

GUEST OBSERVER

By Michael E. Toner

Congress Should Overhaul Presidential Funding System

On Sept. 8, the Supreme Court heard oral arguments on the constitutionality of the new campaign finance law. No matter how the court rules in the case, Congress faces a growing problem of what to do about the presidential public financing system.

The current system, at least for the presidential primaries, is breaking down. President Bush has decided to opt out of the system for the primaries in 2004, as he did in 2000. It appears increasingly likely that Howard Dean and perhaps other Democratic candidates will also opt out of the system. For the first time ever, there is a very real possibility that the nominees of both major parties will operate outside the public financing system during the primaries.

No one should be surprised by this development. During the past 10 years, Republican and Democratic candidates who remained in the system have frequently become their parties' presumptive nominees in March of the election year with little or no ability to raise or spend additional funds to sustain their campaigns for up to six months until the national conventions. Serious candidates cannot be faulted for opting out of a public financing system that is badly outdated and doesn't allow candidates to amass the resources needed to win a presidential nomination in the 21st century.

However, Congress has the ability to take definitive action to fortify the public financ-

ing system for the 2008 election and beyond. Federal Election Commission Commissioner Scott Thomas and I have developed a bipartisan package of legislative changes that would overhaul the public financing system and would allow candidates who remain in the system to raise and spend substantially more money and have additional resources to sustain a successful primary campaign all the way to the conventions. Our legislative proposal would:

- Raise the primary spending limit to match the general election spending limit. This would increase the primary limit from \$45 million to about \$75 million.
- Increase the total amount of primary matching funds that each candidate who participates in the system could receive to half of the newly raised primary spending limit. This would increase the amount of public money available per candidate from less than \$20 million today to about \$37.5 million.

- Double the maximum match on contributions from \$250 to \$500 per donor. This would parallel the recent doubling of the individual contribution limit from \$1,000 to \$2,000 per election under the new campaign finance law. It would restore the old 4-1 ratio between the contribution limit and the maximum matchable amount, which has now dropped to 8-1.
- Significantly tighten the eligibility requirements for presidential candidates to obtain public funds. Candidates today can receive matching funds after they raise \$100,000 in \$5,000 increments in 20 states. Some presidential campaigns raise such funds in a single week or even a weekend. Strengthening



Photo by [unreadable]

President Bush's decision to opt out of the public financing system for the 2004 primaries provides more evidence that the program is out of date, writes Toner.

The eligibility requirements would help ensure that public funds are spent only on serious candidates who can demonstrate they have broad-based, national support.

In addition, Congress should make public funds available to presidential candidates earlier in the election cycle. Candidates currently must wait until Jan. 1 of the election year to begin receiving matching funds. Waiting until Jan. 1 was feasible when the parties' presumptive nominees were not decided un-

til the following May or June. However, next year the presumptive nominees will likely be known by the first week in March, and the Democratic field may shrink even before the Iowa caucuses and New Hampshire primary take place in January. Distributing matching funds beginning July 1 of the year before the election would help ensure that public funds are available for candidates when they are needed most.

The conventional wisdom in Washington is that Republican presidential candidates do not need a viable public financing system and that modernizing the system would only advantage Democrats. However, the conventional wisdom could prove to be wrong, as soon as 2008. If President Bush is re-elected next year, many people believe Sen. Hillary Rodham Clinton (D-N.Y.) will run for president in 2008 and could raise \$200 million or more during the primaries. If this occurs, it is not at all clear that the Republican candidates could keep pace. Those Republican candidates, more than anyone else, would benefit from an invigorated public financing system with significantly greater resources and spending limits.

The presidential public financing system is at a historic crossroads. The current situation, in which serious candidates of both parties are considering or are actually opting out of the system, is dysfunctional. Congress should either modernize the system or abolish it altogether. If decisive legislative action is not taken soon, the presidential public financing system, at least for the primaries, will cease to be relevant.

Michael E. Toner serves on the Federal Election Commission.