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## Weekly Lobbying Articles

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Concord Monitor

May 18, 2018

### Democratic candidates for governor spar over campaign contributions

<http://www.concordmonitor.com/Marchand-and-Kelly-gubernatorial-campaigns-tangle-over-campaign-contributions-17604466>

Democratic gubernatorial candidate Steve Marchand on Friday announced that his campaign will return the corporate contributions it's accepted.

"We seek to practice what we preach in terms of fundamentally transforming the way campaigns are funded in New Hampshire," the former Portsmouth mayor said, indicating he will return \$13,000 in corporate contributions he's received since launching his second straight campaign for governor.

Former state Sen. Molly Kelly of Harrisville, who joined Marchand in the race for the Democratic gubernatorial nomination last month, urged him to give back the money.

"Kelly is the only candidate in this race – not Chris Sununu and not Steve Marchand – who has not accepted a penny of corporate contributions," her campaign said.

Last week, Marchand announced a plan that would give incentives to candidates running for governor, the Executive Council and the state Senate to raise money from small-dollar in-state donors rather than from wealthy out-of-state contributors, lobbyists, corporations and political-action committees.

Soon after that announcement Marchand said that he wouldn't take corporate contributions "going forward."

On Friday, Marchand reiterated that pledge, but went a step further.

"Although less than one-quarter of 1 percent of our contributors were classified as corporate, we have contacted all six people and let them know we are returning their contribution," he said.

He also touted that more than 90 percent of his contributors are from within New Hampshire and that the average contribution received was under \$80.

For the second time in recent days, Marchand also invited Kelly to join him in taking the People's Pledge.

The pledge to limit third party spending in an election gained attention in 2012 when it was agreed to by Massachusetts incumbent Republican Sen. Scott Brown of Massachusetts and his Democratic challenger Elizabeth Warren.

Both Brown and Warren agreed that if an outside group aired TV ads using independent expenditures, the candidate who benefited from that spending would contribute an amount equal to half the cost to charity.

There were attempts to implement the pledge in New Hampshire's 2014 and 2016 U.S. Senate campaigns but no agreements were reached between the candidates.

Kelly's campaign told the Monitor on Friday they've received no direct communication from the Marchand campaign regarding the People's Pledge.

Marchand's announcement came hours before he was to hold a town hall on campaign finance reform at New England College's downtown Concord location on North Main Street.

His proposal would set up a public campaign finance system that would provide matching state funds to gubernatorial candidates who don't accept PAC or lobbyist contributions and who raise \$250,000 in small donations ranging from \$5 to \$100. Ninety percent of those contributions would have to be raised from within New Hampshire.

Marchand and Kelly face off in the September Democratic gubernatorial primary, with the winner taking on Sununu in November's general election. Sununu is the state's first Republican governor in a dozen years.

**Tampa Bay Times**  
**May 21, 2018**

**Florida's porous campaign finance laws: 'You can do almost anything'**

<http://www.tampabay.com/florida-politics/buzz/2018/05/21/floridas-porous-campaign-finance-laws-you-can-do-almost-anything/>

Florida's wide-open race for governor won't be decided for another six months, but it's already triggered a wave of expensive television ad buys from groups taking advantage of gray areas in the state's campaign finance laws.

Campaigns are interpreting the law so liberally — and some experts think they will get away with it — that it could essentially render the laws meaningless.

So far, at least \$13 million has been spent on television ads in the governor's race that includes two Republicans and four Democrats vying for the job that will be vacated by Gov. Rick Scott. Television ads are poised to play a crucial role in the race since polls continue to show a majority of the state's voters don't really know the Republican or Democratic candidates vying to replace him.

Some of the ads are being paid for by groups that insist they have no legal obligation to disclose who's paying for them. Other ads are being coordinated with campaigns relying on their own legal interpretation to sidestep laws and rules intended to place limits on ad campaigns being funded by large donors.

But the surge of ads highlights Florida's arcane and loosely regulated campaign finance system. Over the years, the Republican-controlled Legislature has made it easier for candidates and their allies to raise

large amounts of money, while at the same time making it harder for the state's elections commission to go after those who violate the law.

