

One faction says campaign spending has to be transformed. Bob Watada says no need—the tools are already in place. An inside look at the obstacle course to guilt-free money

Will elections ever be 'clean'?

BY IAN LIND

In the closing days of the 2004 legislative session, lawmakers sidestepped a chance to wrest electoral power away from big-money special interests and return it directly to the voters.

The opportunity wasn't just missed. It was deliberately thrown away.

The vehicle, Senate Bill 3104, dubbed the "clean elections" bill and backed by a coalition of community groups, would have eliminated in one bold stroke most of the actual or perceived corruption that seems to pervade Hawai'i politics. It provided qualified candidates comprehensive public funding for their campaigns in exchange for voluntary spending limits and a ban on all campaign contributions from private sources.

Although the clean elections bill seemed to be on track for a final vote, it was suddenly yanked from the legislative agenda at the last minute.

Whether the move was justified or not, it is drawing bitter criticism. Supporters of the measure say they were betrayed by an insider group of legislative leaders who yielded to pressure from the same special interests whose money seems to drive elections and legislation. They see the bill's demise as another symptom of the essential corruption of the existing political system.

Others, though, say the bill fell under its own weight, a victim of unanswered questions, shifting details, unknown costs and principled opposition from both left and right on the political spectrum.

The vision

The clean elections idea is simple. By providing candidates with sufficient campaign money from public sources to run competitive campaigns, they can choose to disavow all private money and eliminate the debts that candidates are widely believed to owe to their largest campaign contributors.

Comprehensive public funding is already the law in two states, Maine and Arizona, where the program has proved very popular. The Maine plan went into effect for the 2000 election, and about one-third of candidates chose the public funding route. Two years later, participation jumped to 62 percent. Candidates campaigning with public funds won 57 percent of the seats in the

State Assembly (comparable to our House of Representatives), while an astonishing 77 percent of senators ran "clean" campaigns. This year a majority of all candidates in Maine are running as clean candidates. The Maine system, which served as the model for the proposed Hawai'i bill, requires candidates to prove they have community support by collecting a \$5 contribution from 50 or more of voters in their districts, depending on the office sought.

Once certified, publicly funded candidates receive their first campaign allocation. Those facing privately funded opponents get a larger amount than those without opposition. If outspent by a privately funded opponent or attacked by independent groups, a publicly funded candidate can apply for additional "equalizing" funds intended to respond to the attacks and keep

the campaign competitive.

The more money that is raised and spent by traditionally funded opponents or independent groups, the more public funds are released to the clean candidates in the district, up to a predetermined limit. Equalizing funds become a "disincentive" for traditional fundraising and a powerful tool against the continuing spiral in overall campaign costs.

According to Rep. Brian Schatz, who served in 1999 as a paid staff member of an affiliate of the clean elections group, the basic concept is to "provide sufficient resources to candidates so they can run without being beholden to anyone other than their constituents."

"The idea is to raise the floor rather than lower the [spending] ceiling," Schatz said. "Even though private money may

continue to flow to some candidates, you've already provided access and the option for voters to vote for someone who hasn't taken a dime of private money."

"This is not reform," said political scientist and Green Party activist Ira Rohter. "It is a major alteration in the way we run political campaigns. This is transformational. That's what is important about it and that's what is scary about it."

An immediate impact of public funding is that it encourages more candidates to run and leaves fewer incumbents unchallenged, according to Kenneth R. Mayer, a political scientist at the University of Wisconsin-Madison.

Mayer said incumbents don't necessarily lose more often than before, but he nonetheless believes the increased competition is "tremendously important."

