

Burlington County Times

Pay-to-Play needs common-sense changes

JEFF BRINDLE • 07/01/18 6:00 am

Fears about public contractors wielding improper political influence over New Jersey's elected officials led to drastically smaller contribution limits and other reforms in the mid-2000s.

Under these "pay-to-play" laws, public contractors generally now can be banned from making contributions larger than \$300 per election. Business entities with more than \$50,000 in public contracts must file annual reports with the New Jersey Election Law Enforcement Commission (ELEC) disclosing contracts and contributions.

The move to regulate public contractors stemmed largely from a 1998 contract worth more than \$500 million to Parsons Infrastructure and Technology Group to privatize state automobile inspections. Prior to securing the contract as the lone bidder, Parsons and affiliates had provided more than \$500,000 in contributions to New Jersey candidates and committees, according to the State Commission of Investigation (SCI). In 2002, the commission called for several legislative and regulatory changes.

A recent Burlington County Times story, "Freeholders divided on school safety architect" (June 15), and a subsequent editorial, "The Perils of Pay-to-Play" (June 17), echo the long-standing concern about tit-for-tat contract awards.

Upheld by the New Jersey Supreme Court as constitutional in 2008, pay-to-play laws have had both positive and negative impacts.

On the plus side, reports filed by more than 2,000 business entities in 2017 disclosed 19,600 contracts and \$10 million in political contributions. The reports showed that contractors gave \$6 million less than they did in 2007. Tighter contribution limits have created less opportunity for contractors to be awarded lucrative contracts in return for hefty campaign contributions.

But fewer contractor donations coming through the spigot have sped the decline of state and county parties, even as parties already are facing competition for donor dollars from independent special interest groups. These groups have surged more than 11,000 percent since 2005, spending \$47 million in state elections in 2017.

In their worst form, independent campaign spenders are like outside hitmen that sneak into town right before an election to perform character assassination on candidates and then quickly vanish. Sometimes the public has no clue who even funded them. Stronger parties and more disclosure could help offset their fast-growing influence.

Another problem with the pay-to-play regulatory system is that it has become a thicket due to a multitude of well-intentioned laws and executive orders. Even lawyers can be confused by current laws. For instance, many local bodies have different sets of pay-to-play rules and, in some places, they change regularly.

Moreover, contractors can totally escape the \$300 contribution limit if municipal and county bodies adopt “fair and open” ordinances that simply require public advertising of contracts. These ordinances needn’t require that contracts be awarded to the lowest bidder.

First endorsed in 2010 on a bipartisan basis, one of the ELEC’s top legislative recommendations is to end the “fair and open” loophole.

The ELEC also has urged that pay-to-play laws be simplified by adopting one state law; require disclosure of all contracts larger than \$17,500; remove pay-to-play limits on parties while imposing them on political action committees; and letting contractors give \$1,000 instead of \$300. This \$1,000 limit still would be well below the \$2,600 maximum that individuals, businesses and unions can give each election.

The ELEC’s recommendations have bipartisan legislative support and are incorporated in S-1479, sponsored by Sen. Troy Singleton, D-7th of Palmyra; A-1957, sponsored by Assembly Minority Leader Jon Bramnick, R-21st of Westfield; and A-1524, sponsored by Assemblyman Andrew Zwicker, D-16th of South Brunswick.

These common-sense changes could help fix the unintended consequences caused by the original pay-to-play reforms, while leading to a stronger regulatory system that is easier for all to understand. We hope the Legislature acts soon.

Jeff Brindle is executive director of the New Jersey Election Law Enforcement Commission. The opinions presented in his guest opinion are his own and not necessarily those of the commission.