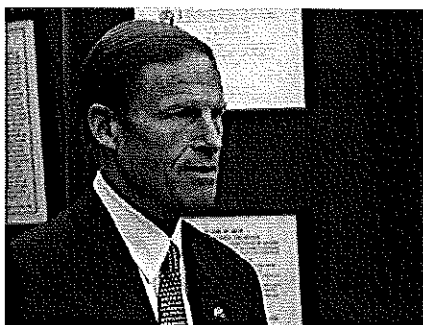


## Updated: Federal Judge Overturns Public Campaign Financing, State Promises To Appeal

by Christine Stuart | August 27, 2009 11:52 PM  
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While he praised the state's effort to increase public confidence in state elections, a federal judge on Thursday ordered an immediate end to Connecticut's fledgling public campaign finance system, calling it unconstitutional.

After two years of argument and deliberation, U.S. District Court Judge Stefan Underhill ruled in favor of the Green Party, which argued the system created in 2005 imposed an unfair burden for minor party candidates seeking to qualify for matching campaign funds through a state grant program.



CHRISTINE STUART PHOTO

Attorney General Richard Blumenthal promises to appeal court's decision

The Citizens Election Program "imposes an unconstitutional, discriminatory burden on minor party candidates' First Amendment-protected right to political opportunity," Underhill wrote in his decision.

In the 138-page decision Underhill concluded that the system provided candidates with "windfall levels" of funding for their campaigns, artificially enhanced the strength of the two major parties, made it difficult for minor party candidates to qualify, and discouraged minor party candidates from participating.

Rep. Chris Caruso, D-Bridgeport, one of the main proponents of the legislation which was implemented in 2006 said Friday morning in a phone interview that he believes the law is constitutional and respectfully disagreed with Underhill's assessment of the program—which was created as way to eliminate special interest money.

Attorney General Richard Blumenthal announced Friday afternoon that he will immediately seek a stay of the decision, while he files an appeal with the 2nd Circuit Court.

"The judge recognizes that there is a compelling public interest, but fails to give it sufficient weight as is required under Supreme Court precedent," Blumenthal said.

Karen Hobert Flynn, vice president for state operations at Common Cause, said during the court proceedings the judge said a number of times that he would consider staying the decision while the case is appealed. She said if the judge grants the stay then the system will continue to operate and "hopefully legislative leaders will stay committed to the program."

Secretary of State Susan Bysiewicz said this is an "inopportune time in the election process," for such a decision to be rendered. She said it's problematic because it "changes the rules in the middle of the game," when the state is one year away from its first statewide election with candidates for constitutional office.

In 2008, 83 percent of the state Senate candidates made use of public funding and 74 percent of House candidates made use of public funding, Bysiewicz said. Of those 236 candidates that qualified for the matching state grant, at least five of them were minor party candidates, she said.

Jeff Garfield, head of the state Elections Enforcement Commission, said public financing returned democracy to the citizens of Connecticut. He said 97 percent of contributions to candidates in 2008 came from ordinary citizens and three-quarters of the sitting legislators were elected to office using public grants.

The fact that five minor party candidates qualified for state grants means "the qualifications are reachable and the court was wrong," Garfield said.

But most of Underhill's decision concentrated on the additional qualifications minor party candidates must achieve in order to qualify for matching funds.

When the legislature wrote the legislation, it was "rightfully concerned with fringe candidates and the possible drain on the public fisc," when it wrote the portions of the law Underhill focused his decision on, Garfield said.

David McGuire, an attorney with the Connecticut ACLU, who represented the Green Party in the case, said the court disagreed with the state.

The current law "arbitrarily made it much easier for major party candidates to run for office, while making it exceedingly difficult for minor party candidates to get access to campaign funds," McGuire said.

He said the law went as far as to give major party candidates access to more funding, if a minor party candidate was able to raise a certain level of funding. In doing this, the law "chilled minor party candidates' political speech," he said.

"Connecticut's campaign finance law explicitly discriminates against minor party and independent candidates by providing direct governmental subsidies to major party candidates on terms that deny the same benefits to minor party and petitioning candidates," Mark Lopez, a cooperating attorney with the ACLU said in a statement Friday.

The state's Republican Party Chairman Chris Healy also applauded the court's decision.

"Thursday's decision by the U.S. District Court was a constructive first step toward restoring free speech and competitive, open elections in Connecticut," Healy said. "It unfairly excluded third-party efforts and punished those candidates who would choose to not burden the taxpayers by subsidizing those who did and were unable to match private sector support."

Even though she's a Republican, Gov. M. Jodi Rell sent out a statement Friday afternoon announcing her support of the appeal.

"I cannot, and will not, let Connecticut return to the days of unfettered special interests controlling our electoral process," Rell said in the statement. "If necessary, we can amend the law to address the concerns of minor parties."

Funded by a proceeds from the sale of abandoned property, the state's public campaign finance system contains between \$40 million and \$60 million. It has been the target of Republican criticism with respect to their desire to use the money to help solve the state budget crisis.