

BANGOR DAILY NEWS

How to repair clean elections

By Ed Youngblood, Special to the BDN

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For better or for worse, the United States Supreme Court has made campaign finance a priority in recent years. In a series of First Amendment challenges, including *Citizens United v. FEC*, portions of several state and federal statutes have been struck down.

Whether one agrees with these rulings or not, it is clear that the landscape has shifted.

Just this past June, in *Arizona Free Enterprise Club v. Bennett*, the court overturned the clean election matching funds system in Arizona, taking down Maine's system with it.

But in these rulings, the court did more than strike down existing laws. It also affirmed some of the key building blocks of campaign finance systems, including transparency and public financing. Although one element of clean elections was lost, the program as a whole stands on fundamentally constitutional ground.

Since it was first available in the 2000 legislative elections, Maine's Clean Election program has been embraced by candidates and voters alike. Eight in ten legislators who serve today won their seats using clean elections, and they are Republicans, Democrats and independents. Year after year, polls confirm that strong majorities of Maine people favor the law.

Few laws enjoy such popularity across the political spectrum and around the state. That's one reason the state must repair the law before the 2012 elections get under way.

Since the Supreme Court ruling in June, Maine's Ethics Commission has been busy studying the decision, seeking input from the public and considering various options.

Last month the commission made a set of recommendations to the Legislature's Veterans and Legal Affairs Committee which will now work on legislation to mend the law. The goal is to have the full Legislature make necessary changes early next year.

What the commission found is that the law does not need a complete overhaul. Most aspects of the program do not require any change at all. Candidates will still qualify for public funding by collecting qualifying contributions of \$5 from in-district voters in order to demonstrate grassroots support. Equal distributions will still be made to candidates in similar races.

What will have to change is how, or whether, additional funds are distributed to particular candidates.

One size does not fit all, as we have seen over the ten years of the clean election system. Some candidates get by very well with the single initial distribution. Other candidates are opposed by a high-spending rival or find themselves the target of massive independent spending. Under the old matching funds system, those candidates would automatically receive additional funding in order to remain competitive as the race heated up.

Without clean elections, candidates in this situation often retreat from the campaign trail in order to spend time on the phone raising money. Rather than making their case to voters, they must make the case to those who can contribute money.

The clean election system puts a premium on voter contact and matching funds allowed clean election candidates to keep campaigning and keep knocking on doors, because they already had the necessary resources to do the additional mailing, radio spot or newspaper ad.

Now the court has ruled that the state may not base these additional funds on someone else's spending — not the high-spending opponent and not the independent expenditures.

The recommendation that I support is the “requalifying option.” Under this option candidates could undertake additional qualifying rounds, collecting more qualifying contributions in order to receive additional funding. Candidates can be sure that if they are willing to do the work and if voters in their district are willing to support them, they will have adequate funding even in the most vigorously contested races.

The “requalifying option” solves one problem that we had under the old matching funds system, which was funds being distributed at the very last minute, often too late to be spent effectively.

Of all the ideas that were put forward by legal experts, academics and others, I came around to this simple and effective solution because it ensures the viability of clean elections for most races, it is consistent with the values that underlie the system and it provides continuity with the current system. Candidates who choose to requalify will have more contact, not less, with voters. It's a Maine-grown fix for our Maine-grown law.

With the right repair, our clean election system will be better than ever.

Ed Youngblood of Brewer is a former state senator who served in the 120th and 121st Legislatures, using clean elections in each race. He recently finished his second term on the Ethics Commission.