"Florida really has no campaign finance laws," joked Christian Ulvert, a political consultant who is a senior adviser for the campaign of Philip Levine, the former mayor Miami Beach running for the Democratic nomination for governor.

Adds Mark Herron, an election law attorney based in Tallahassee: "You can do almost anything in Florida if you put it in the right bucket."

Here's a look at the ways that campaigns and groups are navigating state laws:

— Florida Grown, a political committee linked to Agriculture Commissioner Adam Putnam, has raised millions, much of it coming from large donations from companies such as Publix, Florida Power & Light and Disney. The committee has already spent nearly \$3 million to pay for television ads featuring Putnam. Committees can accept unlimited donations, but donations directly to statewide campaigns are limited to \$3,000 per person.

A 2016 opinion by the Division of Elections suggests that if a political committee runs an ad featuring a candidate months ahead of an election it could be considered a contribution to the campaign.

But Putnam's campaign maintains their ads are legal and are not violating contribution limits. Bucky Mitchell, an attorney for the committee, contends that the first ad launched by Florida Grown focuses "on issues and public policy rather than express advocacy or electioneering on behalf of a candidate." In the ad, Putnam talks about how he is guided by faith and that he has learned to work hard.

— Levine also has a political committee that paid for more than \$4 million worth of television ads, but Ulvert stressed that the initial ads discussed issues such as oil drilling and guns and not Levine's campaign for governor. He noted that Levine has started to pay for new television ads directly out of his campaign account in the last few months.

— An organization known as The Collective Super PAC, which is linked a national group that promotes black political candidates, has taken out ads in south Florida that sharply criticize Gwen Graham, one of the Democrats running for governor. The group supports Tallahassee Mayor Andrew Gillum.

But the organization has not registered with the state and is not reporting to state authorities how it is paying for the ads. Graham's campaign maintains this is against Florida law, which states a committee must register with the state if it is receiving contributions for the purpose of influencing a state election.

— National Liberty Federation, a nonprofit group, is running television ads sharply targeting U.S. Rep. Ron DeSantis, who is running against Putnam. Organized under the part of the tax laws for social welfare organizations, this group is not registered with the state and it's not revealing the source of its money.

Everett Wilkinson, the head of the group, says his organization has had "zero communication" with the Putnam campaign and that "we would never coordinate with a candidate."

Critics say state laws are flouted because the commission is slow to handle complaints and operates under too many constraints placed on it by the Legislature.

"They handle nickel and dime cases but overlook the huge problems of unregulated and improper spending," Herron said. "They will kill you to death if you don't file a report on time or don't put a disclaimer on a sign. But to deal with these big issues? It ain't happening."

**Grand Forks Herald**  
**May 21, 2018**

**Lloyd Omdahl: Ethics of 1900s no longer good enough**

<http://www.grandforksherald.com/opinion/columns/4448005-lloyd-omdahl-ethics-1900s-no-longer-good-enough>

In a study of state governments, the Center for Public Integrity, a nonpartisan organization of investigative journalists, gave North Dakota a big fat "F" for its failure to protect the integrity of its governmental processes.

The Center looked at lobbyists, conflicts of interest, transparency and ethics in government. North Dakota governments were found to be vulnerable on all points.

Various proposals to plug the gaps have died a quick death in the last four sessions of the state legislature. This stonewalling has spurred the bipartisan North Dakotans for Public Integrity, cochaired by Dina Butcher (R) and Ellen Chaffee (D), to launch a petition campaign to put the issue before the people in the November election.

The measure proposes to amend the state constitution so that a hostile legislature would be unable to set aside a vote of the people. Polls show that most parts of the sweeping amendment have the support of 75 percent of the citizenry.

Relating to lobbyists and conflicts of interest, the object of the measure is to reduce the influence of money in campaigns, restrict lobbyists' gifts, and disallow personal use of campaign funds.

On the question of transparency, the measure would require accurate, quick reporting of all campaign contributions over \$200. Present reporting is slow, incomplete and late.

An ethics commission, appointed by the governor and senator leaders from both parties, would define "ethical" and exclude lobbyists, elected officials, and party leaders from appointment for four years.

The authority to define ethics will be difficult but important. At the present time, our whole society — including state officials — are being charged with sexual assault. A handful of public employees are abusing travel privileges.

