and one received 34% from Maryland PACs.

INDEPENDENT EXPENDITURES: THE APPLE BALLOT

In addition to contributions to candidates' campaign funds, organizations may undertake independent efforts to promote candidates. Many organizations endorse candidates who support their priorities, and those organizations advertise their endorsements to their own members and to the general public through newsletters, Websites, and in some cases through press releases, means that do not involve any significant expenditure of funds.

Organizations may also spend funds on their own campaign advertising, independent of efforts by candidates. For example, the Montgomery County Education Association (MCEA) endorses candidates not only for the Board of Education but for all the local offices on the ballot (*e.g.*, County Executive, County Council and state legislators). In 2006, they publicized their endorsements (as in previous years) on the Apple Ballot, which was mailed widely and also distributed at the polls, on posters on all Red Line Metro platforms in Montgomery County and in full-page ads in the *Gazette*, the *Jewish Week* and in Latino and Asian publications. MCEA and other unions are prohibited by law from using union dues for political purposes. Accordingly, all the funds for this publicity came from the MCEA PAC, which is supported by union members through a voluntary checkoff in addition to MCEA membership dues. Many of the endorsed candidates also choose to contribute to the MCEA PAC, seeing it as an effective outreach tool for their own campaigns. In 2006, MCEA spent a little over \$400,000, almost all of it before the Primary because there were fewer truly competitive races in the General Election (but 100,000 copies of the Apple Ballots ordered before the primary were reserved for distribution at the polls on General Election day).

HOW CAMPAIGN FUNDS ARE SPENT

Candidates for county office choose to spend the largest portion of their funds on printing and mailing materials to voters. In general, mailing of literature accounted for 20% to 50% of a typical campaign budget. The next largest category was salaries (generally for campaign managers and consultants) and ranged from 3% to 25% for most campaigns, although some spent a larger share on salaries. It appears that less than 10% of funds were spent on radio and television advertising, although some candidates appear to have grouped those expenses with other advertising, such as newspapers. Among reports reviewed by the study committee, only one candidate itemized Website expenses separately, and that accounted for less than 1% of the total campaign expenditures. As more voters search for information on the Internet, it seems likely that the importance of Website advertising will increase.

OUTREACH TO VOTERS

In an election year in which county officials are chosen (even-numbered years that are not Presidential election years), each voter is asked to select candidates for County Executive, four at-large County Council seats and one district County Council seat, one at-large seat on the Board of Education and three district Board of Education seats. In addition, the local offices of State's Attorney, Sheriff, Clerk of the Circuit Court and Register of Wills appear on the ballot as well as the state offices of Governor, Attorney General, Comptroller, State Senator and for current districts, three Delegates to the General Assembly. Thus, in most local General Elections the voters are filling 21 offices, ordinarily choosing between two candidates for each vacancy. In effect, each voter needs to find and review the resumes

of 42 applicants to fill 21 jobs (and in the Primaries preceding the General Elections, there are many more candidates for some offices). Searching for information on such a large number of people is a daunting task, so it is not surprising that, among voters who rated the reliability of sources of information, many have a high regard for the *Voters Guide*, which assembles information on all the candidates in a convenient form.

If a candidate wanted to deliver to all Montgomery County voters an appeal for their votes in the form of a two-page letter, what would be the cost? As of June 30, 2009, there were over 561,000 voters registered in Montgomery County. Based on the cost of a first-class letter (as a candidate ordinarily would not have access to a bulk-mail permit), the postage alone would be \$235,620. The cost of printing and envelopes, and a mailing service to insert the letters into the envelopes, would cost a similar amount. Thus, a simple letter to registered voters in Montgomery County could cost a candidate approximately a half million dollars. Although candidates for County Executive were able to raise sums in excess of that amount, many other candidates seeking county-wide offices are not able to do so. (See discussion below.) Accordingly, those candidates must create campaigns that they hope will reach the largest number of people most likely to vote in their favor. People familiar with campaigns in Montgomery County report that databases with demographic information (income, party affiliation, age, ethnicity, etc.) are used by campaigns to supplement the official list of registered voters and select groups of voters for mailings addressing specific issues.

