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Big Isle test election at risk

A laudable pilot project on the Big Island aimed at eliminating the advantage of the rich, or tools of large interest groups in seeking public office, is in jeopardy. In an unsigned opinion involving an Arizona election, the U.S. Supreme Court has indicated that it will reject a system that was a model for the Hawaii test. A full opinion reflecting the brief order would be a blow to needed innovation of election law — a process that now may require changes.

The Legislature allowed the pilot test on the Big Island following decades of Hawaii elections tarnished by questionable contributions, agreeing to give a try to what proponents call “clean elections.” Basically, it allows candidates to rely entirely on state funding for their campaigns. Those not willing to participate could rely on their own money or private contributions.

The public financing system had been put into effect by Maine and Arizona a decade ago and has been urged or adopted in other states. The \$4.5 million for the Big Island pilot program is derived from the \$3 each that taxpayers direct to the Hawaii Election Campaign Fund by checking a box on their income tax forms.

A Big Island candidate for County Council who submits 200 signatures of registered voters and 200 donations of \$5 each is eligible for public money totaling 10 percent less than the average amount spent by winning district candidates in the last



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Every voting booth was filled at this polling station in Manoa in November 2008.

two elections. Sixteen candidates applied to participate.

If the participating candidate is outspent by the opponent, additional “equalizing” state funds can be available, with the total amount received by the candidate not exceeding \$300,000. Arizona has a similar provision that is the primary issue before the Supreme Court.

But the high court, instead of respecting the attempt to tamp big-money influences in elections, is continuing its

advocacy for the wealthy.

Arizona Gov. Jan Brewer is a recipient of matching funds in her Republican primary against wealthy businessman Buz Mills, who has spent more than \$2 million on his campaign. Brewer received more than \$700,000 in public funding for her campaign and is eligible for an additional \$1.4 million because of Mills’ expenditure. The high court’s injunction denies her the extra money in time to be spent on her campaign.

The San Francisco-based 9th U.S. Circuit Court of Appeals rejected the argument that the Arizona system’s funding-limit trigger violated the rich candidate’s right to free speech — and allowed the election to go forward. But now, the Supreme Court’s temporary decision indicates its expectation to overturn the 9th Circuit.

Such a ruling would be consistent with the high court’s 2008 elimination of the McCain-Feingold Act’s Millionaires Amendment, which had allowed a candidate to exceed contribution limits when being outspent by a wealthy adversary, and its January ruling that lifted campaign spending by corporations.

The Supreme Court’s final opinion in the Arizona case is not expected until the fall at the earliest. Unfortunately, Hawaii’s Legislature will need to take it into account in determining what form — if any — the Big Island pilot project might require before being broadened to the rest of the state.