

**FOURTH ANNUAL REPORT  
OF THE  
NEW JERSEY ELECTION  
LAW ENFORCEMENT  
COMMISSION  
1976**



## **THE COMMISSION**

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Sidney Goldmann, Vice Chairman  
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Archibald S. Alexander, Member

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Consultant — Dr. Herbert E. Alexander

The New Jersey Election Law Enforcement Commission was created and organized in 1973 to administer and enforce the N.J. Campaign Contributions and Expenditures Reporting Act as amended and supplemented (N.J.S.A. 19: 44A-1 et seq.). That law consists of Chapter 83 of the Laws of 1973, as amended by Chapter 11 of the Laws of 1975, which requires disclosure of certain campaign contributions and expenditures by candidates for State, county and local elected offices, and Chapter 26 of 1974, which provides for partial public financing and limitations on the amount of political contributions for candidates for Governor in the general election beginning in 1977.

The Commission consists of four members appointed by the Governor with the advice and consent of the Senate to serve for 3-year terms. No more than two members shall belong to the same political party. The Commission is authorized to conduct investigations, issue subpoenas, accept and institute complaints, render advisory opinions, find violations of the Act and levy civil penalties. Criminal penalties are provided for certain willful and knowing violations. A full-time staff of 16 persons, headed by an executive director, plus a panel of 19 hearing officers, a counsel and an expert consultant, comprise the administrative arm to carry out the Commission's mission.

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“(Public financing) gives us a chance to do what needs to be done in American politics. I want to say to the American people it will be the best investment they ever made, the very best. It will lift American politics out of the quagmire, out of suspicion, doubt, fear, degradation, and corruption.”

— Senator Hubert Humphrey  
*Congressional Record*, July 26, 1973

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## HIGHLIGHTS

The New Jersey Election Law Enforcement Commission began 1976 with a strong effort to intensify the enforcement of the Campaign Contributions and Expenditures Reporting Act. The year ended with the beginning of the pioneering process of implementing public financing for the 1977 gubernatorial general election. These two aspects, improved enforcement and preparation for public financing, highlighted the fourth year of operation of the New Jersey Election Law Enforcement Commission. While, unlike many states, every year is a significant election year in New Jersey, in 1976 the focus was on Federal, not State and local, elections in New Jersey. First, delegates to the national party presidential nominating conventions were elected in the primary election. In November a President, Vice-President, United States Senator and members of Congress were elected in New Jersey. There were no elections for Governor or the State Legislature scheduled in this even-numbered year. Important county and municipal elections, however, were held in Elizabeth, Atlantic City, Paterson, Vineland, Perth Amboy and Wildwood. At the general election, voters elected persons to fill vacancies in the State Senate (5th district) and Assembly (7th and 13th districts).

The most significant non-Federal New Jersey election in 1976 was the statewide referendum at the General Election which authorized casino gambling in Atlantic City. A very substantial amount was spent in regard to this question and appropriate reports detailing these expenditures and contributions were filed with the Commission.

Three events which occurred early in 1976 helped significantly to determine and shape the nature of the Commission's activity and operations in the months ahead.

In January, David Norcross, the Commission's first executive director, resigned to return to private life. Climaxing an intensive search for a successor, the Commission appointed Lewis B. Thurston, III, who had served for over 10 years in New Jersey state government, primarily with the Legislature. This change came at a significant time in the history of the Commission as it was embarking upon the new function of administering publicly financed gubernatorial elections. At the end of 1976 the Commission noted that the transition in the staff leadership and direction of the Commission had been smooth.

Later in January 1976, the legal framework in which the Commission operates was significantly changed by the United States Supreme Court in its *Buckley v. Valeo* opinion. This landmark case concerning the Federal Election Campaign Act upheld the Federal disclosure provisions, the concept of public financing of elections and the contribution limits on individual contributions. Total expenditure limits for campaigns were permitted only if some form of public financing was provided. The most immediate impact of the *Buckley* decision in New Jersey was its application to the expenditure limitations provision of the New Jersey Campaign Contributions and Expenditures Reporting Act. The Commission sought an opinion from the New Jersey Attorney General regarding this provision. In March 1976, he reached the same conclusion as the Commission counsel that the expenditure limitation of the New Jersey Act was unenforceable, absent public financing, in view of the *Buckley* decision. The Commission accepted this opinion, duly notified the candidates, committees and party organizations of its substance, and dismissed pending cases involving only allegations of violations of the expenditure limits.

A final backdrop for the Commission's operations in 1976 was provided by the continuing fiscal crisis in State Government. Throughout the year, until the crisis was resolved in the summer months with the enactment of the income tax and other aspects of a new fiscal program, there was considerable uncertainty as to how much revenue would be available to operate State Government. Of course, this crisis atmosphere affected the budget process and therefore had an impact on virtually all agencies of State Government, including the Election Law Enforcement Commission.

