



M U L T I S T A T E

### **Judge Strikes Parts of Heavily Amended Campaign Finance Bill** (Montana)

[Montana](#)'s Republican-controlled Legislature violated the state Constitution, a judge has ruled, when it changed a campaign finance bill late in the 2021 session to make it harder to register and to encourage college students to vote and to, in effect, limit donations to judicial campaigns.

District Court Judge Mike Menahan on Thursday granted a permanent injunction preventing the state from enforcing the two provisions that were added to Senate Bill 319 during a conference committee — with no public input — a day before the Legislature adjourned.

Montana's Constitution requires that bills contain a single subject. It also prevents the Legislature from amending laws so much that their original purpose is changed.

The bill initially offered a way for groups of candidates to create joint fundraising committees.

The late amendments included one to prohibit political committees from conducting voter registration, ballot signature gathering, ballot collection efforts or turn-out-the-vote efforts inside a residence hall, dining facility or athletic facility on public college campuses.

The other called for judges to recuse themselves if an attorney or party in a case before them made more than 50% of the maximum allowed donation to their campaign within the previous six years.

Both amendments were outside the title of the bill, making them unconstitutional, Menahan said.

The ruling “sends a clear message that the Montana legislature is not above the law,” Raph Graybill, attorney for the plaintiffs, said in a statement.

The lawsuit was filed against Gov. Greg Gianforte by the Forward Montana group dedicated to electing progressive leaders, Lewis and Clark County Attorney Leo Gallagher, the Montana Association of Criminal Defense Lawyers and attorney Gary Zadick.

A spokesperson for the office of Attorney General Austin Knudsen, which is representing Gianforte, said the office was evaluating its options with regard to an appeal.

The amendments to SB319 continued efforts by Republicans during the 2021 session that seemed aimed at making it more difficult for college students — who tend to vote Democratic — to register and vote in Montana, and to challenge the state’s judiciary.

The Republican majority passed legislation — which is being challenged in court — that said a college identification is not sufficient ID to register or vote in Montana elections.

The majority also passed a bill to eliminate Election Day voter registration. Republican Rep. Jedediah Hinkle spoke in favor of the bill by telling the House about an election day in Gallatin County where a nonprofit group “not on our side of the aisle” bused students to the polls all day.

The Montana Democratic Party and others have filed a federal complaint against the restrictions on college political activity contained in SB319. The complaint calls the legislation an attack on previous years’ successful efforts “and increased political power of Montana’s youngest voters,” and argues the law violates free speech and voting rights.

That case is still pending. Several other lawsuits are also challenging the end to Election Day voter registration.

During the 2021 session, Montana lawmakers also passed a bill to eliminate the Judicial Nomination Commission, allowing the governor to directly fill District Court vacancies between elections.

The bill’s sponsor, Republican Sen. Keith Regier of Kalispell, said it was up to the governor “to appoint qualified, thoughtful judges who will rule strictly on the law and Constitution and not legislate from the bench.”

Lawmakers also created a special select committee to investigate the judiciary and engaged in a subpoena battle with the Montana Supreme Court and its court administrator over a survey she sent to members of the Montana Judges Association about the bill to eliminate the Judicial Nomination Commission.

## **Anne Arundel County Public Campaign Finance Effort Rejected; Howard County Fixes Technicality** (Anne Arundel & Howard County, MD)

Republicans on the Anne Arundel County Council on Monday blocked a charter amendment that, if approved by voters, would have set up a public campaign financing system in the county.

A [resolution](#) introduced by Council Chair Lisa Rodvien (D) on behalf of County Executive Stuart Pittman Jr. (D) would have allowed the creation of a public campaign financing system in the county. Because the legislation is a proposed charter amendment, the ultimate question of whether to set up the system would have been up to county voters on the November ballot.

The program would have been available for county council or county executive candidates, or both, according to the resolution. If approved by voters, the exact details of the public campaign financing system would've been hashed out by a commission and subject to final approval by the county council.

The proposed charter amendment needed five votes to pass, but the council was split along party lines. The four Democratic members voted for the resolution, and the three Republican members voted against it.

County Councilmember Nathan E. Volke (R) questioned sending the issue to voters before knowing how much the program would cost the county.

“I think the problem for me is: ‘Hey, you passed this, great. But what’s the price tag?’” Volke said.

Peter Baron, Pittman’s director of government relations, said he didn’t have an exact figure on how much a public campaign financing program would cost in Anne Arundel County, but argued the benefits outweighed the potential costs.

“It’ll cost a significant amount of money,” Baron said. “But what you get in our opinion is better government and a more representative government, and that has value too.”

