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Commentary

The Public Affairs Research Council of Louisiana

Personal Use of Campaign Contributions

Louisiana Needs Stronger, Clearer Policies and Practices

Louisiana should strive for a campaign finance reporting and enforcement system that promotes compliance, sets a high ethical standard and provides clear procedures that are practical, consistent and transparent. These principles should be at the core of the current policy discussion about how political candidates and elected officials should be able to spend their campaign funds. This commentary summarizes PAR's guidance on this issue and notes some recently proposed PAR initiatives.

In particular, the personal use of political campaign funds has been of great interest lately in the media and among state lawmakers and members of the Board of Ethics. Candidates or office holders should not use money donated to a campaign for self enrichment or to give themselves personal gifts. Even though campaign donations are private money, the funds should not be converted to personal use by candidates. Such transactions are, in principle, not very different from the unlawful act of buying political influence with a valuable gift. The state should pursue integrity in the campaign finance process — which is closely related to the values of fair and democratic elections — and guard its image to ensure that the best standards are employed in law and practice in Louisiana.

Improve the law

The state campaign finance law and regulations should be more restrictive on the use of campaign finance funds and especially when the use is personal.

How should this be done? Current state law says that campaign funds may be expended for “any lawful purpose” and for campaigns of other candidates and ballot propositions. Such funds shall not be used “for any personal use unrelated to a political campaign, the holding of a public office or party position....” This standard is low. In practice and in light of recent Louisiana court rulings, the standard has, to an unacceptable degree, left questions of proper use up to the individual candidate or office holder.

A higher standard would provide a tougher test in the law, better definitions of the do's and don'ts in campaign finance spending and regulatory clarity in reporting gray area spending, such as for vehicles, travel and entertainment tickets. For example, a better standard used by a number of other jurisdictions allows expenditures for “ordinary and necessary expenses” incurred in connection with duties of campaigning or holding office. To prevent campaign contributions from being converted to personal use, this standard forbids campaign funds to be used for expenditures “that would exist irrespective” of the candidate's election campaign or duties as an office holder. This “irrespective test” is a notch stronger and clearer than Louisiana's current standard and is likely to be viewed by adjudicators as a tighter rein on spending.

Be clear

Provide a list of specific prohibited expenditures of campaign funds.

Examples of prohibited expenditures might include household food and supplies, personal clothing, tuition payments, mortgages, utility payments for a personal residence and fees for a country club. The Board of Ethics generally has interpreted the current law to prohibit these expenditures; while the board has provided advisory opinions on particular expenditures over the years, a statutory or regulatory list for guidance would contribute to clarity and compliance. A list should offer significant examples, not a full itemization of all improper personal uses. A companion list might include some expenditures that are allowed.

Connect the expenditure to the purpose

A new standard should be set so that the candidate must disclose in sufficient detail the relationship of the expenditure to the campaign or holding of office.

Current state law already requires candidates to report the purpose of campaign fund expenditures. Usually, the great majority of items reported by a candidate are obvious and typical campaign costs. Yet, too often, reports provide information that is unclear or inadequate and the Board of Ethics' oversight and rules have been less aggressive than they could be under the law. The ethics board and the disclosure forms should make clear the need for candidates to report specifically how an expenditure relates to a campaign or the holding of office. This improvement should be done by law or by Board of Ethics guidance and forms. Such greater disclosure would allow voters to understand more easily the real use of the expenditure and might serve as a deterrent to questionable spending.

The Board of Ethics has been drafting examples of adequate and poor reporting of expenditures. These should be expanded and published. The Federal Elections Commission lists examples for federal candidates.

Clarify charitable donations reporting

To guard against conflicts of interest and poor disclosure to the public, candidates should name the beneficiaries and purpose of their charitable donations from their campaign funds.

Many people, probably including many campaign contributors, do not realize that office holders use campaign funds to make donations or buy gifts for individuals who are constituents. Examples include charitable causes, graduation gifts, occasional flowers or to pay for someone else's travel tickets, funeral or tuition. Although these gestures might not amount to personal use, the reasons for them might be unrelated to the holding of office.

Louisiana's courts have interpreted the current law to say that campaign funds used as donations or gifts to charitable causes are broadly considered a legal use of campaign money. The Board of Ethics allows such items if they are "reasonable and customary" and directed at people in the politician's district. If such uses of campaign funds are allowed to continue, the reporting standards should be clarified to require that the organization or individual beneficiary of the charitable spending is identified. Also, the campaign purpose should be reported with enough detail for the public to grasp the reason for the expense.

Set consistent practices for gray area expenditures or ban them

The state can do a better job establishing more consistent practices with regard to gray area expenditures, such as for vehicles, travel and phones.

These expenditures can be a mix of both personal use and campaign or office-holding use. Unfortunately, Louisiana offers insufficient guidance for how politicians should maintain records and report these costs and the practices vary widely among the many individuals reporting.

One approach would be to require the campaigns to follow a standard reporting practice, such as documenting mileage and having the candidate or office holder report a percentage allocation of vehicle miles used toward the campaign or constituent service. Other jurisdictions have established similar procedures that Louisiana should follow. Politicians would benefit by having greater clarity about their reporting responsibilities. Citizens would benefit by having better information and a more consistent standard to evaluate the spending behavior of politicians.

Here are some other controversial expenditures that should be banned or limited to campaign-related usage: sports tickets; krewe parade fees when riders are masked; and charitable auctions in which the candidate keeps valuable merchandise.

Disallow double dipping

The state should consider ways to stop double-dipping of per diems.

In principle, per diem payments are a good government practice if not abused. The taxpayer money is intended to defray meal and lodging expenses, especially for lawmakers who must travel to participate in legislative matters. Better the taxpayers pick up a reasonable portion of those costs than some special interest. Some people view the per diem as something more like general compensation, such as defraying a politician's loss of regular business income while spending time on official government matters.

Campaign finance money also is available to offset travel, meals and lodging expenses directly related to office holding or attending a legislative session. But when campaign money is used to cover regular expenses that could be covered by a per diem, and the per diem is then pocketed by the politician, this is known as double dipping. Essentially, campaign finance funds are being converted to personal enrichment. The current system invites this type of behavior. A change, either by law or rules changes by the government agency itself — such as the Legislature, a board or local body — would strengthen public confidence in the process.

Let the Board of Ethics communicate

The law should allow the Board of Ethics or its staff to request clarifications and information from campaign filers without necessarily having to resort to an investigation.

The Board of Ethics has asked for this worthwhile change. Currently, if the ethics administration has a question about a campaign filer's expenditure report, the only mechanism is to refer the matter to an investigation. Ethics staff should be able to request information and clarification from a candidate without first launching an investigation.

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