Despite the fiscal crisis, the Legislature and Governor provided the Commission with a satisfactory budget level for current operations and, additionally, \$786,668 as the initial sum to be used for public financing of the 1977 gubernatorial general election. In the fall the Commission submitted its requested budget for fiscal year 1977-78, recommending a slightly higher operational budget and an additional \$1.8 million dollars to complete the funding for public financing of the 1977 gubernatorial general election. Taking cognizance of the tight fiscal situation during calendar 1976, the Commission limited expenditures wherever possible.

A significant portion of Commission time and resources was spent in dealing with the question of filing by candidates for delegates and alternate delegates to national party presidential nominating conventions. The New Jersey Act includes such candidates in its scope. Accordingly, the Commission took initial steps to insure compliance by the various candidates and, in fact, a filing was made by candidates. At the same time, however, legal questions were raised by some of the delegates and others as to the authority of the Commission vis-à-vis that of the Federal Election Commission. To resolve these questions, the Commission requested an opinion of the Federal Election Commission. In August 1976 the Commission received a policy statement from the Federal Election Commission indicating that the Federal Commission asserted jurisdiction over delegate candidates and believed this preempted the field. The Commission also asked the New Jersey Attorney General's office to review this question and its response concurred with the policy statement of the Federal Election Commission. The Commission accepted these opinions and informed the various delegate and alternate delegate candidates of their substance. All compliance and enforcement proceedings against such candidates were stopped immediately. The Commission nevertheless continues to believe that some information in regard to the campaign finances of such delegates should be available in timely fashion for public inspection in New Jersey.

The number of candidates and other persons found in violation of the Act and fined by the Commission and the total amount of fines imposed, increased dramatically during 1976. 179 persons and committees were fined a total of \$13,125. One of the more important cases involved the Essex County Democratic Committee, which was found in violation of the Act for failure to report the identity of contributors of approximately \$500,000 to four fund-raising dinners held in 1973, 1974 and 1975. For these violations the organization and its treasurer were fined a total of \$4,350.

Significant improvement in the operation of the Commission with regard to contact with the public and candidates occurred in 1976. A greater number of candidate information seminars were conducted than in previous years. A major revision and simplification of the forms used for reporting was completed. Finally, more information was made available to the public in the form of sum-

maries of data from various reports for elections in 1975 and 1976. These summaries, accomplished with data processing assistance, were produced faster than in previous years.

1976 was a relatively inactive year with respect to legislation directly affecting the Election Law Enforcement Commission. While a number of significant pieces of proposed legislation affecting the Commission were introduced, none of them or the other previously proposed bills which would substantially amend the New Jersey Campaign Contributions and Expenditures Reporting Act, was enacted. Unfortunately, the Commission's recommended omnibus changes in the Act, embodied in *Assembly Bill 706*, remained stalled in committee in the Assembly.

As to litigation, the major case in which the Commission has been involved, *N.J. Chamber of Commerce et al v. E.L.E.C. et al* remained on appeal to the Appellate Division of Superior Court. While the appropriate pleadings were filed, no court determinations with respect thereto were made in 1976. Other major litigation involving the Commission during the year included a number of appeals from determinations of the Commission.

As the year drew to a close the Commission began the important task of preparing to implement the new public financing statute for the 1977 gubernatorial general election. The initial step was an intensive review of the 1974 statute in preparation for the promulgation of implementing regulations. Shortly thereafter, initial work began on the regulations themselves. Next, estimates were made of the administrative task involved and the staff necessary for implementation. After an intensive search, a director of public financing was employed in December. Development of a data processing program was begun. Finally, initial arrangements were completed for additional space to house the public financing staff at the same Commission location. As the new year dawned, it became evident that the task for preparing for the first American experience of public financing in a State gubernatorial election would require a very significant amount of time and effort for the Commission in 1977.

## ENFORCEMENT

The Commission's efforts early in 1976 to intensify enforcement activity are reflected in the statistics for the year as to the number of persons and committees fined and the amount of such penalties imposed. In 1976, 179 fines were imposed by the Commission in the total amount of \$13,125, primarily for violations in 1974 and 1975 elections. This contrasts with 11 fines for a total of \$4,450 in 1975.

Unfortunately, the intensive efforts conducted during the first half of 1976 were not sustained to the same degree during the latter half of the year because of the necessity of the Commission concentrating its limited resources on preparation for public financing of the 1977 gubernatorial general election. Thus, the Commission filed fewer complaints (152) than in 1975 (318) and held fewer hearings (129) than in the previous year (300). Additionally, the Commission received 21 complaints from citizens in 1976 compared to 14 in 1975.