Jared DeMarinis, the director of the Maryland State Board of Elections Candidacy and Campaign Finance Division, said cost figures vary among Maryland counties that have already enacted the program. He noted that Montgomery County set up an \$11 million public campaign financing program for the 2018 elections, but didn’t spend that full amount. Baron estimated the cost would be less for Anne Arundel County.

Proponents of public campaign finance systems, including Democratic members of the county council, say those programs make it easier for new candidates, as well as women and people of color, to get elected by providing match funding for smaller donations.

“We are overrepresented in the number of women on this body, which I have a little bit of pride in, but we are white,” Rodvien said before the vote. “We have seven white members and that is not a reflection of our county.”

Several other jurisdictions in Maryland have public campaign finance programs: Montgomery County was the first to set up a program in 2014 and Baltimore City, Howard and Prince George’s counties have all since adopted their own programs. Baltimore County Council members approved a fair election fund in December, although that program includes spending caps for participating candidates.

Public campaign finance systems in other Maryland jurisdictions allow candidates to opt in and generally bar participating candidates from taking money from large donors, corporations and political action committees.

“One of the most important aspects of public campaign financing programs is that, particularly when campaigns are getting vastly more expensive each cycle, they allow regular people to run on the power of their ideas instead of having to rely on wealthy interests,” Anne Arundel County resident Morgan Drayton, the policy and engagement manager for Common Cause Maryland, said at a public hearing before the vote.

Abby Root of the Anne Arundel County League of Women Voters said public campaign financing would “level the playing field for candidates who may not have big donors.”

Anne Arundel County resident Kurt Svendsen said he supports the “general idea” of the resolution, but said the county’s decennial Charter Revision Commission should have reviewed it. That panel is “responsible for conducting a comprehensive study of the County government and recommending revisions to the Charter as necessary,” according to the county’s website.

“There are a number of significant matters, not the least of which is the idea of having a commission calculate an annual amount necessary to support such a system and requiring that amount be included in the budget ordinance,” Svendsen said.

After the vote, Common Cause Maryland [tweeted](#) that the rejection was a “slight setback but not the end.”

## *Howard County Fixes Public Finance Technicality*

The Howard County Council unanimously voted Monday to remove a technicality from the county's public campaign financing system that fair elections advocates said would disincentivize participation in the program.

The county's public campaign finance law requires an election be contested for a candidate to receive matching public funds. But a provision removed by county council members via emergency legislation at a Monday meeting stipulated that "whether an election is contested shall be decided on the first Tuesday in August preceding an election."

County officials interpreted that provision to apply to both primary and general elections, leading to County Councilmember Deb Jung (D) — who didn't get a primary challenger until December — being denied matching funds. The removed provision would've required Jung to have a primary challenger by Aug. 3, 2021 for the June 28, 2022 primary in order to receive matching funds.

All five Howard County Council members sponsored the emergency bill. Chair Opel Jones (D) also co-sponsored the legislation on behalf of County Executive Calvin B. Ball III (D).

Howard County's Citizens Election Fund is matched on a tiered basis that prioritizes smaller donations. County council candidates who participate receive \$5 for every \$1 of the first \$50 of a donation, \$3 for every \$1 of the second \$50, \$1 for every \$1 of the third \$50, and no matching funds for the rest of qualifying donations.

A \$50 qualifying donation, for example, would be eligible for \$250 in matching funds. A \$150 donation would garner the same \$450 in matching funds as the maximum \$250 donations. Jung has qualified to receive more than \$43,000 in matching funds, according to campaign finance documents.

Jung thanked county residents who urged county council members to make the change.

"It is our Howard County residents who made tonight happen," Jung said.

Councilmember Christiana M. Rigby (D) defended the county finance department's decision to not release matching funds to Jung over the technicality. Rigby noted that the county's Citizens Election Fund Commission recommended the change to county council members in October, but said the earliest chance to make the change was in January.

“I believe the Department of Finance acted correctly in following the law,” Rigby said. “Our county departments should follow the laws as they are written. If laws need to be fixed, it is our responsibility as the legislative branch to fix it.”

### [Oregon secretary of state to reject campaign finance reform initiatives](#) (Oregon)

Oregon's secretary of state is expected to announce Wednesday she's rejecting [three proposed campaign finance reform measures](#).

Supporters say the three initiatives, 43, 44 and 45, would limit campaign contributions from individuals, committees, political parties and unions.

But Secretary of State Shemia Fagan says the proposed measures were filed without the full text of the laws they would change, which violates the state's Constitution.

In a statement, Fagan said, in part, she has a responsibility to "ensure that every measure on the ballot meets the constitutional requirements to become law."

One of the initiative's authors says this decision will kill any chance for reforms this year.

"Campaign finance reform is the most important issue facing Oregonians," said Jason Kafoury with Honest Elections Oregon. "We should not have a small technicality, that's never been enforced for 18 years, deny Oregon voters the right to be able to vote on this in November."

