



*Projected Levels of Candidate Participation
and Public Grant Distribution for
the 2010 Citizens' Election Program
&
The Sufficiency of the Citizens' Election Fund*

*A Report of the
Connecticut State Elections
Enforcement Commission*

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Introduction

By January 1st of each calendar year in which a regular election for Connecticut statewide or General Assembly offices is scheduled, the State Elections Enforcement Commission (the “Commission”) is required by Conn. Gen. Stat. § 9-716(b) to determine whether the Citizens’ Election Fund (“CEF”) contains sufficient funds to provide public grants to eligible candidates participating in Connecticut’s landmark public financing program—the Citizens’ Election Program (the “Program”).

Section 9-716(b) provides that:

Not later than January first in any year in which a state election is to be held, the commission shall determine whether the amount in the fund is sufficient to carry out the purposes of sections 9-700 to 9-716, inclusive. If the commission determines that such amount is not sufficient to carry out such purposes, the commission shall, not later than three days after such later determination, (1) determine the percentage of the fund's obligations that can be met for such election, (2) recalculate the amount of each payment that each qualified candidate committee is entitled to receive under section 9-706 by multiplying such percentage by the amount that such committee would have been entitled to receive under sections 9-700 to 9-716, inclusive, if there were a sufficient amount of moneys in the fund, and (3) notify each such committee of such insufficiency, percentage and applicable recalculation.

The Commission has a responsibility to act once it determines that the funding in the Citizens’ Election Fund will be inadequate for an election cycle covered by the Program. The combination of (1) the recent cuts to the CEF due to budget deficit mitigation, (2) the high cost of statewide elections as compared to General Assembly elections, and (3) the fact that the addition of statewide elections under the Program is *entirely new to the State of Connecticut*, make the task of assessing the sufficiency of the CEF particularly challenging. There is still uncertainty regarding the 2010 statewide candidates and the level of Program participation, therefore, it is still too early to determine the precise cost of the 2010 election cycle.

Nonetheless, the Commission believes that as of this date, the CEF has adequate resources for certain plausible scenarios for the 2010 election cycle, and has for that reason, determined that the CEF is sufficient at this time.

Section I. Background

The Citizens' Election Program

In December 2005, the Connecticut General Assembly enacted, and Governor M. Jodi Rell signed, the most sweeping reform of the State's campaign finance laws since the post-Watergate era. Public Act 05-5 of the October 25th Special Session, and the amendments made in Public Act 06-137, incorporate these vast revisions to the manner in which the State's political campaigns are financed, especially with respect to statewide and General Assembly candidates. These revisions are codified in Chapter 155 (traditional private campaign funding), and Chapter 157 of the Connecticut General Statutes (the "Citizens' Election Program").

The Program allows qualified participating candidates for statewide offices, State Senate and State Representative to receive public grants to finance their campaigns. Among other achievements, public financing lessens even the appearance of candidate reliance on special interests and wealthy individuals or entities.

To qualify for a public grant, candidates must be on the ballot for a primary or general election, raise a threshold amount of small contributions from individuals, and agree to abide by spending limits and other Program requirements. Participating candidates may also receive supplemental grants to match high-spending opponents' expenditures exceeding the Program's spending limits ("excess expenditures"), and to match independent expenditures where the participating candidates are targeted by negative advertising. Participation in the Program is entirely *voluntary*.

The 2008 elections were the first regularly scheduled election cycle in which Connecticut candidates could join the Program. In its inaugural run, 250 candidates, or 73% of all candidates running for the General Assembly, participated in the Program. This astonishing level of participation led to 78% of the current legislators having come to office using the Program.

Elections for the offices of Governor, Lieutenant Governor, Secretary of the State, Treasurer, Comptroller, Attorney General, State Senator and State Representative will be held on Tuesday, November 2, 2010. The 2010 elections will be the first regular election cycle in which statewide candidates have the option to participate in the Program.

The Citizens' Election Fund & SEEC Statutory Responsibility

The Citizens' Election Program is financed by the Citizens' Election Fund. The CEF is a separate, non-lapsing fund within the State's General Fund. *See* CONN. GEN. STAT. § 9-701. The primary source of the CEF's deposits is money gained from the sale of property deposited in the State's Special Abandoned Property Fund, which is administered by the State Treasurer. *See* CONN. GEN. STAT. § 3-69a. In addition to the sale of abandoned property in the State's custody, the CEF is comprised of voluntary contributions, as well as interest earned on the CEF's assets.