Candidates' campaigns are not the sole sources of information for voters. As noted in the League's survey, the majority of voters obtain information from news media, primarily newspapers. Interest groups, such as the Montgomery County Education Association (MCEA), are also active in distributing information about candidates. MCEA has been particularly successful with its "Apple Ballot" endorsement of candidates, which is mailed to many registered voters, distributed at the polls and is also applied as a symbol on the endorsed candidates' yard signs. As noted above, candidates for the Board of Education typically have very little money for their campaigns, so they are more dependent on others to persuade voters on their behalf.

Many responses to the survey of voters in the 2009 special council election indicated that voters used the Internet to obtain information about the candidates. Some used candidates' Websites, others used the League of Women Voters Website and a large number reported receiving information from listserves in their neighborhoods. It seems likely that the use of the Internet will increase as people are using it more frequently to obtain information on a variety of subjects and candidates become more sophisticated in creating effective Websites. While a professionally-created Website may be somewhat costly, internet advertising is less expensive than mass mailings or purchased advertising in newspapers. Increased reliance on Internet campaigning, however, may increase the divide between wealthier voters and lower-income voters, due to the lack of access to home computers.

CAMPAIGN FINANCING: CURRENT MARYLAND LAW

If public financing were to be adopted for some offices in Montgomery County, it might be modeled after the plan currently in effect for Governor and Lieutenant Governor of Maryland. Maryland has public financing through the Fair Campaign Financing Fund for Governor and Lieutenant Governor for both primary and general elections. Any candidate, whether a member of a party, an independent or a write-in, is eligible for public financing if he or she can raise the appropriate amount of seed money. If public financing is accepted, the candidate agrees to limit campaign expenditures to 30 cents x state population. Seed money must be raised from individuals only in amounts not to exceed

\$250 (contribution amounts in excess of \$250 are not counted as seed money). Seed money must equal 10% of the maximum allowable campaign expenditure. (In 2006, this was \$208,687.) For the primaries, candidates with opposition receive \$1 in public funds for every \$1 in eligible private funds; those without opposition receive \$1 for every \$3 in eligible private funds. For the general election, candidates with opposition receive equal shares of the remaining balance in the fund (including unspent money from the primary) while those with no opposition receive no funding at all. Contributions to the Fair Campaign Financing Fund are made on the state income tax form. An individual can contribute up to \$500 to the fund (\$1,000 if filing jointly). Expenditures on behalf of a candidate by a state or local party central committee are not subject to the expenditure limit.

Contribution limits apply to all statewide and countywide offices. Municipalities create their own laws relating to campaign financing. In general, a person or business can contribute no more than \$4,000 to one campaign finance entity during a four year election cycle. In aggregate, a person cannot contribute more than \$10,000 to all candidates in any election cycle. There are no limits to contributions to a ballot issue committee; for administrative contributions (heat, light, rent, etc) to a political party; nor are there limits on contributions or loans by a candidate or his or her spouse. A transfer is a monetary contribution from one campaign finance entity (including PACs) to a candidate committee. The contribution limit for transfers to a single candidate (always cash) is \$6,000 during the four-year cycle. Contributions by corporations owned by the same owner or owners are considered as one. This does not apply to other business entities such as partnerships, although an effort was made during the last legislative session to include other business forms as well as corporations owned 80% or more by the same individuals.

Campaign committees are required to file reports with the State Board of Elections on a regular basis disclosing sources of contributions, expenditures, transfers, loans, unpaid bills, etc. Businesses that do business with all levels of Maryland state government involving the sale of goods or services worth \$100,000 or more in a 12-month period must also file contribution reports if they made contributions in excess of \$500 to any candidate or if they pay more than \$500 to a lobbyist.

PUBLIC FINANCING IN OTHER STATES AND MUNICIPALITIES

Eight states in addition to Maryland and four cities provide public financing to candidates for public office. The states include Arizona, Maine, New Jersey, New Mexico, North Carolina, Vermont, Connecticut and Massachusetts and the cities include New York City; Portland, Oregon; Albuquerque, New Mexico; and Austin, Texas. Generally these entities follow the same funding pattern as does Maryland – i.e., the requirement for the candidate to raise a certain amount of seed money, matching funds and a limit on expenditures. Contributions to fair election funds, lobbying fees, fees paid by candidates and appropriated public funds in varying proportions are used to provide the funds for the public matches.