Fagan says the full text requirement has been enforced. The initiatives can be corrected and re-filed.

#### Full statement from Fagan:

*I am disappointed to announce that the petitioners for three campaign finance measures failed to meet the constitutional requirements in their petition filing. Initiative Petitions 43, 44, and 45 do not include the full text of the law they seek to amend, which is a long-standing requirement in the Oregon Constitution. The initiatives may be corrected and refiled at any time.*

*As a consistent supporter of campaign finance reform, I am personally frustrated to make this decision. As a Senator in 2019, I voted for the constitutional amendment to allow campaign finance limits; I then championed the measure while running for Secretary of State. But*

*Oregonians expect me to uphold the constitution, regardless of my personal opinion about any petition. And that is exactly what I did today.*

*As Secretary of State, I am committed to combatting misinformation about our elections. There are two pieces of misinformation spreading about these measures that are easily debunked. First, petitioners of the current measures have falsely labeled this decision as biased. That is false. I have applied the Constitution's full text rule consistently. Last August, I had to reject an unrelated petition that failed to meet the same requirement. Second, petitioners have falsely suggested that under recent Secretaries, ballot measures became law without meeting the Constitution's full text rule. My team reviewed each of the laws they cited, and all of them met the full text rule.*

*As Secretary of State, I have a responsibility to ensure that every measure on the ballot meets the constitutional requirements to become law. If there is a procedural error in the measure, I owe it to Oregonians to require petitioners to fix the problem now, before those problems derail the law in the future.*

### **[In Texas, County Commissioners are free to harvest contractor cash](#)** (Texas)

All four of Harris County's commissioners live high on the hog thanks to campaign cash contributed mostly from employees and leaders of companies that hold no-bid professional contracts to do lucrative work in—you guessed it—Harris County.

A Houston Chronicle investigation, ["Pay to Play,"](#) found Harris County commissioners got 79 percent of their campaign cash from donors who received 93 percent of no-bid infrastructure contracts in 2020 to 2021, a process overseen by those very same commissioners. Collectively, that class of contractor donors contributed \$5.9 million while four commissioners—two Democrats and two Republicans—gave their firms \$310 million worth of work.

Commissioners, of course, have denied that donors' campaign cash plays a role in those decisions. But Andrew Wheat, research director for corruption watchdog Texans for Public Justice told the Chronicle. "If that's not a pay-to-play system, what is? Then the term has no meaning at all."

Problems with cronyism go back much farther in Harris County. In 2003, a nonprofit called Campaigns for People found the same overreliance on contractor cash in both Harris County and Houston city campaigns. "The Same Pattern, no progress," said attorney Fred Lewis, who worked on a report called ["Pay to Play in Harris County: Campaign Contributions and Discretionary Contract Awards."](#)

Without more disclosure requirements for local campaigns, Texas has left the door wide open for contractors in Harris County—or anywhere else—to contribute as much as they want to Texas politicians who run some of the nation's largest counties and cities, experts say. That, in turn, can allow inappropriate relationships and expectations to form between contractors and elected officials that can contribute to cronyism, unwise decisions with public funds—and other forms of corruption. As Wheat told the Observer, the huge percentage of the total money raised by Harris County commissioners that was tied to government contractors “really blew my mind.” But the same thing happens elsewhere in Texas.

“We analyzed contribs to Austin City Council candidates recently (they're subject to strict campaign contribution limits). In Austin, the dominant contributor industries, not surprisingly, are real estate developers and construction. The local media did not want to talk about those findings,” Wheat said.

Across Texas, leaders of some large cities, including Austin, have chosen to require officeholders and candidates to provide information on campaign donors' occupations and employers. Some cities, including Houston, even post contribution databases on the internet. Many cities have adopted contribution limits. But state law would have to change to tighten up rules for counties.

Just to quantify the size of Harris County's “Pay to Play” system in 2022, Reporter Zach Despart spent more than a year analyzing data from commissioners' campaign contribution forms. Since commissioners' forms do not disclose the donor's occupation or employer; each donor's affiliation had to be verified with additional research. It was a huge job: Harris County encompasses a large swath of the Houston megalopolis and has an estimated population of 4.7 million, larger than the population of at least 24 [U.S. states](#).

The massive amount of data work behind the analysis reveals a deeper problem: Texas law doesn't require any city council members or county commissioners to supply donors' occupations or employers on campaign finance reports. Nor are their campaign finance reports available in any central archive.

Campaign contributions are unlimited for most state and local races in Texas. But legislators, the governor, and other officeholders or candidates for legislative and statewide executive positions must disclose more donor information in reports filed to the Texas Ethics Commission. Under [state law](#), such politicians are required to “disclose an individual contributor's principal occupation or job title and the full name of the contributor's employer if, during the reporting period, the filer has accepted contributions aggregating \$940 from the individual.” An even stricter requirement applies to most judicial candidates.