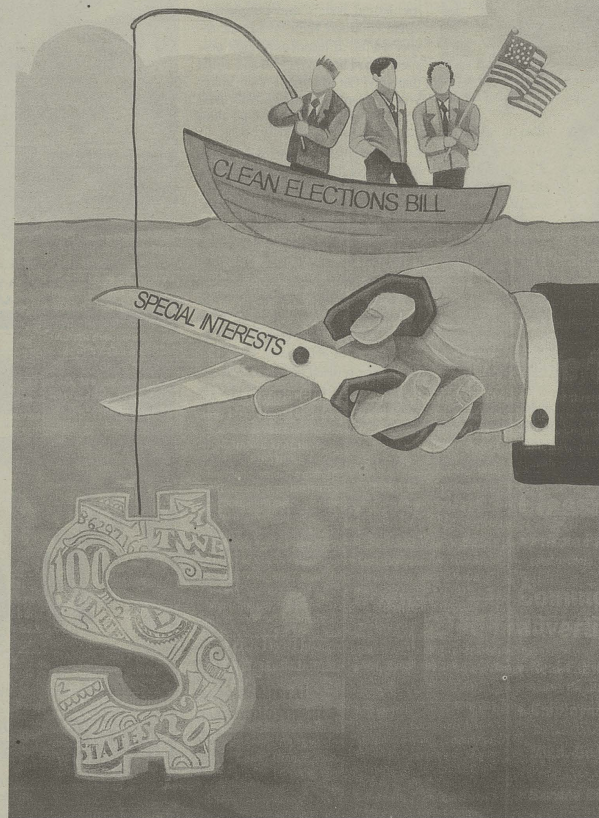
"If you have contested elections with competitive challengers, people have to pay attention to their constituents and fight for their seats, and other problems tend to go away," he said.

The inside game

The concept of public funding already had solid support among key lawmakers when the 2004 session began. House Speaker Calvin Say was generally supportive and had been one of only a handful of legislators who sat through a clean elections workshop at the capitol last year. Brian Schatz, now a member of Say's leadership team, is a vocal advocate of the concept. 'Aiea representative Blaké Oshiro, vice-chair of the House Judiciary Committee, believes the bill would "bring integrity back into the political process," and he accepted the responsibility of shepherding it through the committee. And Kirk Caldwell, the freshman representative from Mānoa, spent so much time seeking support for the measure from his colleagues that coalition leaders describe him as virtually an unpaid lobbyist.

This strong core of backers was crucial because it was generally understood that the Senate would let the House take the lead since the bill applied only to House elections.

A major hurdle was removed mid-session when Sen. Cal Kawamoto, who had bottled up similar proposals in his committee for several years, agreed to step aside. Kawamoto, facing a probe of his own campaign finances while engaged in a damag-



ing public feud with Campaign Spending Commission Executive Director Bob Watada, finally yielded to political pressure and gave up his informal veto, allowing the clean elections bill to move forward and gain quick Senate approval.

Laure Dillon, executive director of the Hawaii Clean Elections Coalition, was optimistic as she left the State Capitol on Friday, April 23. Although key legislative deadlines loomed uncomfortably close and final adjournment was less than two weeks away, SB 3104 seemed to be headed towards a final vote.

Dillon said she thought a meeting with Vice-Speaker Sylvia Luke to hammer out an agreement on last-minute changes to the bill had gone well.

"She (Luke) went over the proposed draft item by item and said she didn't see any deal breakers there," Dillon said.

Armed with what she thought was Luke's support, Dillon believed the bill's passage seemed likely.

Yeas become nays

"Everything seemed in place," Dillon said, with more than enough time for the conference committee to finalize the amendments already reviewed by Luke.

But the next few days would provide a vivid and unwelcome reminder of how quickly the winds of legislative favor can shift.

"By the following Tuesday, no one would talk to me," Dillon said. "Lines of communication that were open, closed. Yeses turned into noes without explanation, and [legislators] were avoiding us, disappearing around corners if they saw us coming. It was really quite a disgraceful display."

As backers of the clean elections proposal stalked the capitol's halls in search of clues to their bill's fate, they found themselves in a maze of political buck-passing.

According to several people involved in the lobbying effort, Oshiro, under pressure from the coalition for clear answers on the bill's status, referred questions to Schatz, who in turn deferred to Majority Leader Scott Saiki, who pointed to Luke. And as the session careened towards final deadlines, Luke simply became "unavailable."

"It was circle the wagons and play a shell game," said Doug Clopp, Democracy Project coordinator for the Maine Citizen Leadership Fund who spent three weeks in Hawai'i at the end of the 2004 session assisting the Clean Elections Coalition.

"We never did find out what happened, we just never did," said Grace Furukawa, coalition president and long-time stalwart in the nonpartisan League of Women Voters, shaking her head sadly.