Lobbyists hustle lawmakers and regulators by showering favors, such as junkets, game tickets and "good times."

Lobbyists find that these activities yield an incredible return in favorable decisions. The measure contemplates protection of whistleblowers, those folks who are tired of seeing abuse in the public sector and risk losing their jobs for speaking out.

When integrity proposals have been introduced in the legislature, a common chorus has risen to the rafters: "North Dakota people are honest; we have no corruption or fraud. This legislation solves a problem that doesn't exist."

While we may extoll North Dakota's claim of innate integrity, it simply doesn't stand the test of history. Human beings fail in North Dakota as well as in Missouri, New York and New Jersey.

At one time travel vouchers had to be counter-signed by the governor. As his administrative assistant, it fell to me to administer this duty. In the process, we found two elected state officials cheating on travel expenses, even claiming reimbursement for trips never taken.

Right now, we have men in government, business and entertainment who have lost their jobs and respect when discovered to be guilty of sexual assault. Sex assault is no longer tolerated.

While the large majority of state employees respect the parameters, I'll bet that at least 10 female employees are experiencing some form of sexual assault today. As long as there is no vehicle, such as an ethics commission, to protect them they are forced to keep quiet.

In summary, the things that were acceptable in the 1900s are no longer tolerable. North Dakota governments are due for a review and a revision of ethics.

Sponsored by North Dakotans for Public Integrity, the constitutional amendment was hammered out in a year of weekly discussions by an ad hoc committee of 14 advised by several attorneys. It is a sound proposal.

According to Co-Chairs Butcher and Chaffee, the petition drive is being welcomed by citizens.

Their only problem will be sufficient funding for an educational campaign. "Integrity" doesn't reach into the deep pockets.

Lloyd Omdahl is a former lieutenant governor and professor at UND.

**Miami Herald**  
**May 23, 2018**

**Rules aimed at monitoring Florida lobbyist wither on the vine**

<http://www.miamiherald.com/opinion/editorials/article211722064.html>

When Florida House Speaker Richard Corcoran convinced the House to pass ethics rules in 2016 that require lobbyist for local governments and other tax-funded entities to disclose their contracts, it was a victory for transparency. Finally, the public would see how much public money their local governments were spending to lobby the Legislature. A web page provided a one-stop resource for tracking such expenditures.

Sadly, that victory was short-lived because the House Public Integrity and Ethics Committee failed to ensure that information collected from lobbyists was posted or that lobbyists actually filed the required disclosures.

The web page went a full year without a single update, even as some lobbyists continued to send in information. But many lobbyists didn't, and the committee took no steps to check for violations, or even remind lobbyists of the requirements.

"We're not in the business of trying to seek out and find violations," said Rep. Larry Metz, chairman of the ethics committee. "If we're told someone is not complying, we're going to take that under advisement and act accordingly."

With Metz refusing to serve as a watchdog, it fell to others. Hundreds of lobbyist disclosure forms were uploaded to the web page only after reporters for the Miami Herald and Tampa Bay Times inquired about the status of the database. But even though the 2018 legislative session ended in March, details of 170 contracts for that session still aren't available online.

If Corcoran had gotten his way in 2016, localities wouldn't have been able to spend money on lobbyists at all. "It's a disgrace that taxpayer dollars are used to hire lobbyists when we elect people to represent them," he said when the rule passed. "The state doesn't do it, and neither should the locals."

Corcoran has a point. Localities should be able to make their case to legislators without spending millions of taxpayer dollars on outside lobbyists. That's part of the job local officials are elected to do, after all.

But localities are often going up against powerful private interests with high-powered, high-paid lobbyists. Corcoran couldn't convince the legislature that it was fair to force local governments to unilaterally disarm, so he settled for this rule requiring greater transparency. It was a good compromise that should have made it easy for the public to at least see how much money their local governments were spending lobbying another government.

The rule is worthless, though, if the ethics committee doesn't do the work of following through — which includes monitoring compliance by lobbyists working for local governments. It should also be strengthened to include subcontractors and consultants, not just the primary firm contracting with a locality.

Metz only offered up a non-excuse, non-explanation for the failure: “The ball was dropped somewhere along the line.”