The Commission is required by statute to report by January 1, 2010 as to whether the CEF contains enough funds to distribute public grants to all potential Program participants during the 2010 election cycle. *See* CONN. GEN. STAT. § 9-716(b).

Number of Offices Covered by the 2010 Program

The 2010 statewide Program includes elections for the following statewide offices—Governor, Lieutenant Governor, Secretary of the State, State Treasurer, State Comptroller and Attorney General.

In addition to the Constitutional officers, all General Assembly seats will also be up for election. There are 36 state senate districts, each represented by one State Senator. There are 151 state assembly districts, each represented by one State Representative. Therefore, the 2010 General Assembly elections will be comprised of 36 election contests for State Senator and 151 election contests for State Representative.

Additionally, there is the potential for primary elections in any of the statewide and General Assembly races.

Initial Grants

The following charts set forth the initial full public grants that eligible participating candidates may receive. The initial grant amount that minor party and petitioning candidates may receive depends upon the number of votes that the minor party candidate in the same race in the prior election received or the number of petition signatures received. Eligible minor party or petitioning candidates may receive full or partial grants. The 2010 public grants for General Assembly candidates are adjusted by a Consumer Price Index (“CPI”) of 4%, which is an estimation of the rate of change in the CPI for all urban consumers for the calendar year biennium 2006-2007 and 2008-2009, as reported by the Bureau of Labor Statistics. As of the date of the report, the CPI values for the final months of 2009 are not available.

Grants for Statewide Candidates				
Office Sought	<i>Primary for Nomination</i>	<i>General Election Nominated Candidate with Major Party Opponent</i>	<i>General Election Nominated Candidate with No Opposition</i>	<i>General Election Nominated Candidate With Limited Minor or Petitioning Party Opponents</i>
Governor	\$1,250,000	\$3,000,000	\$900,000	\$1,800,000
Lieutenant Governor	\$375,000	NA	NA	NA
Attorney General	\$375,000	\$750,000	\$225,000	\$450,000
State Comptroller	\$375,000	\$750,000	\$225,000	\$450,000
State Treasurer	\$375,000	\$750,000	\$225,000	\$450,000
Secretary of State	\$375,000	\$750,000	\$225,000	\$450,000

Grants for General Assembly Candidates				
Office Sought	<i>Primary for Nomination</i>	<i>General Election Nominated Candidate with Major Party Opponent</i>	<i>General Election Nominated Candidate with No Opposition</i>	<i>General Election Nominated Candidate With Limited Minor or Petitioning Party Opponents</i>
State Senator	\$36,400.	\$88,400	\$26,520	\$53,040
State Representative	\$10,400	\$26,000	\$7,800	\$15,600
State Senator – Party Dominant District	\$78,000	\$88,400	\$26,520	\$53,040
State Representative – Party Dominant District	\$26,000	\$26,000	\$7,800	\$15,600

Supplemental “Matching Funds” – Matching Excess Expenditures of Opponents

The Program permits participating candidates facing high-spending opponents to receive additional public grant money from the CEF. *See* CONN. GEN. STAT.

§§ 9-713(a) – (d). A high-spending opponent is an opponent whose receipts and expenditures, in the aggregate, exceed the participating candidate’s expenditure limit for the office sought. Under the excess expenditure provisions, a participating candidate may receive supplemental “matching funds” up to a total of 100% of the full grant amount.

Supplemental “Matching Funds” – Matching Independent Expenditures

A participating candidate who is the target of an independent expenditure may be entitled to additional funding to match the amount of the independent expenditure. *See* CONN. GEN. STAT. §§ 9-714(a), (b).

An independent expenditure is an expenditure made without the consultation of or coordination with a candidate or agent of the candidate committee. *See* CONN. GEN. STAT. § 9-601(18). If the Commission determines that such an independent expenditure was made with the intent to promote the defeat of a participating candidate who has received a grant, the participating candidate may be eligible to receive supplemental “matching funds” in the amount of the independent expenditure. *See* CONN. GEN. STAT. § 9-714.

Section II. Projection Methodology & Analysis

The Commission has gathered statistical data from the 2008 General Assembly elections to examine rates of Program participation by General Assembly candidates as well as the frequency with which candidates qualified for public funds. This research has formed the foundation upon which the Commission has formulated estimates of participation for statewide and General Assembly candidates in the 2010 election cycle and the corresponding cost obligation of the Citizens’ Election Fund.

