1411 K St. NW, Suite 1400
Washington, DC 20005

THE CAMPAIGN LEGAL CENTER

Tel: 202.736.2200
Fax: 202.736.2222

Public Financing of Election Campaigns

What is public financing and how does it work?

The vast amounts of money being raised and spent to influence elections has inevitably left many Americans feeling alienated from the political process. Over $6 billion was spent on federal elections during the 2016 election cycle alone.[1] Despite the election's exorbitant price tag, only a fraction of Americans actually gave money to a federal candidate, political party, or PAC in 2016. In fact, just .53% of the entire U.S. population made a contribution of $200 or more for federal elections in the 2016 cycle.[2] Not surprisingly, a 2015 CBS News/N.Y. Times poll found that 66% of Americans believe that the wealthy have more influence over the election process. Similarly, 46% of Americans supported completely rebuilding the system for campaign funding, and another 39% felt that "fundamental changes" were necessary.[3]

Public financing of elections offers an alternative system of campaign financing that can both expand participation in the election process and facilitate dialogue between voters and candidates. The idea of public financing is not new; the first public financing bill was introduced in Congress in 1904. Although the concept of public financing is by now well-established, these systems remain an innovative approach to campaign reform intended to broaden democratic participation.

The details of particular public financing programs vary, but all of these systems provide candidates who choose to participate with public funds to conduct their election campaigns. In exchange for the provision of public funds, a participating candidate typically agrees to adhere to specific fundraising guidelines such as lower contribution limits or caps on total campaign spending.

One common public financing structure entails a state or city giving a participating candidate a lump-sum grant to pay for their entire election campaign. In return, participating candidates agree to run their campaign with grant funds rather than private contributions. Typically, participating candidates also agree to a cap on their total campaign spending. These full public funding programs, also known as "Clean

---

[1] https://www.opensecrets.org/overview/cost.php.

[2] https://www.opensecrets.org/overview/donordemographics.php.

[3] https://www.nytimes.com/interactive/2015/06/02/us/politics/money-in-politics-poll.html.

Elections" programs, are in place in Arizona, Connecticut, Maine, Vermont, and a handful of cities around the country.

Another popular model of public financing involves a city or state matching each private contribution that a participating candidate raises with public funds. Like full public funding programs, a candidate who accepts matching funds typically agrees to limit total campaign spending and other fundraising requirements inapplicable to non-participating candidates. New York City currently has a matching funds program available for mayoral and city council candidates, and the city will match each contribution that a participating candidate receives from a city resident at a six-to-one rate up to $175.[4]

In 2015, Seattle voters approved a novel system of public financing called the Democracy Voucher Program."[5] Under Seattle's program, eligible city residents are provided four $25 vouchers that they can assign, in any allotment, to participating city candidates of their choice. Participating candidates then exchange assigned vouchers with the Seattle Ethics and Elections Commission for campaign funds; thus, assigning a voucher is equivalent to making a political contribution to a candidate. Since the program does not require Seattle residents to use any personal funds in order to assign a voucher to a candidate, Democracy Vouchers have the potential to greatly expand political participation among Seattle residents.

What have courts said about public financing?

Since the first public financing programs were enacted in the 1970s, federal courts have consistently recognized that public funding of election campaigns serves the compelling governmental interest in preventing actual and apparent political corruption. In the seminal case *Buckley v. Valeo*, the U.S. Supreme Court upheld the presidential public financing program as a means "to reduce the deleterious influence of large contributions on our political process, to facilitate communication by candidates with the electorate, and to free candidates from the rigors of fundraising."[6] The Court expressly rejected the contention that public financing violates the First Amendment, explaining that the presidential public financing program "is a congressional effort, not to abridge, restrict, or censor speech, but rather to use

---

[4] For example, the city would match a $175 contribution from a "natural person resident" to a participating candidate with $1,050 in public funds (6 x $175=$1,050). Thus, the total value of the resident's contribution becomes $1,225 after the match ($175 + $1,050). N.Y.C. ADMIN. CODE § 3-703(3); *How it works*, New York City Campaign Finance Board, https://www.nyccfb.info/program/how-it-works.

[5] http://www.seattle.gov/democracyvoucher.