Dillon now attributes the bill's demise to outside pressure on legislators. "My guess is somewhere along the line [between Friday and Tuesday] the people who fund campaigns and like the system the way it is, said, 'get rid of this.' That's the only thing we can assume," Dillon said.

Don't discount the mundane

It is always possible that Dillon is correct and a shadowy group of power brokers got their way, but those legislators closest to the process and most sympathetic to the issue say it's not so.

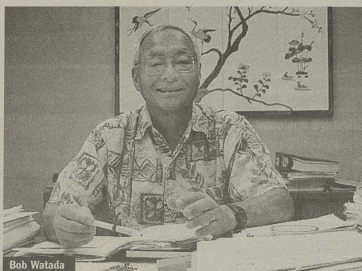
Asked about opposition from special interests, Caldwell said major contributors didn't seem to be lobbying either for or against the bill.

"My impression is they don't care that much," Caldwell said. "In fact, I think some would probably welcome not having to deal with this any more."

"One, I don't have to give money away that I would rather pour back into my business," Caldwell said, putting himself in the



Laure Dillon



Bob Watada

position of former donors. "And two, I don't have to worry about getting into any kind of legal trouble because I'm not monitoring how much I gave to a candidate, which can be a problem today, right? So [big contributors] could be relieved."

Apart from outside intervention by powerful special interests, what could account for the bill's death? Several more mundane considerations seem to have been factors.

First, Dillon and other clean elections supporters may have assumed a greater degree of overall support for their bill than actually existed.

"When you look at the votes, the votes are there," Dillon said later. "The House had voted for it not only in all the committees, but in the floor votes. So you would have to assume that they're voting in favor of something because they agree with it."

But because those votes occurred in the context of an expected veto by Kawamoto, that assumption is questionable.

For several years, the House had approved a clean elections bill and sent it over to the Senate, where Kawamoto could be counted on to block it. The issue became a "free" vote for House members, who could style themselves as reformers without having to look too closely at the clean elections proposal or worry about its political fallout.

Then there is the problem of the bill's details, which were in flux as legislators sought changes and the coalition proposed ad hoc amendments to meet questions as they arose.

Although the idea of weaning candidates from their traditional sources of campaign funds appears simple, the implementing legislation is necessarily complex, relying on procedures for qualifying, increased disclosure and reporting requirements for all candidates, schedules and mechanisms for disbursement, audit requirements to assure proper use of public funds, penalties for abuses on all sides, and conflicting proposals for levels of public funding.

When Kawamoto's unexpected retreat cleared the way for rapid Senate approval, many of the bill's details had not been carefully reviewed by House members, putting the House suddenly and very publicly on the hot spot. And at that point, very late in a session already dealing with other major and controversial issues like the governor's education reform proposals, there may not have been enough time to satisfactorily vet all the bill's details.

"If you look at the bill through the [legislative] process, it kept changing. It became a moving target," Oshiro said. "It became hard for me to convince colleagues that they should have faith in the system

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when the bill kept changing in language and technicalities."

Dillon disputes this view, saying these details had all been ironed out, but acknowledges that amendments were being discussed up until the very last minute.

The idea of public funding also faces philosophical opposition. Conservatives such as Sen. Sam Slom question why already "overburdened" taxpayers should have to fund politicians. Slom believes full disclosure, along with a ban on corporate and union contributions, is a better alternative.

Former City Council member Steve Holmes, on the other end of the political spectrum, objects to the complex rules and legal requirements of the clean elections proposal. Holmes says it is already possible to run as a "clean" candidate without all the red tape, pointing to his own three successful campaigns in which he refused money from special interest groups and limited individual contributors to a maximum of \$250.

But the bill's supporters in the House say the biggest political problem is easy to identify: Watada, of the Campaign Spending Commission.

Moving the man

When it comes to challenging past patterns of illegal campaign contributions, Watada is considered "the man" who stood up to the special interests and pushed ahead with the commission's aggressive enforcement program that has already snagged 450 people and companies for illegal contributions.

But Watada is openly hostile to the clean elections proposal, citing administrative issues and questions of cost as well as legal and philosophical concerns.