Since the 2010 election cycle will be the first to include statewide candidates, the Commission does not have comparable data regarding prior statewide participation. Nonetheless, the Commission has reviewed available information and historical data in an attempt to estimate reasonable levels of statewide participation in 2010. In order to assess the sufficiency of the CEF, the Commission takes into account two plausible scenarios for 2010 statewide and General Assembly elections: (1) a conservative estimate of the cost of statewide and General Assembly elections based on past election trends (*Scenario 1*), and (2) a scenario based on past election trends but also incorporating potential supplemental grant payments, resulting in a higher cost (*Scenario 2*).

2010 Statewide Projections—Primary

Since 1978, the gubernatorial election has attracted the greatest number of primaries (1978, 1986, 1990, 1994 and 2006). In two instances—1990 and 1994—the incumbent was not seeking re-election.

Primary Scenario 1 looks to past election trends, as well as to what is known about the 2010 races at the time of this report. Given that the current incumbent governor has chosen not to seek re-election, combined with the high frequency of primaries for governor over the past 20 years, and the 1986 occurrence of a three-way primary for governor; *Primary Scenario 1* estimates a total of five qualifying primary candidates for governor in 2010.

The analysis also estimates: (1) four qualifying primary candidates for Lieutenant Governor; an office which had primaries in 1986 (a three-way primary) and 2006, and (2) six qualifying primary candidates for the Constitutional offices of State Treasurer, State Comptroller and Attorney General.

This scenario includes an increase in the number of statewide primaries when compared to the historical trends. However, when compared to recent elections, it can be assumed that the number of primary challenges will increase in 2010.

Under the Program, the 2008 General Assembly elections had a 50% increase in primary challenges: 12 primary challenges in 2006 increasing to 18 primary races in 2008.

In addition, as of December 2009, there are nine candidate committees for statewide office already registered and an additional 20 exploratory committees that include statewide office as an office being considered.

Primary Scenario 1 estimates that the total cost of the 2010 statewide primaries will be \$10,000,000.

Primary Scenario 1				
Office	Number of Qualifying Candidates	Grant Amount	Supplemental Payments	Total Grants
Governor	5	\$1,250,000	\$ -	\$ 6,250,000
Lieutenant Governor	4	\$ 375,000	\$ -	\$ 1,500,000
Constitutional Offices	6	\$ 375,000	\$ -	\$ 2,250,000
			Total	\$ 10,000,000

A consideration must also be made for the inclusion of a self-funded, or traditionally funded, high spending non-participating candidate in a primary contest. If a high spending candidate raises or spends beyond the expenditure limit for a participating candidate in a particular office, the Commission must be prepared to distribute supplemental grants to every participating candidate in that primary contest. This potential additional cost is included in *Primary Scenario 2*.

In 1998 and 2002, former Governor John Rowland’s campaigns raised \$6,940,352 and \$6,582,070 respectively. In 2006, the campaigns of Governor M. Jodi Rell and New Haven Mayor John DeStefano, each raised in excess of \$4 million.

This type of fundraising, coupled with an injection of personal wealth in excess of \$1.25 million during the primary, would require the Commission to distribute supplemental “matching funds” equal to the primary grant to every participating candidate in that primary contest.

A high spending non-participating candidate involved in a three-way primary for governor with two participating, publicly funded candidates could result in a distribution of supplemental grants totaling \$2.5 million. Accordingly, *Primary Scenario 2* estimates that the total cost of the 2010 statewide primaries will be \$11.25 million.

Primary Scenario 2				
Office	Number of Qualifying Candidates	Grant Amount	Supplemental Payments	Total Grants
Governor	4	\$1,250,000	\$2,500,000	\$ 7,500,000
Lieutenant Governor	4	\$ 375,000	\$ -	\$ 1,500,000
Constitutional Offices	6	\$ 375,000	\$ -	\$ 2,250,000
			Total	\$ 11,250,000

2010 Statewide Projections – General Election

The Commission estimates that two candidates will qualify for grants for each statewide office, with the exception of Lieutenant Governor, for the 2010 general election.

General Election Scenario 1 estimates that the total cost of the 2010 statewide office general election will be \$15 million. It is anticipated that all candidates for statewide office in 2010 will qualify for public grants. Since 1978, no statewide office has been unopposed in a general election. Furthermore, in 2008, 94% of participating candidates applied for public grants and 99% of those applicants received public funds.