[6] 424 U.S. 1, 91 (1976).

public money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people."[7]

More recently, the Court affirmed the overall constitutionality of public financing even as it concluded that "trigger" provisions giving publicly financed candidates additional funds in direct response to contributions to non-participating opponents and expenditures by outside groups did not pass constitutional muster.[8] In *Arizona Free Enterprise*, the Court made a point to emphasize that "governments may engage in public financing of election campaigns and that doing so can further significant governmental interest [s], such as the state interest in preventing corruption."[9] Thus, *Arizona Free Enterprise* did not undercut the constitutionality of voluntary public financing programs generally or otherwise "call into question the wisdom of public financing as a means of funding political candidacy." [10]

Other federal courts have similarly endorsed public financing as a constitutional means of effectuating campaign finance reform. Notably, the Second Circuit upheld provisions of New York City's matching funds regime imposing special restrictions on contributions from individuals doing business with the city.[11] In its reasoning, the court highlighted that the city's matching funds system both "encourages small, individual contributions, and is consistent with [an] interest in discouraging entrenchment of incumbent candidates."[12]

What are the effects of public financing on election campaigns?

A substantial body of empirical and academic research supports the democratic benefits of public financing. In particular, research supports that public financing (1) promotes engagement between candidates and voters, and (2) increases electoral competitiveness.

Public Financing Promotes Engagement

By design, public financing programs encourage candidates to draw more voters into the political process.

---

[7] *Id.* at 92-93.

[8] Ariz. Free Enterprise Club's Freedom PAC v. Bennett, 564 U.S. 721 (2011).

[9] *Id.* at 754 (quotations and citation omitted).

[10] *Id.* at 753.

[11] Ognibene v. Parkes, 671 F.3d 174 (2d Cir. 2011).

[12] *Id.* at 193.

In full public financing regimes, an aspiring participant typically must demonstrate viability as a candidate by raising a certain number of small donations from constituents before becoming eligible for a grant of public funds. Accordingly, these candidates must conduct a substantial amount of direct voter outreach early in the campaign cycle to qualify for the grant. Once a participating candidate does qualify, full public funding systems continue to promote meaningful engagement since a candidate need not concentrate resources on fundraising and can instead focus on winning over voters through canvassing and other outreach efforts.

Matching funds programs likewise spur candidates to interact with more voters by magnifying the economic power of small contributions. These systems give candidates a financial incentive to reach out to a greater number of voters since the candidate will collect additional public funds for each qualifying contribution raised. Different studies of jurisdictions with public financing demonstrate these effects.

Following Connecticut's introduction of full public financing for statewide elections in 2010, the importance of small contributions increased dramatically. In 2006, prior to the enactment of public financing, successful candidates for statewide office in Connecticut raised about 8% of their total campaign funds in contributions from individuals in amounts ranging between $5 and $100. When public financing was introduced for statewide races in 2010, every successful candidate opted to participate in the program. In accordance with the program's qualification requirements for full funding, these candidates raised a full 100% of their campaign contributions from individuals in amounts between $5 and $100.13

A 2008 survey of state legislative candidates found that candidates accepting full public funding devoted significantly more time to non-fundraising campaign activities, such as canvassing and public speaking, than candidates who did not accept public financing. Statistical analysis of the survey results showed that legislative candidates accepting full public funding spent about 11.5% more time per week on direct voter outreach than privately financed candidates.14

---

[13] *Citizens' Election Program 2010: A Novel System with Extraordinary Results,* State Elections Enforcement Comm'n 8-12, (2011), available at http://www.ct.gov/seec/lib/seec/publications/2010_citizens_election_program_report_final.pdf.

[14] Michael G. Miller, *Subsidizing Democracy: How Public Funding Changes Elections and How It Can Work in the Future* 56-62 (2013).

In Minnesota, which offers partial public financing grants to legislative candidates, candidates for the state legislature raised 57% of their campaign funds from individual donors in amounts of $250 or less in 2010.15

A study of New York City's public financing program found that the city's implementation of multiple-matching funds in 2001 resulted in a significant increase both in the number of small contributors, measured as donors of $250 or less, and in the proportional importance of small contributors to "competitive" candidates for City Council (i.e., candidates who received at least half as many votes as the winning candidate in a primary or general election) participating in the program.16

Following New York City's adoption of multiple-matching funds, examination of campaign data revealed that 92% of the city's census block groups had at least one contributor of $250 or less to a city candidate in the 2009 municipal elections. Moreover, the census block groups with at least one small donor were statistically less affluent and more racially diverse than census block groups with at least one large donor (those who gave $1,000 or more), suggesting that the city's program spurred candidates to interact with a much broader segment of the city population.17

A separate analysis of New York City's matching funds program found that more than half of the people who made a contribution during the 2013 city elections were first-time contributors. Additionally, 76% of these first-time donors made a small contribution of $175 or less, giving strong support to the assertion that public financing brings new and diverse voices into the electoral process.18

There are indicators that New York City's implementation of public financing also may have invigorated a new and diverse crop of individuals to seek public office. Since New York City first enacted public financing, city voters have elected the first African-American mayor, and the first Asian-American, Dominican-American, and African-American woman to city council. For the first time in thirty years, a third-party candidate won a seat on city council. All of these candidates participated in the city's public financing program.19

---

[15] Michael J. Malbin et al., Public Financing of Elections After Citizens United and Arizona Free Enterprise, Campaign Fin. Inst. 2 (2011).

