

BANGOR DAILY NEWS

No Match for Clean

Editorial

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A ruling overturning the matching portion of Maine's Clean Election law was not unexpected. The Legislature foresaw the problem and gave the Ethics Commission the job of fixing the law after the court decision. The commission's job is fairly easy — eliminate the matching provision, which gives publicly funded candidates more money when their privately financed rivals spend more.

Time can be spent crafting clever ways to work around the ruling or to develop schemes to allow some private contributions to publicly financed candidates. The best path is the most straightforward.

Without matching funds, candidates who decide to participate in the state's public financing system will still get set disbursements for the primary and general elections. But that should be it. No extra money when a competitor — or, more likely, a political or industry group supporting the competitor — spends more.

A proposal to allow publicly funded candidates to raise some private money to make up for the spending of a privately financed candidate undermines the whole idea of Maine's Clean Election system.

When a candidate decided to accept public financing, they understand that a challenger who raises their own money may have more to spend. That is a risk of taking public money rather than raising campaign funds on your own. Trying to protect Clean Election candidates from that risk is inherently fraught with problems, as Maine and Arizona found out when courts struck down their matching fund schemes.

Last week, U.S. District Court Judge George Singal ruled that Maine's system of giving more money to Clean Election candidates when their privately financed opponent receives and spends more is unconstitutional. This follows a U.S. Supreme Court ruling last month striking down a similar system in Arizona.

After the Arizona decision, the Legislature directed the state Commission on Governmental Ethics and Election Practices to develop recommendations to be submitted to the Veterans and Legal Affairs Committee, which will use them to develop a bill to correct the public funding law for consideration during the 2012 session.

On Thursday, the Ethics Commission will hold a public session to accept suggestions on how to address the funding provision. The commission has already developed several suggestions, including allowing limited private fundraising by Clean Election candidates who decide they need more campaign funds.

This is not necessary. Maine's model should follow the presidential one. Publicly funded candidates should get a set disbursement (perhaps it should be higher than it currently is, but given the economy, this may be a hard sell) and that is all. The presidential system does include limited matching of funds raised by candidates (not their opponents) during a primary.

Eliminating matching funds will make running as a publicly funded candidate more risky. Especially with a law passed this spring that doubles the amount that can be given to candidates for governor, there is a big risk that Clean Election candidates will be outspent by privately financed ones.

State taxpayers, however, can't be responsible for eliminating or minimizing that risk.

As the court ruled, matching funds have to go.