General Election Scenario 1				
Office	Number of Qualifying Candidates	Grant Amount	Supplemental Payments	Total Grants & Supplemental Payments
Governor	2	\$3,000,000	\$3,000,000	\$ 9,000,000
Lieutenant Governor	2	\$ -	\$ -	\$ -
Secretary of the State	2	\$ 750,000	\$ -	\$ 1,500,000
Treasurer	2	\$ 750,000	\$ -	\$ 1,500,000
Comptroller	2	\$ 750,000	\$ -	\$ 1,500,000
Attorney General	2	\$ 750,000	\$ -	\$ 1,500,000
			Total	\$ 15,000,000

In *General Election Scenario 2*, the analysis includes a high spending non-participating candidate; specifically, a high spending, non-participating third-party candidate. A non-participating candidate that raises or spends in excess of \$3 million would require the Commission to distribute excess expenditure

supplemental payments equal to the general election grant to every participating candidate in that race.

Additionally, the *General Election Scenario 2* analysis includes significant supplemental “matching fund” payments to match independent expenditures targeting participating candidates. It should be noted that the Commission has paid special attention to the uncertainty surrounding supplemental grants, or “matching funds,” as these supplemental payments are a significant budgetary concern.

The 1990 gubernatorial race between A Connecticut Party’s Lowell Weicker, Republican John Rowland and Democrat Bruce Morrison demonstrates that a three-way race for governor with three viable candidates is possible.

General Election Scenario 2 estimates that the total cost of the 2010 statewide office general election will be \$23 million.

General Election Scenario 2				
Office	Number of Qualifying Candidates	Grant Amount	Supplemental Payments	Total Grants & Supplemental Payments
Governor	2	\$3,000,000	\$9,000,000	\$ 15,000,000
Lieutenant Governor	2	\$ -	\$ -	\$ -
Secretary of the State	2	\$ 750,000	\$ 500,000	\$ 2,000,000
Treasurer	2	\$ 750,000	\$ 500,000	\$ 2,000,000
Comptroller	2	\$ 750,000	\$ 500,000	\$ 2,000,000
Attorney General	2	\$ 750,000	\$ 500,000	\$ 2,000,000
			Total	\$ 23,000,000

2010 General Assembly Projections – Primary

State Representative Primary

In 2008, 15 State Representative districts had primaries. Assuming a 20% increase in primaries, there would be 18 primaries in 2010. Of the 15 primaries in 2008, 10 primaries (or 2/3 of the total primaries) were in party dominant districts — districts in which the percentage of active electors enrolled in one major party exceeds the percentage of active electors enrolled in the other major party by at least twenty percentage points. Applying this 2/3 ratio to the 2010 projections results in an estimated 12 primaries in party dominant districts.

Under this analysis, the estimated cost of the 2010 State Representative primaries will be \$733,200. This estimate reflects an increase in competition, as well as a Consumer Price Index (“CPI”) adjustment, as required by Conn. Gen. Stats. § 9-705 (h).

State Senate Primary

In 2008, four State Senate districts had primaries. Assuming a 20% increase in primaries, there would be five primaries in 2010.

Using this analysis, the estimated cost of the 2010 State Senate primaries will be \$613,600. This estimate reflects an increase in competition, as well as the required CPI adjustment.

2010 General Assembly Projections—General Election

State Representative General Election

In 2008, there were 14 State Representative races where a major party candidate was challenged solely by a non-major party opponent; 10 participating candidates received 60% grants in these races.

Further, 46 candidates were unopposed and, of those candidates, 16 received 30% grants. The Commission issued 184 State Representative grants in 2008, 158 of which were 100% grants.

Assuming that unopposed races decrease by 5%, and races opposed by non-major party candidates only decrease by 2%, then major party opposition would increase by 7%. The correlating 2010 projections are as follows:

- 243 candidates will apply for grants;
- 10 grants would be 30% grants;
- 10 grants would be 60% grants; and
- 223 grants would be 100% grants.

Using this analysis, the estimated cost of the 2010 State Representative general election initial grants will be \$6,032,000. This estimate reflects an increase in competition, as well as the required CPI adjustment.

State Senate General Election

In 2008, there were two State Senate races where a major party candidate was challenged solely by a minor party opponent. Both candidates received 60% grants in these races. There were also seven unopposed races in which five candidates received 30% grants.

In 2008, the Commission issued 51 State Senate grants, 44 of which were 100% grants.

Assuming that unopposed races decrease by 5% and major party opposition will increase by 5%, the 2010 projections are as follows:

- 63 candidates will apply for grants;
- 3 grants would be 30% grants;
- 3 grants would be 60% grants; and
- 57 grants would be 100% grants.

Using this analysis, the estimated cost of the 2010 State Senate general election initial grants will be \$5,277,480. This estimate reflects an increase in competition, as well as the required CPI adjustment.