[16] Michael J. Malbin *et al.*, *Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States*, 11 ELECTION LAW JOURNAL 3, 9-10 (2012).

[17] *Id*. at 12-13.

[18] New York City Campaign Finance Bd., *By the People: The New York City Campaign Finance Program in the 2013 Elections* 41 (2014).

[19] Angella Migally et al., *Small Donor Matching Funds: The NYC Experience*, BRENNAN CENTER FOR JUSTICE 18 (2010).

Public Financing Increases Electoral Competitiveness

Multiple analyses of public financing programs have found these systems increase measures of electoral competitiveness, and may even weaken incumbent candidates' advantages over challengers. In particular, studies show a measurable increase in the number of contested elections in jurisdictions that have adopted public financing.

- A 2008 academic study on the impact of the Maine Clean Elections Act determined that, after taking effect, the availability of public financing immediately increased the number of candidates and decreased the margin of victory in state senate elections in 2000 and 2002—compared to 1994 through 1998—in races where a candidate accepted public funding.[20]

- Another study of Maine following its adoption of public financing concluded that, through 2004, "electoral competitiveness" had improved, as measured by percentage of incumbents facing major-party opposition, percentage of incumbents winning with less than 60% of the vote, and incumbent re-election rate.[21]

- According to data compiled by Connecticut's State Elections Enforcement Commission, the number of unopposed legislative races decreased substantially following the state's implementation of public financing, from 53 unopposed elections in 2008 to 32 in 2010. This jump in contested elections was consistent with an overall increase in the number of legislative candidates in 2010, many of whom cited the availability of public funds as a factor in their decision to seek office.[22]

---

[20] Neil Malhotra, *The Impact of Public Financing of Electoral Competition: Evidence from Arizona and Maine*, 8 State Politics & Policy Quarterly 263, 275-77 (2008).

[21] Kenneth R. Mayer, Timothy Werner & Amanda Williams, *Do Public Funding Programs Enhance Electoral Competition?, in* THE MARKETPLACE OF DEMOCRACY: ELECTORAL COMPETITION & AMERICAN POLITICS 245, 247-49 (Michael P. McDonald & John Samples, eds., 2006).

[22] *Citizens' Election Program 2010: A Novel System with Extraordinary Results,* State Elections Enforcement Comm'n 6 (2011).

- The availability of public funds for candidates for Connecticut's legislature in 2008 and 2010 correlated with a general decline in candidates' margins of victory in "competitive" races, defined as those in which two major party candidates opposed each other, after 2006.

- In 2016, the National Institute for Money in State Politics issued a report on monetary competitiveness in state legislative races in 2013 and 2014. Under the report's methodology, a legislative race was considered monetarily competitive if the race's top fundraiser raised no more than twice the amount of the next-highest fundraiser. Analyzing campaign data from 47 states, the report found that only 18 percent of legislative races nationally were monetarily competitive during the 2013 and 2014 elections. However, the percentage of monetarily competitive elections was considerably higher in the five states offering public financing for legislative candidates: an average of 41 percent of legislative races in states with public financing programs for legislative candidates were monetarily competitive in 2014. Moreover, three of the five *most* monetarily competitive states had public financing systems for legislative candidates, while none of the five *least* monetarily competitive states offered public funds.[23]

- The National Institute for Money in State Politics report also concluded that public financing increased the number of contested legislative races. In states with public financing for legislative elections, 87% of legislative seats were contested. By comparison, only 61% of legislative seats were contested in states lacking public financing programs.[24]

---

[23] Zac Holden, *2013 and 2014: Monetary Competitiveness in State Legislative Races*, Nat'l Inst. for Money in State Politics (March 9, 2016), available at https://www.followthemoney.org/research/institute-reports/2013-and-2014-monetary-competitiveness-in-state-legislative-races/#ftnref_3_link.

[24] *Id*.