

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1

STATE OF NEW JERSEY

DATED: JUNE 3, 2004

The Assembly State Government Committee reports favorably Assembly, No. 1.

This bill, entitled "The New Jersey Fair and Clean Elections Pilot Project," establishes a temporary program for the public financing of candidates seeking election to the office of member of the General Assembly from two legislative districts in 2005.

Specifically, the bill:

(1) provides that the chair of the State political party whose candidate for Governor received the largest number of votes in the most recent gubernatorial election and the chair of the State political party whose candidate for the office of Governor received the next largest number of votes would each select a district to participate in the program from those stated in the bill, and if a chair refuses to make such a selection, it would be made by a three-member alternative selection committee made up of a former Governor of this State and one other person, each appointed by the Speaker of the General Assembly, and one person appointed by the Minority Leader of the General Assembly;

(2) requires participating candidates to initially raise money in contributions of no greater than \$200, defined as seed money contributions, from the candidate, the candidate's family or other individuals but not from a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, up to a limit of \$3,000 in the aggregate, as a candidate seeking election to the office of member of the General Assembly in 2005;

(3) requires participating candidates to suspend, for the duration of the campaign, all access the candidate has to campaign funds raised prior to becoming a participating candidate;

(4) requires participating candidates to raise qualifying contributions of at least 1,000 contributions of \$5 and at least 500 contributions of \$30, as a candidate for election to the office of member of the General Assembly in 2005;

(5) requires all such qualifying contributions to be raised in 2005 during the period beginning on the 25th day following the day of the primary election that year and ending on the 62nd day prior to the day of the general election;

(6) establishes The New Jersey Fair and Clean Election Fund in the Department of the Treasury as a fund into which will be deposited qualifying contributions, voluntary donations, certain unspent campaign funds, fines and penalties collected for violations of the bill;

(7) establishes administrative responsibilities for all of the provisions of the bill with the Election Law Enforcement Commission (ELEC), except in regard to the fund;

(8) requires ELEC to prepare a voter guide listing the name of each candidate seeking office in 2005, listing whether or not the candidate is a certified candidate and providing the candidate the opportunity to insert a statement that cannot exceed 500 words;

(9) enables participating candidates to be certified as New Jersey Fair and Clean Elections candidates if (a) such candidates: sign and file with ELEC a declaration of intent to participate in the election as such a candidate; receive the appropriate number of valid qualifying contributions; submit a valid petition of nomination, where appropriate; and have not accepted contributions while a participating candidate, except for seed money contributions, and (b) both candidates in a legislative district from the same political party are certified as New Jersey Fair and Clean Elections candidates;

(10) permits a certified candidate to withdraw from being a certified candidate and become a nonparticipating candidate at any time prior to the day of the election with the approval of the "New Jersey Citizens' Clean Elections Commission" (NJCCEC, described below), which shall consider such requests on a case by case basis, and provides that any candidate who withdraws from being a certified candidate would remit to the fund any money received therefrom unless directed otherwise by the NJCCEC and permits ELEC to access a penalty for such a withdrawal;

(11) provides each certified candidate with an amount of money equal to 75 percent of the average amount of money expended by candidates who are members of a political party seeking the office of member of the General Assembly in the legislative districts of the certified candidates in the two immediately preceding general elections for that office, as determined by ELEC, but in no event exceeding \$100,000;

(12) provides that if a certified candidate is opposed by a nonparticipating candidate, the certified candidate would receive an additional amount of money equal to the amount that would have been issued to a nonparticipating candidate opponent if that nonparticipating candidate had been a certified candidate;

(13) provides that if a campaign report of a nonparticipating candidate shows that the aggregate amount of the contributions, alone or with money spent on behalf of such a candidate by a person or a political committee, continuing political committee, political party committee, candidate committee, joint candidates committee or legislative leadership committee not acting in concert with that nonparticipating candidate, exceeds the amount provided to each

certified candidate under the bill for such candidates in the district, the Department of the Treasury would issue to each certified candidate additional money from the fund equivalent to the excess amount, up to a maximum of \$50,000;

(14) provides that if certified candidates or nonparticipating candidates are determined by ELEC to be benefiting from money spent on behalf of such candidates by a person or a political committee, continuing political committee, political party committee, candidate committee, joint candidates committee or legislative leadership committee not acting in concert with those certified or nonparticipating candidates, each of the certified candidates seeking election to the office of member of the General Assembly in the same legislative district who are not benefiting from such an expenditure would be provided with money from the fund, following a procedure to be determined by ELEC, in an amount not exceed \$50,000;

(15) requires that a certified candidate include a statement in any campaign advertisement paid for by the candidate and transmitted through radio or television, or through any broadcast, cable, or satellite transmission, or via the Internet, or in any other communication, a statement, in the candidate's own voice, that he or she approved the advertisement;

(16) establishes a procedure whereby a candidate who has been denied certification by ELEC may challenge that decision or the opponent of a candidate who has been certified may challenge that decision;

(17) requires ELEC to sponsor debates among the candidates in such a manner as will be determined by the commission, including a penalty for a participating candidate failing to participate in such debate;

(18) establishes a nine-member commission, to be known as the "New Jersey Citizens' Clean Elections Commission," composed of legislative members and members of the public to review the pilot project, recommend the criteria the Legislature should adopt to select districts from which candidates could seek nomination and election to the offices of member of the Senate and General Assembly in 2007, using the "clean elections" system established by the bill, and recommend whether to make the New Jersey Fair and Clean Elections pilot project a permanent option available to provide public financing for legislative candidates;