Section III. Cost of the 2010 Election Cycle and Overall Status of the Citizens' Election Fund

The Commission must anticipate a variety of situations, including those that will test the limits of the CEF. Accordingly, the Commission has outlined two scenarios that offer a reasonable range of costs for the 2010 election cycle. Based on these scenarios, the Commission estimates that the overall cost of the 2010 election cycle will be between \$38 million and \$48 million.

Notably, the Commission’s “high cost” scenario does not represent the full measure of exposure that the Commission will face in 2010. Rather, it is what the Commission believes is a plausible upper limit. Likewise, the “low cost” scenario is not the lowest amount that could potentially be spent in the 2010 elections, but it represents a sensible lower limit.

Additionally, one important difference between the cost estimates is linked to the inclusion of increased “matching fund” payments in the higher cost scenarios.

The lower limit of the Commission’s range is compatible with the estimates by the Office of Fiscal Analysis (“OFA”) from December 2009. OFA estimates that the total cost of the 2010 election cycle will be between \$38 million and \$42 million.

Total Cost of Scenario 1 (Primary + General Election)					
Office	Number of Candidates	Number of Qualifying Candidates	Supplemental Payments	Grants	Total
Gubernatorial Primary	5	5		\$6,250,000	\$6,250,000
Gubernatorial General Election	2	2	\$3,000,000	\$6,000,000	\$9,000,000
Constitutional Officer Primary	10	10		\$3,750,000	\$3,750,000
Constitutional Officer General Election	8	8		\$6,000,000	\$6,000,000
General Assembly Primary	50	46		\$1,346,800	\$1,346,800
General Assembly General Election	377	306		\$11,309,480	\$11,309,480
				Total	\$37,656,280

Total Cost of Scenario 2 (Primary + General Election)					
Office	Number of Candidates	Number of Qualifying Candidates	Supplemental Payments	Grants	Total
Gubernatorial Primary	5	4	\$2,500,000	\$5,000,000	\$7,500,000
Gubernatorial General Election	3	2	\$9,000,000	\$6,000,000	\$15,000,000
Constitutional Officer Primary	10	10		\$3,750,000	\$3,750,000
Constitutional Officer General Election	8	8	\$2,000,000	\$6,000,000	\$8,000,000
General Assembly Primary	50	46		\$1,346,800	\$1,346,800
General Assembly General Election	377	306	\$500,000	\$11,309,480	\$11,809,480
				Total	\$47,406,280

Currently, the Commission finds that the CEF has sufficient resources for certain plausible scenarios for the 2010 election cycle. Without any additional cuts, the CEF should have at least \$38 million for the 2010 election cycle. Therefore, the Commission has not identified an insufficiency at this time. *However, the CEF is at a critical point—any further reductions would risk the State’s ability to fund campaigns for statewide and General Assembly candidates in 2010.*

Of course, candidates intending to participate in the *entirely voluntary* Program must have confidence that the public grants will be available to them when they reach the required thresholds. It is essential that the Program remain fully funded.

To date, \$38.5 million has been swept from the Program to mitigate the State’s budget deficit. In Public Act 08-1, the General Assembly swept \$5 million from the CEF to mitigate the state budget deficit in fiscal year 2009. Subsequently, the General Assembly swept an additional \$8.5 million from the CEF; thus, the aggregate reduction from the CEF after fiscal year 2009 was \$13.5 million.

In November 2009, the General Assembly swept \$18 million from the CEF in fiscal year 2010. Looking forward, in accordance with P.A. 09-3, an additional \$7 million will be swept no later than June 30, 2011.

The Governor's latest deficit mitigation plan, published on November 24, 2009, includes a proposal to sweep an additional \$12 million from the CEF. On December 21, 2009 the General Assembly voted to sweep \$5 million from the CEF. Subsequently, the General Assembly's budget bill was vetoed by the Governor, and these funds remain in the CEF at this time.

The Commission urges the Governor and the General Assembly to stand behind the Citizens' Election Program and fully fund the Program for the 2010 election cycle. The Commission maintains that the State should refrain from further reductions to the CEF prior to the first run of the Program for statewide candidates. If adequate funding is not available for the 2010 Program, the Commission will be forced to declare an insufficiency. And, any such declared insufficiency would compel candidates to rely upon PACs and other traditional funding sources. See Conn. Gen. Stat. § 9-716(b). This would abruptly end the Program despite its early success at diminishing the role of "special interests." The Commission remains committed to working with the General Assembly and the Governor to ensure that this does not occur.