In addition to the systems in which public funds are provided to candidates for their campaigns, some states (Oregon, Washington) publish and mail to every voter a pamphlet similar to the LWV *Voters Guide*. Unlike the League's *Voters Guide*, however, the voters pamphlets do not pose questions to the candidates but simply allot equal space to each candidate. The LWV Oregon publishes its own *Voters Guide* with questions for the candidates, which supplements the state-published voters pamphlet.

In the survey in the special election in Council District 4, voters were asked if they would favor having the Board of Elections send a pamphlet to every voter with statements from each of the candidates. Of

those responding to this question, 62.6% supported the proposal (25.9% “strongly support” and 36.7% “support”); only 25.9% opposed it (20.4% “oppose” and 5.5% “strongly oppose”); and 11.5% were “unsure.” Among those who opposed the proposal, many indicated a concern about the cost to taxpayers, and several also commented that they believed that the League of Women Voters was already doing a good job in this area.

Another alternative for funding campaigns was the “Our Democracy, Our Airwaves” coalition of which LWVUS was a participant. At the local level, this might be carried out through candidates’ forums on cable television channels.

PENDING LITIGATION

At the time this fact sheet was prepared, the Supreme Court was considering a case that could have a significant impact on the regulation of campaign financing. In *Citizens United v. Federal Election Commission*, the producers of a documentary entitled “Hillary: The Movie,” challenged a decision by the Federal Election Commission (FEC) to ban the broadcast of the film during the 2008 election season. The FEC decision was based on the Bipartisan Campaign Reform Act, which limits corporate sponsorship of campaign advertising. Opponents of the FEC regulation argued that it was a violation of the First Amendment ban on restrictions of the freedom of speech. Supporters of the regulation argued that corporations, as artificial entities created under state law, posed special dangers of corrupting the political process and were not entitled to the same level of free speech protection. The Court’s decision has not yet been issued, so its effect on regulations of campaign contributions cannot be predicted.

DISCUSSION QUESTIONS:

The League principles for campaign finance reform refer to “the public’s right to know” and “promote[ing] citizen participation in the electoral process.”

1. Infrequent voters are often overlooked as each candidate mobilizes his or her perceived “base.” How can this problem be addressed?
2. How could the official sample ballot mailed by the Board of Elections be used to help voters find information about the candidates?
3. Do you have other suggestions for helping voters get information about candidates?

The League goals also include “enable[ing] candidates to compete more equitably for public office.”

4. Could the current campaign funding system be changed to ensure that each candidate has a fair chance to appeal to the voters?
5. Incumbents usually have an advantage in fundraising and name recognition - if public funds are used for campaigns, should there be an effort to compensate for that advantage? What methods would you suggest?

The League goals also seek to “combat corruption and undue influence.”

6. How can we address the concern that elected officials may be influenced by contributions?

CONSENSUS QUESTIONS:

1. Should Montgomery County establish a system to publicly fund political campaigns using local tax funds? (Recognizing that the Maryland General Assembly would be required to enact legislation to authorize the county to establish such a program.)

Support Oppose Not Sure

2. If Montgomery County considers a program to use public funds for political campaigns, how do you think the program should be structured?

a) Public funding of campaign services (such as a broadcast candidates’ forum, publicly-printed Voters Guide sent to each voter, candidates’ forums at public facilities such as school auditoriums)

Support Oppose Not Sure

Additional comments:

b) Grants to the candidates, perhaps on a matching basis with contributions?

Support Oppose Not Sure

Additional comments:

c) Other methods, for example, a combination of (a) and (b) or other (please describe suggestions):

Support Oppose Not Sure

This Fact Sheet was prepared by the LWVMC Campaign Finance Study Committee: Marcia Bond, Barbara Hankins, Diane Hibino, Judy Morenoff, Brigitta Mullican, Barbara Sanders and Ralph Watkins, Chair.