

Judge rules state campaign finance law unconstitutional

Federal judge rules landmark program unconstitutional

By Ken Dixon
STAFF WRITER

HARTFORD -- Lawmakers who were instrumental in adopting the state's landmark 2005 campaign-financing law expressed disappointment Friday after a federal judge said it creates unconstitutional obstacles to minor-party candidates seeking office.

They said that the General Assembly may have to consider another special legislative session to fix the law, which was scheduled to finance its first gubernatorial campaign next year.

"I believe it is constitutional," said Rep. Christopher L. Caruso, D-Bridgeport, who was co-chairman in 2005 of the committee that endorsed the taxpayer-financing system. "That's when the Legislature really began the process of cleaning up the electoral system in our state."

Sen. Gayle S. Slossberg, D-Milford, co-chairwoman of the Government Administration & Elections Committee, said it's crucial the state keep special-interest money out of races for the General Assembly and constitutional offices, including secretary of the state, attorney general, treasurer and comptroller.

"This is a very telling decision, something we need to look at carefully," Slossberg said Friday. "We have the time to really look at it in depth and make sure we make good decisions going forward."

Attorney General Richard Blumenthal vowed to appeal U.S. District Court Judge Stefan R. Underhill's ruling, which could kill the state's \$37 million system of taxpayer-financed races for the General Assembly and top-of-the-ticket statewide races.

Underhill, ruling from federal court in Bridgeport, said the 2005 law -- hailed around the nation as a way to remove special-interest money from the political process and give more people a chance to compete for office -- said the rules actually discriminate against independent and minor-party candidates.

The decision was praised by the Yankee Institute, a Libertarian think tank. "This law is fully constitutionally defensible," Blumenthal said in a noontime news conference in the Capitol.

"The law strikes down a response to a regrettable legacy of corrupt and improper practices pervading elective office at all levels over decades," he said. "The judge recognizes there is a compelling public interest, but fails to give it sufficient weight as is required under Supreme Court precedent."

Blumenthal said that contrary to Underhill's decision, minor-party candidates have failed to show they bear an unconstitutional burden resulting from the 2005 law. Jeffrey B. Garfield, executive director and general counsel of the state Elections Enforcement Commission, said that the law was in direct reaction to the corruption case in 2004 that forced John G. Rowland to resign as governor and eventually spend 10 months in federal prison on corruption charges.

"By taking the bold step of creating an innovative system of public campaign financing that returned democracy to the citizens of Connecticut, the Legislature began the process of ending corruption in state government and restoring the public's confidence in government and its leaders," Garfield told reporters during a news conference held by Blumenthal and Secretary of the State Susan Bysiewicz. Sen. Andrew J. McDonald, D-Stamford, co-chairman of the legislative Judiciary Committee, said Friday that if Underhill's decision is upheld, it could doom public financing.

"It looked like it was a pretty broad-blanket injunction against the entire program," said McDonald, who during the Senate debate in 2005 warned that it could be seen as trampling the free-speech rights of lobbyists, while stacking the odds in favor of Republican and Democratic candidates at the expense of independents and minor-parties.

"It's possible that now there is no campaign finance law," McDonald said, adding that the state should not depend on a friendly appeals court. "The wiser course would be to revamp the system as quickly as possible in special session."

There are currently 25 exploratory and candidate committees for the 2010 elections, including a variety for legislative races, Gov. M. Jodi Rell's re-election exploratory organization and James A. Amann of Milford's committee to run for governor.

Karen Hobert Flynn, vice president of state operations for Common Cause in Connecticut, a nonprofit elections watchdog group, said she believes Underhill didn't explore the realities of the 2008 elections, when five minor-party candidates qualified for state funding.

"There's nothing in the Constitution that says you have to treat all parties and candidates equally," Flynn said in a phone interview.

During the 2008 House and Senate elections, 73 percent of all candidates participated in the public financing, as did more than 80 percent of those currently serving in the General Assembly, she said.

Gov. M. Jodi Rell, who signed the 2005 law during a ceremony in the historic Old

State House on Main Street downtown, said Friday that it instantly became a national model.

"It was, and will remain, the means to keep special interest and lobbyist dollars out of our election process," she said in support of Blumenthal's appeal.

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

Yankee Institute Policy Director Heath W. Fahle said the Citizens' Election Program gave "significant advantages" to Republicans and Democrats over minor parties and petitioning candidates. He noted a drop in minor party candidates to a 10-year low in 2008, with just five running.

What happened A U.S. district judge in Bridgeport has thrown out the state's landmark 2005 law that created a system of public financing for General Assembly and statewide-office races, including governor. The law was approved after scandals, from John G. Rowland's corruption as governor, to former Bridgeport state Sen. Ernest E. Newton's solicitation of bribes, for which he remains in prison. While the law aimed to increase transparency, it prohibited contributions from state contractors and lobbyists, limited the amount of individual contributions, and required candidates demonstrate the ability to earn support -- and a series of small contributions -- before they may tap the money.