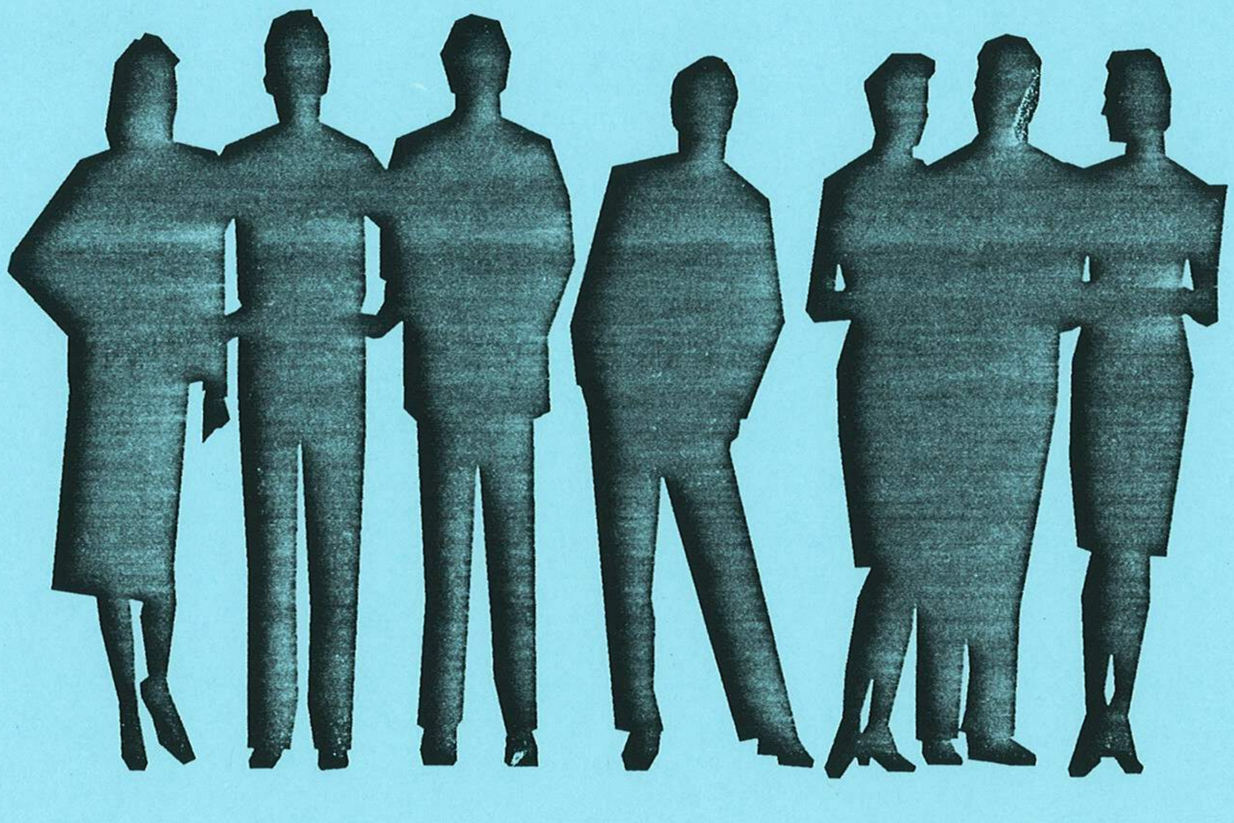
Fighting For a People's Convention:

"Campaign Finance and the New York State Constitutional Convemtion"

A Report by Common Cause/NY



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INTRODUCTION

This paper is based on the State Issue Brief on Campaign Finance Reform by Common Cause, and on reports by The Temporary New York State Commission on Constitutional Revision and the New York State Commission on Government Integrity.

BACKGROUND

In 1997, New Yorkers will have an opportunity that comes only once every 20 years -- to decide whether or not to hold a state Constitutional Convention ("ConCon"). Delegates to the ConCon are free to suggest changes to New York's constitution. These changes must then be approved by the voters. Since the constitution is the basic law of New York to which all other state laws must conform, the actions of a ConCon could affect the lives of New Yorkers for many years to come. It is therefore crucial that ConCon delegates are elected democratically and that they reflect the views of the people of New York.

The process of selecting the 198 ConCon delegates -- 15 state-wide representatives and 163 elected by Senate district -- is traditionally governed by New York's regular election laws, which include restrictions on how campaigns are financed. These restrictions on campaign contributions and on candidate spending are inadequate to either: (1) prevent wealthy special-interest groups gaining undue influence over candidates; or (2) allow serious but under-funded or independent candidates a viable chance of election. New York won't have a representative, ``People's Convention'' unless we reform campaign finance laws for delegate elections to meet these two goals.

LIMITING CAMPAIGN CONTRIBUTIONS

The expense of running for office forces candidates to rely on large private contributions to fund their political campaigns. On result of this has been the creation of political action committees or PACS, which companies and other special interests use to funnel money to selected candidates. PACs are a major source of funding for political campaigns and, potentially, for Convention candidates as well.

State law does limit how much money a political candidate can accept from PACs and special interests. These limits are far too high, however, to prevent wealthy contributors giving large donations to -- and gaining inordinate influence over -- potential delegates. For candidates for the 15 state-wide delegate slots, general election contribution limits are determined by a formula based on the total number of registered voters in the state. The maximum limit is $28,000. Candidates in the (smaller) Senate districts face similarly generous limits. The maximum contribution for a Senate district primary election is currently (1995) $4,500; for a Senate general election it is $7,000.

