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DAN BILLINGS: Maine's Clean Elections system takes hits from near and far

Lawmaker's use of funds legal, but troubling; Arizona law challenged

It was not a good week for Maine's Clean Elections system.

On Monday, the U.S Supreme Court has agreed to review a challenge to Arizona's public financing system.

The Arizona law, like Maine's Clean Elections Act, grants an initial amount of taxpayer funding to qualifying candidates that can be supplemented by matching funds if a privately financed opponent or an independent political group raises or spends more than the initial public funding.

The challenge to the Arizona law claims that matching funds violate the free speech rights of privately funded candidates and independent political groups that spend money against publicly funded candidates by effectively punishing candidates and groups for speaking.

The Supreme Court will hear the case in 2011 and is expected to issue a decision before the term ends in June.

Though a similar challenge to Maine's law failed to bar the release of matching funds before the November election, the case remains pending in federal court. If the Supreme Court strikes down Arizona's matching funds provision, Maine's matching funds law also will be history.

While Maine could continue to provide public funding to candidates, the elimination of matching funds would be a major blow to the Clean Elections system and could discourage candidates from participating.

As a result, advocates of Maine's Clean Elections system will be on edge until the Supreme Court rules.

Closer to home, an Internet post by a legislator raises new questions about the use of public funds by Clean Elections candidates.

On Nov. 11, Rep. Cynthia Dill, D-Cape Elizabeth, wrote to an online listserve, which includes many Democratic legislators.

In her post, which became public last week, Dill wrote, "After checking with the Ethics Commission, I bought a macbook pro, and will reimburse the MCEA funds 40% of its cost."

Dill cited her use of public Clean Elections funds to purchase website and database services that can be carried over into non-election functions. She concluded, "Now that the election is over, I have a computer I can use in the legislature, a web site that can be retooled to use for constituent services, and a personal database that is invaluable. Oh, and I didn't knock on a single door."

I believe Dill's e-mail was meant to encourage her fellow Democrats to use Clean Elections funds to purchase goods and services that could be useful to them after the election.

The Maine Republican Party, which I represent as an attorney, took issue with Dill in a press release: "The attitude expressed by Representative Dill in this email is deeply troubling," wrote Christie-Lee McNally, Maine GOP executive director. "The Maine Clean Elections Act was meant to provide a level playing field for legislative candidates, not to provide Cape Elizabeth lawyers with discounts on their computer supplies."

In defense of her actions, Dill said Clean Election rules state that when equipment is purchased with public money, a candidate may purchase the equipment after the election for 40 percent of the purchase price. The rules, however, emphasize the equipment should be sold for fair market value and state that when a candidate purchases equipment after a campaign "the campaign must receive at least 40% of the original purchase price."

While Dill may be able to defend her actions legally, her e-mail suggests that she considers Clean Elections funds to be money she can use to buy items for personal benefit. If the public begins to think that Dill's attitude is typical of other lawmakers, it will undermine public support for the system.

The Ethics Commission should consider banning the use of Clean Elections funds by legislative candidates to buy computers, since most of them already have computers in their homes and a new one is not actually needed for a person to run for the Legislature.

The real test for Clean Elections will come during upcoming budget discussions. With a projected shortfall of \$1 billion and new Republican leadership in the governor's office and the Legislature, it is likely that Clean Elections funding will be one of the items on the table to fill the budget gap.

I predict more bad weeks ahead for Maine's Clean Elections system.

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