The rules, though, are often unenforced. “The TEC rules require candidates/officeholders to make “best efforts” to ID employer/occupation of donors,” Wheat said in an email. “It is not unusual in TEC filings to see those fields typed in with those magic words: ‘Best Efforts.’” In other words, lots of politicians don’t comply.

In Harris County, some contractors contributed more than \$10,000 to a commissioner. Yet none of the four Harris County commissioners bothered to voluntarily disclose contributors’ employers or occupations in the name of accountability, nor have they moved to collectively provide the public with a Harris County campaign database. Instead, Democrat and Republican commissioners alike defend their practice of taking money from people who stand to financially benefit most from their sway over professional contracts. They also defend the county’s unusual professional contract reviews, which unlike those in many other counties, give the four elected commissioners significant input.

Under Texas campaign finance law, commissioners can spend campaign money mostly as they wish. Republican Commissioner Jack Cagle used some to buy knives for constituents to chip ice during last year’s freeze; Democratic Commissioner Rodney Ellis used campaign funds to pay for art for his district and for overseas travel. All four have accumulated huge war chests to discourage potential challengers.

There is one notable champion for disclosure on Harris County Commissioners Court: Harris County Judge Lina Hidalgo, the elected official who presides over the ruling body of five. Early on, Judge Hidalgo announced that she would refuse contractor donations to avoid any potential conflict of interest. Hidalgo made her decision public, but no one else on the commissioners court followed that example. (Despart found that she’d let only three contributions worth \$400 dollars slip by; Hidalgo promptly promised to return them.)

In a blog post titled “[Judge Lina Hidalgo Stands Alone](#),” Andrea Greer, a Houston-based writer known as the “Nonsequiteuse,” wrote that Hidalgo deserves credit for trying to challenge a system that “creates the heavy, stinky odor of undue influence,” especially since her stand will make it harder for her to win re-election.

“Judge Hidalgo deserves more credit than she gets for her refusal to accept money from county vendors, because in a campaign that may well be decided by attack mailers and negative social media campaigns, her fundraising policy makes it much harder for her to bring her values to the voters,” she wrote

Lewis, the Austin-based attorney and government watchdog, points out the same problem plays out in multiple arenas, but increased disclosure and stronger limits can help clean things up.

“Others have greatly restricted pay to play with contractors,” he wrote in an email. “The best example is the SEC (US Security and Exchange Commission) with its restrictions on municipal bond underwriters. The SEC banned them from getting an underwriting contract from a city if they or their agents gave more than \$250 to elected officials. It worked! They stopped giving; they preferred the contracts.”

### **Bill would remove ‘swarm’ of lobbyists from Iowa Capitol rotunda** (Iowa)

A proposal to make room for “regular people” at the Iowa Capitol is getting a cool response from some of the lobbyists who would be displaced.

[House File 2274](#) would restrict lobbyists from engaging in lobbying activity in the second floor rotunda between the House and Senate chambers. They would be permitted to be in the lobbyists’ lounges adjacent to each chamber as well as the House and Senate lounge when meeting with legislators.

“I’m just trying to level the playing field,” Rep. Jon Jacobsen, R-Council Bluffs, said Monday.

“The lobby has an inordinate influence over certain legislators,” Jacobsen said. “It's like a swarm of vultures out there that swoop down every time (a legislator) exits from either chamber. I think it'd be kind of nice if the people had equal footing.”

On a recent day, FFA members, home-school parents and students, and the Civil Air Patrol were visiting the Capitol, and Jacobsen said they had difficulty getting through the crowd of lobbyists in the rotunda to talk to lawmakers, Jacobsen said.

There are plenty of places for lawmakers and lobbyists to meet — the cafeteria, the lounges, meeting rooms — any place but the rotunda, he said.

“I just don't think they need to be permanently stationed up there. I just don't think that's healthy,” he said.

A violation of Jacobsen’s plan could result in a reprimand, suspension, dismissal or a serious misdemeanor conviction punishable by up to a year in jail or a fine of \$430 to \$2,560.

Lobbyists still would be able to send a note to a legislator requesting they come out to the rotunda to meet.

Lobbyists, who rely on their relationships with legislators to advance the agenda of those they represent, would not go on the record to discuss Jacobsen's bill. But one former legislator who now works as a lobbyist warned the outcome could be the opposite of Jacobsen's intention.

His concern is that the conversations between lawmakers and lobbyists would take place in more private settings rather than in the rotunda surrounded by lawmakers, lobbyists and the public.

"I think that it's good for government when lobbyists actually have to stand there and do it in full view of everybody," he said.