Watada was the first to point out that the version of the bill moving through the legislature this year would have authorized up to

a politically unpalatable \$92,000 for each qualifying House candidate per election.

Watada's calculation surprised even supporters of the bill, who began pushing to reduce the dollar amounts. But even when the figure was cut back and an overall cap of \$3.5 million was added, Watada cautioned that any future expansion of the program would break the bank.

"He was making statements absolutely guaranteed to terrify the Legislature, telling them 'you're going to have to take it out of the general fund,'" Dillon said.

Watada also objected to the coalition's repeated comparison of Hawai'i to Maine.

In Hawai'i, Watada points out, a House candidate can accept as much as \$2,000 from any contributor. In Maine, the top legal contribution is \$250. While Maine offers candidates for their Assembly a basic allocation of \$1,304, the base amount here would range from \$12,000 to \$18,000, depending on the number of registered voters in the district.

"So these people say it's just like Maine, it's not just like Maine," Watada said.

"We've been very disappointed," Dillon said of Watada's opposition. "This is a man who has done so much good in terms of really pointing out the flaws in the current system. He should be walking down the halls of the capitol carrying a banner for this in front of us instead of objecting."

Conflict between Watada and clean

elections backers flared unexpectedly during two private meetings this spring, according to those present.

"I was amazed at the fury with which he attacked us," said Furukawa, who attended a meeting with Dillon and other coalition representatives. "He got four or five of us together and just blasted us."

In a subsequent meeting, Watada hostilely confronted Clopp and Tory Griffith, Western regional director for Public Campaign, a national organization advocating clean election legislation. "He was really not too pleasant," Clopp said later in understated fashion. "Had I not flown halfway across the world to be there, I would have gotten my briefcase, straightened my tie and gone home."

"I was playing kind of dirty pool," Watada later acknowledged with a chuckle.

Watada's opposition apparently stems, in part, from worries that the clean elections program would quickly drain the Hawaii Election Campaign Fund. The \$6 million fund, made up of money collected from the check-off on state income tax forms and fines levied for campaign violations, is administered by the commission and provides the commission's own administrative budget, but would be tapped to pay for the new clean elections program.

For Watada, one legislator said, it is "not a sophisticated public policy objection but a simple matter of bureaucratic survival."

It may also be a matter of honor.

Watada bitterly resented clean elections proponents who bad-mouthed the com-

mission's existing program of partial public funding during legislative hearings. Their comments, whether justified or not, were seen as unnecessary and, in some sense, personal attacks.

Can it be done?

Supporters of public funding point out that the laws in Maine and Arizona were not approved by their legislators but, instead, were passed directly by voters via initiative or referendum. Whether Hawai'i can prove itself an exception remains to be seen.

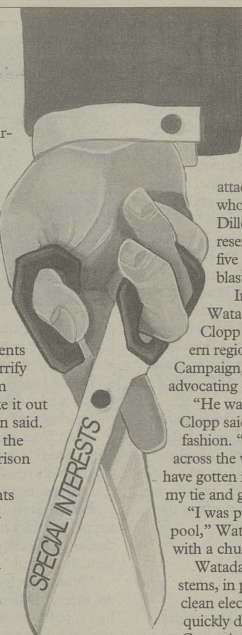
Dillon has already announced her group's intention to be back at the legislature next year, and an updated bill is being circulated for comment.

Meanwhile, Watada has offered a clue to a face-saving way through this logjam. "You already have a publicly funded program," Watada says of the commission's existing plan. "If you think there are problems, let's fix that." The commission has launched a study of past efforts with an eye towards upping the level of public funding to more realistic levels.

It should not be forgotten that Hawai'i was one of the first states and still one of the few states to authorize partial public funding of political campaigns via a constitutional amendment approved by voters after the 1978 Con-Con, a significant fact that has yet to be embraced by the clean elections movement.

Clean elections supporters may have to switch gears and jettison the rhetoric of radical change, instead embracing and seeking to dramatically enhance the forward-looking legal framework that the constitution already provides.

"At some point we may need to be willing to compromise so the Campaign Spending Commission feels it can administer and support it," Schatz said. "As they say, the perfect is the enemy of the good."



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