(19) provides that any person found to be in violation of the bill will be liable to a penalty of not more than \$6,000 for the first offense and not more than \$12,000 for the next and each subsequent offense; that any individual who is found to have knowingly and willfully given any amount of money to another person for the purpose of having that other person give such money to a participating candidate as a qualifying contribution is guilty of a crime of the fourth degree; and that any person, candidate or official associated with the campaign of a participating or certified candidate who knowingly and willfully

makes false statements or files false reports is guilty of a crime of the third degree; and that any participating candidate who files a report found to be in violation of the seed money and qualifying contributions provisions of the bill would be disqualified as a candidate for the public office sought or would forfeit such office if elected; and

(20) provides that the pilot project established by this bill would be reauthorized by the Legislature and the Governor in time sufficient for candidates in each of four legislative districts to be able to seek nomination for election and election to the office of member of the Senate and the office of member of the General Assembly in 2007. The bill reauthorizing the project would consider the findings and recommendations contained in the final report of the NJCCEC.

The eligible competitive and moderately competitive districts identified in the bill for inclusion in the program were selected as follows. Highly non-competitive districts were removed from consideration. These are the legislative districts that had the highest and lowest percentage of party registration according to the Center for Government Services' 2003 New Jersey Legislative District Data Book. More specifically, of the 40 legislative districts in New Jersey, those whose percentage of party registration fell under 10 or over 30 were eliminated. Legislative districts in which the margin of victory for either party's legislative candidates was greater than 30 percent also were eliminated because these districts are highly non-competitive. Volatile legislative districts were removed because they are districts that would be difficult to use as a "test district" in a pilot program. These include split legislative districts and districts with seats that recently switched parties. The remaining districts -- three current Democratic-held districts (6, 7, 15) and three current Republican-held districts (9, 11, 13) -- represent a grouping of competitive and moderately competitive districts.

This bill is the same as Senate, No. 3 of 2004.

MINORITY STATEMENT

Submitted by Assemblyman Azzolina

As the holder of a seat in the General Assembly from a legislative district identified in this bill as a potential site for the pilot program to be created by the bill, I believe it may be inappropriate for me to cast a vote on the bill at this time. It is also the case that insufficient information has been provided on the potential implications of establishing a pilot program of this type in New Jersey.

I presently co-sponsor Assembly Joint Resolution No. 98, introduced by Assemblyman Bill Baroni, which would require a full study of similar taxpayer-funded campaign systems in other states. Testimony before this committee by supporters of the bill have cited those systems as being successful, yet I have also received information concerning some negative aspects of those systems. A more complete

and deliberate review of the experiences of other states is clearly needed in order to provide a full understanding of the possible impact of this bill.

I have introduced Assembly Bill No. 1132 which bans the holding of multiple offices by a single person, a practice commonly called dual office holding. However, that legislation has not been heard by this committee, and instead the Majority leadership has endorsed a study of the issue. I respectfully suggest that the Majority's approach to reform is the reverse of what it should be with regard to these two issues: a study commission should be created to review taxpayer-funded campaigns, but instead the Majority is rushing to establish such a program; yet the issue of dual office holding is well understood by the members of this House and should be addressed immediately by banning the practice, but instead the Majority wishes to study it.

For these reasons I must abstain on the motion to report this bill at the present time.

MINORITY STATEMENT

Submitted by Assemblyman Carroll

This bill requires the State to spend taxpayers' money, in amounts likely to be in the millions, to pay for political campaigns. Some question whether that is an appropriate use of taxpayers' money at any time, but certainly at a time when the Legislature is again, for the third year in a row, considering the Governor's request to raise taxes on New Jerseyans, it is not appropriate to initiate a major new spending program such as this.

Supporters of this bill have repeatedly referred to the Maine program as an example to follow, yet the bill lacks an important taxpayer protection measure included in the Maine program: a provision requiring State spending in other areas to be reduced by the amount spent on the "Clean Elections" program so that overall State spending is not ratcheted upwards due to State spending on political campaigns.

One of the stated purposes of the pilot program of taxpayer-funded campaigns to be created by the bill is to expand opportunities for average people to run for office, yet it is more difficult to qualify for the pilot program than it is to run for office under existing law. Current law requires only 100 signatures of registered voters on a petition for a potential candidate to qualify for the ballot. In addition to that, this bill requires a candidate to gather a minimum of 1,500 contributions from separate contributors, including identifying information for each contributor, in order to qualify for taxpayer financing. Thus, under this bill, it is actually much easier to qualify as a privately-funded candidate than as a publicly-funded candidate.

Further, the bill is clearly slanted to favor one political party over the other. The commission which would choose the legislative district

to be the subject of the pilot program will consist of two members appointed by the Speaker and only one appointed by the Assembly Minority Leader, thus favoring the majority party. The Citizens' Clean Elections Commission, which is charged with the duty to evaluate the pilot program and make related recommendations, is constituted such that only two of the nine members are effectively guaranteed to be members of the minority party.

The omission of any anti-wheeling provision in this bill or in other legislation considered by this committee means that in the future, as at present, coordinated efforts by political party committees will be essentially unfettered and will be used to create a lopsided playing field for competitive elections rather than the level field purportedly desired by the supporters of the bill.

There are other questions and concerns regarding this bill too numerous to be listed here. Given the weaknesses of the bill, its partisan slant, and the number of unanswered questions concerning the bill, it is unworthy of support and should not be reported by this committee.