

January 16, 2018

Re: HB 1773

Before: NH House Election Law Committee

Chairperson Griffin and Members of the Committee,

It had been my original intent to provide a rundown of the major components of this complex bill, but that would involve rather tedious repetition of many of the points that have already been made today. Besides, much of the bill's language simply describes the nuts and bolts essential to any publically funded election system. So, instead, I'm going to address three items that, upon a quick reading of the bill, might escape attention.

(1) *Civic engagement*. This bill is designed to increase civic engagement in the political process. And that is something badly needed. In their 2016 Democracy Index, the Economist Intelligence Unit ranked the strength of our country's democracy 21st in the world, dropping it from a "full democracy" designation to a "flawed democracy." And what has been the main driver of that decline? Answer: "...erosion of trust in government and elected officials..." (No surprise here.)

We need to rebuild that trust by re-engaging our citizens. There are several systems of publically funded elections. Some involve outright grants, others small-donor matching funds. What sets the system spelled out in HB 1773 apart is the use of \$25 certificates, "civic dollars" that citizens can contribute to candidates of their choice. This program has potential to engage people in a truly revolutionary way. As a citizen, I may not have the resources to support campaigns with my own funds. I can spend my civic dollars, however. But before I do, I need to research the candidates to see who is worthy. Having done that, I might even decide to canvas for them and engage others in political conversation. My new involvement can spur involvement in others.

HB 1773 goes a step further in this regard, mandating debates for participating candidates in primary and general elections (p. 11, lines 5-8).

(2) *Benefits of the CEB*. The bill creates a Clean Elections Board (CEB) to handle the day-to-day administration of the program. It is empowered to do much more than that, however. It has the power of enforcement not only of the civic dollar system, but of *all* the campaign finance rules in RSA 664. Enforcement has been, and is currently, a real issue needing attention.

The CEB is also charged with creating an electronic reporting system and searchable database for tracking the contributions and expenditures of participating candidates (p. 8, lines 27-30). All of us (or *almost* all) favor transparency in the political process. But I often make the point that there is *apparent* transparency and then *real* transparency. What we have in the state

now is transparency of the first kind. Receipts and expenditures are reported, but good luck finding and summarizing the data in any useful way. While only participating candidates would be required to use the CEB's electronic reporting system, once it is up and running, it could be easily adapted for all candidates.

I should mention also that many details of the civic dollar system, things like filing deadlines for affidavits of registration etc., are not addressed in the bill. That is because the CEB is entrusted with filling in the blanks. It is given responsibility to "adopt rules... ..to ensure the certificate program is operated efficiently, fairly, and transparently" (p. 7, lines 31-33).

(3) *Outside money.* HB 1773 includes a lengthy section defining precisely what is meant by "coordination" as it relates to a candidate's campaign and outside groups making "independent" expenditures in support of that campaign (p. 2, line 16 through p.3, line 12). It describes in detail the kinds of situations that are symptomatic of coordination. Now, you might question why this language is included in a bill about citizen-funded elections. The answer is straightforward. Systems of this kind are often criticized as being defenseless in the face of a flood of outside money in elections. We can debate the merits of that argument, but there is no question that anything we can do to stem that flood would be helpful. Given the Supreme Court's current interpretation of the First Amendment, we can't ban outside spending. But we can articulate and enforce the rules laid out for it, so that candidates don't use outside spending groups as a regulation-free arm of their campaigns.

And speaking of outside, out-of-state money, HB 1773 includes language empowering the CEB to recommend whether the civic dollar system should be expanded to congressional elections (p. 10, line 36 through p. 11, line 4). That, as we know, is where the real money is.

I strongly encourage the Committee to vote *Ought to Pass* on HB 1773.

Thank you for considering my testimony,

Rick Bourdon, Open Democracy Action co-chair