Well, yeah. But who dropped it? More importantly, who is going to pick the ball back up and ensure that the promise of this rule is fulfilled?

Metz seems to think the committee is on top of things. “I’m optimistic about the system that we’ve started with this term,” Metz said. “The foundation is in place for a very robust disclosure system to be accessed by the public in real-time.”

It’s not really clear, though, why the public should share that confidence — given the committee’s recent performance.

**The Baltimore Sun**  
**May 22, 2018**

**Maryland Gov. Larry Hogan reports having a \$9 million campaign chest, far outpacing Democrats**

<http://www.baltimoresun.com/news/maryland/politics/bs-md-campaign-finance-report-20180522-story.html>

Maryland Gov. Larry Hogan and Lt. Gov. Boyd K. Rutherford reported Tuesday that they raised more than \$1 million in roughly a month this spring, bringing their campaign cash total to more than \$9 million — far outpacing their Democratic challengers.

The Republican governor’s campaign now has more than twice as much cash as all of the seven major Democratic Party candidates combined.

“Larry Hogan will not be hurting for money,” said St. Mary’s College of Maryland political scientist Todd Eberly. “In what could be a bad year for Republicans, holding onto a governorship in a blue state would be a significant win. Of course, once there is a Democratic nominee, the money will start pouring in there, too.”

Seven major Democratic candidates are vying in the June 26 primary for the nomination to run against Hogan in November. All campaigns were required to file fund-raising reports by midnight Tuesday.

Hogan’s best-financed Democratic opponent, Baltimore County Executive Kevin Kamenetz, died suddenly this month and has been replaced by his running mate, Valerie Ervin, a former Montgomery County councilwoman. It appears that Ervin will not be able to access that war chest because it was held in an account belonging only to Kamenetz. Ervin reported having \$164,000 on hand Tuesday.

Lawyer Jim Shea, the former chairman of the state’s largest law firm, now leads the cash race among the Democrats.

Shea said Tuesday his campaign had raised almost \$700,000 over the last three months and had \$1.4 million cash on hand — including many donations from lawyers. He has begun what he says will be a sustained television, print and digital ad push during the final weeks of the campaign.

“We have preserved our resources for the most impact in the final stretch of the campaign,” said Shea’s campaign manager, Brian Doory.

Second in cash among Democrats was former NAACP President Ben Jealous, who collected almost \$1 million since January and reported that he has \$660,000 on hand for the final month of the campaign.

To reach their fundraising totals, Jealous and running mate Susan Turnbull have depended heavily on out-of-state donations. Combined, the two have collected 21 percent of their money from Marylanders but 42 percent from Californians. Jealous has defended his reliance on out-of-state donors, saying that a Democrat who can’t raise money nationally won’t be able to beat Hogan.

Due to limited funds, only Shea and Jealous have begun running broadcast television ads in the Baltimore market.

Prince George’s County Executive Rushern L. Baker III, considered a front-runner in the field, and his running mate, lawyer Elizabeth Embry, reported.

Baker received maximum \$6,000 donations from former Baltimore State’s Attorney Gregg L. Bernstein and from Embry’s father, Abell Foundation President Robert C. Embry Jr., as well as the political arm of the energy giant Exelon. But Baker’s filing showed his campaign is spending money faster than it is raising it.

Eberly said Baker’s fundraising totals have “got to be disappointing to him.”

“This is a really unsettled race,” he said. “No one is running away with this thing.” Hogan’s campaign chairman, Tom Kelso, said in a memo that the governor and Rutherford raised \$1.2 million from April 10 to May 15, a total he called “an incredible fundraising accomplishment.”

Kelso contrasted the Hogan campaign’s cash on hand with a lesser total held by former Democratic Gov. Martin O’Malley and his lieutenant governor, Anthony G. Brown, at a similar point in their re-election campaign.

Other Democrats in the primary campaign said they had raised enough money to remain competitive during the home stretch of a crowded race in which a plurality of votes could be enough to win.

Lawyer Krish Vignarajah, a former policy adviser to first lady Michelle Obama, said she was reporting more than \$500,000 cash on hand.

“Krish always says, ‘If you want your money spent well, give it to a woman.’ We’re proud to have among the highest cash on hand and the lowest burn rate in the field,” said Elizabeth Waickman, a campaign spokeswoman.