To put these numbers in perspective, consider that state Senate incumbents spent an average of $96,278 in the 1992 elections, according to the Gannet News Service, while challengers spent an average of $21,967. (Since most delegates are elected by Senate district, it is reasonable to expect their campaign expenditures to be comparable to those of Senate candidates.) Clearly, a very small number of wealthy PACs or individuals can fund a candidate's entire campaign. This allows delegates to be bankrolled by and beholden to special interests.

The first step to solving this problem is tighter contribution limits. We should allow candidates to accept no more than $2,000 from any single contributor for the primary and general elections combined. This limit would apply to PACs, corporations, parties, and individuals. In addition, aggregate limits on how much a candidate can accept from PACs per election cycle or per year would ensure that no delegate answered solely to a few special interests.

Contribution limits won't be effective unless we also restrict ``bundling,'' which is legal in New York. ``Bundling'' is the practice of using an intermediary to organize and channel campaign contributions to a candidate in such a way that the candidate is aware of the intermediary's role. For example, a corporate CEO may ask certain employees to contribute to a campaign. If, say, 20 executives give $1000 each, then the $20,000 sum won't count towards the CEO's individual contribution limit. ``Bundlers'' can circumvent contribution limits while taking full credit with the candidate for delivering large donations. This can be remedied by counting a ``bundled'' donation towards the "bundler's" own contribution limit, as well as those of the original contributors.

PUBLIC FINANCING OF DELEGATE ELECTIONS

Limiting contributions is only half the solution; the other, complementary half is public funding of elections. A public financing program would partially fund political campaigns in return for imposing spending limits on candidates. By restricting how much money a well-funded candidate can spend, and allowing under-financed candidates -- usually challengers -- a chance of success, public financing seeks to level the fiscal playing field.

The current election system favors well-known, party-backed, or independently wealthy candidates. (The 1967 ConCon consisted of many from the first two categories; 22% of the delegates were judges, state legislators or mayors.) Partial public financing, under the aegis of an independent, non-partisan commission, would reduce the tremendous fund-raising advantages of certain candidates, and allow voters a wide choice of delegates for the next ConCon elections.

Public financing has worked well on a national level. 58 of the 59 major party presidential candidates from 1976 to 1992 agreed to spending limits and accepted public financing (the sole exception was John Connally in 1980, who spent over $13 million in a losing campaign). 22 states have some form of public financing and two -- Minnesota and Wisconsin -- provide money for state legislative as well as executive candidates. New York City's public financing of Council elections under the supervision of a non-partisan board should serve as a model for the state.

How much would this cost? Partial public funding of the 163 Senate district ConCon elections would require $7 to $9 million, according to the estimates of The Temporary New York State Commission on Constitutional Revision. If this sounds expensive, consider that New York's annual budget is over $30 billion, while running the operations of the legislature alone costs the state some $72 million a year. Public financing is worth its price. It would allow more competitive, democratic ConCon elections and prevent special interests from unduly influencing the provisions of our constitution. Public financing would reduce the tax breaks and legal loopholes that special interests seek -- and too often get -- in return for their political largesse. Democracy is not only more just, it's more efficient.

General funding may be politically unpalatable, given Albany's budget-slashing zeal. An alternative used by public financing programs in other states is income tax check-offs or add-ons (the former don't add to the taxpayer's liability, while the latter do). Income from tax check-offs usually far exceeds income from add-ons, as might be expected. Either option should be in place before voters are asked to decide in 1997 whether to hold a Convention.

A ConCon public financing program should ensure that only serious candidates receive funds. Under current ballot access laws, successfully petitioning to get on the ballot may itself be sufficient proof of seriousness. (Here, our companion paper on ballot access is relevant.) Alternatively, a candidate may be required to raise a threshold sum before getting public funding. Whenever the specified threshold is met, contributions of $250 or less would be matched on a three-to-one ratio. Larger contributions up to $1,000 would be matched at a 1-to-1 rate. This would reduce the clout of wealthy PACs by encouraging the smaller contributions usually made by individuals.

Participation in any campaign financing program must be voluntary. (The U.S. Supreme Court has ruled that compulsory limits on campaign spending are unconstitutional.) Financial incentives provide a simple and effective means of encouraging participation. Thus, a candidate whose non-publicly financed rival refused to observe voluntary spending limits would be given more matching funds, and her overall spending-cap would be doubled.

In addition to enforcing campaign spending laws, a ConCon Election Board would provide open, public disclosure of campaign contributions. ConCon voters have a right to know who a candidate's major financial supporters are. Potential delegates will be required to file financial statements at specified times, with a final statement due immediately after the election. The statements should include the name, address, occupation and employer of each contributor or ``bundler'' giving more than a specified amount (say, $100). The Board would also regulate PAC financing and make sure that each PAC disclosed its sources of funding and its own contributions.

SUMMARY

We've got a lot to do before 1997 if we want to guarantee New Yorkers the option of a fairly elected, representative Constitutional Convention whose delegates answer to the voters, rather than to special interests:

- allow delegate candidates to accept no more than $2,000 from any one contributor;
- impose aggregate limits on how much money candidates can take from PACs;
- restrict ``bundling'' by having contributions count towards a ``bundler's'' individual limit;
- institute partial public financing of ConCon elections, with caps on election spending;
- establish a non-partisan Election Board to oversee spending, regulate and disclose contributions, and punish violations of election law.

If you're interested in learning more about these issues, please contact Common Cause/NY at 1-800-300-8707.