State Sen. Richard S. Madaleno Jr. of Montgomery County reported that he had qualified for \$287,000 in public financing, bringing his cash total to about \$305,000.

“We are committed to running a campaign that harnesses grassroots energy,” said campaign manager Keith Presley. “That’s how he will win.”

Tech entrepreneur Alec Ross and his running mate, Julie Verratti, reported they had \$206,000 on hand after spending hundreds of thousands on targeted digital advertising.

“We made the biggest investment in digital of any campaign in the state, spending over \$280,000 to communicate directly with voters across MD,” Daniel Ensing, Ross’ deputy campaign manager wrote on Twitter.

Martha McKenna, a Democratic strategist who is not aligned with any candidate in the race, said she believed Ervin and Vignarajah fared well during a recent televised debate and that could help them even if they’re lagging behind other candidates in fundraising.

“In a race this wide open with a month left to go, candidates who have the money to introduce themselves to voters on television will have a definite advantage,” she said. “But both Krish and Valerie had impressive debate performances in first opportunity they had to address voters statewide.”

The Hogan campaign argued that Democrats will have little money left after their primary to challenge him.

John T. Willis, a political scientist at the University of Baltimore, said that the seven-candidate field among the Democrats keeps their totals down.

“The sheer number of them divides the pie significantly,” he said.

“The Democratic nominee will start at a disadvantage, but by October it will be competitive,” Willis said. “The question is what is the message and will that be enough to overcome money.”

## **State & Capitol May 24, 2018**

### **Maine is edging closer to a public campaign financing crisis**

<http://stateandcapitol.bangordailynews.com/2018/05/24/maine-is-edging-closer-to-a-public-campaign-financing-crisis/>

Good morning from Augusta, where concern is growing that the Maine Clean Election Fund won’t be able to make payments to legislative and gubernatorial candidates — or even pay the Maine Ethics Commission’s rent — after July 1, even though there is enough funding. Jonathan Wayne, executive director of the Maine Ethics Commission, said Wednesday that there’s a “really serious problem” that “amounts to changing the rules of the game in the middle of an election.”

At issue is one of the dozens of bills left unfinished last month when House Republicans in the Legislature voted to adjourn instead of extend the session to complete unfinished work. The bill in question would clarify or correct a number of errors and inconsistencies in Maine’s laws, including one involving the state’s public campaign financing program that results from an amendment to last year’s state biennial budget bill.

The amendment was meant to help, by changing the schedule of payments from the state’s General Fund to the Maine Clean Election Fund so there would be enough money to cover all of the publicly financed campaigns this year. Instead, it mistakenly included language that bars the commission from

paying for anything at all from the fund after July 1, including payments to candidates and overhead expenses such as rent and reimbursements for services from the Department of Administrative and Financial Services.

“The Legislature merely needs to authorize the commission to spend the cash that is currently in the fund,” wrote Wayne in a memo to commissioners. Wayne said the problem could be fixed by the passage of the bill or “partially addressed by a financial order signed by the governor.” Gov. Paul LePage’s office did not respond to a question from the BDN Wednesday about whether the governor intends to do that.

This issue threatens to seriously reduce how much funding clean election candidates receive for the November election. Initial general election payments are scheduled to be made next month — \$5,075 for House candidates, \$20,275 for Senate candidates and \$600,000 for gubernatorial candidates — but those candidates are eligible for additional payments through October if they can collect enough qualifying contributions.

The biggest impacts would be in the governor’s race. Three candidates are potentially counting on the funding: Republican Garrett Mason and Democrat Betsy Sweet if they win their party’s primaries, and independent Terry Hayes. Mason and Sweet, because they receive additional money for their primary campaigns, could net up to a total of \$2.7 million by October. “To deprive them of sufficient campaign funding to deliver their campaign messages to voters would be fundamentally unfair,” said Wayne.

Candidates have been warned. The ethics commission sent a letter to all of them on Wednesday that they’d receive their initial general election funding in mid-June but that additional payments are at risk.

“The best solution for this problem is for the Legislature to hold a special session and fix this legislatively,” Wayne wrote. “If you would like to encourage a legislative fix, please feel free to contact legislative leadership or the staff of the caucuses.”