While the number of hearings and total complaints from all sources was fewer than in the previous year, the number of investigations and field audits increased. The Commission conducted a total of 44 investigations and 36 field audits during 1976. The field audits included 24 county political party committees. This audit program, which began in 1975, was intensified and has resulted in all but 4 of the 42 Republican and Democratic county committees being audited at least once. Some of the larger county committees have been audited more than once.

The most significant investigation and determination by the Commission in 1976 involved the Essex County Democratic Committee. The Commission, after an audit conducted earlier in 1976, began an investigation which lasted several months and resulted in the filing of a complaint against the Committee and some of its officers. In the fall the Commission found the Committee guilty of a grossly negligent violation of the Act in several respects, primarily for failure to report the names and addresses of over 800 contributors of amounts in excess of \$100 to four fund-raising affairs held in 1973, 1974 and 1975, and failure to report contributions totalling approximately \$500,000 for these affairs. For this violation the Commission imposed a fine of \$3,850 on the Committee and \$500 on its



treasurer. The total of these fines represents the largest single penalty imposed by the Commission in its history.

Other significant cases dealt with by the Commission during the year included finding a violation of the Act by a Somerset County Republican official for failure to report names of contributors of over \$100 to a fund-raising affair, failure of certain Republican officials and candidates in Toms River in the 1974 general election properly to report certain expenditures, the violation of the Act by certain Republican officials in Cumberland County by not disclosing and reporting certain contributions and expenditures in regard to the 1st District Assembly contest in the 1975 general election, and a finding of violation against Democratic Assemblyman Morton Salkind for not properly reporting expenditures of a communication which the Commission deemed to be political and which had been issued by Mr. Salkind in his capacity as chairman of the Western Monmouth Utilities Authority and paid for by the Authority. Another substantial matter involved a complaint by the Bergen County Democratic Committee against the National Conservative Political Action Committee alleging inadequate filing by that organization for its activity in support of Assembly candidates in the 1975 general election. The Commission required additional information from the organization and issued to it an advisory opinion which dealt with a number of complex legal issues relative to the filing obligations of such out-of-state political action committees. A substantial amount of Commission staff time, hearing time and legal work was involved in all of these matters.

In 1977 it is anticipated that the resources of the Commission will be employed to a greater extent in concentrating on those elections where the most money is raised and spent, and on problem areas identified through three years of experience in Commission activity. The Commission hopes to realize this capability in part by improved techniques in dealing with the routine non-filing and late-filing cases which continue to take a substantial portion of Commission time.

## **PUBLIC FINANCING**

In 1977 New Jersey will become the first State to conduct a gubernatorial election which is funded in part with public money. Under the 1974 statute the New Jersey Election Law Enforcement Commission is the agency to administer this new program, including the paying of the matching funds and monitoring contributions and expenditure limits for the gubernatorial candidates.

1976 began with a public financing experience at the Federal level. Candidates for President campaigning in the pre-convention period qualified for and received \$24.3 million in Federal matching funds. After the summer conventions, financed in part with \$4.1 million in Federal funds, nominees Gerald Ford and Jimmy Carter each received a grant of approximately \$22 million with which to fund their entire general election campaign. Private contributions were banned as to the general election.

The post-election comments of a number of major leaders in the United States, including President Carter and top Democratic and Republican leaders of the Congress, seemed to reflect a general satisfaction with the public financing program as it was conducted in 1976. There appeared to be considerable support to expand the public financing concept at the Federal level to congressional elections.

The Commission began preparation for the implementation of the New Jersey statute early in 1976. The first step was intensive review of the statute itself. The Commission is empowered to promulgate regulations implementing the statute. This process of statutory review was begun as a prelude to the promulgation of regulations. In the course of its intensive review of the statute the Commission found that a number of significant questions and provisions were not entirely clear and the legislative intent was likewise obscure in some respects. Accordingly, the task of drafting regulations to implement the statute became a difficult and time-consuming one.

Another major aspect of preparation for public financing involved funding. Section 28 of the Act specifies that the provisions of the Act shall not apply to any general election campaign for the office of Governor for which the Legislature fails to make appropriation. In fiscal 1976, \$500,000 was recommended by the Governor for

public financing, but none of it was appropriated by the Legislature. In fiscal 1977 the Governor recommended approximately \$1,786,000 but the Legislature reduced this by \$1 million. The Commission's budget request for fiscal 1977, submitted to the Division of Budget and Accounting on October 1, 1976, sought an additional \$1.8 million for public financing. The Commission estimated that a total of approximately \$2.5 million should be made available to fund this program for the 1977 gubernatorial election.

Another development in regard to the funding was that the New Jersey Gross Income Tax Law enacted in 1976 contained a \$1 check-off provision similar to the Federal income tax checkoff. The proceeds of this optional checkoff would be used for public financing of the gubernatorial election. However, a constitutional amendment approved by the voters at the November 1976 general election provided for the dedication of the net income tax proceeds to property tax relief. As 1976 closed, it appeared that there might be a question as to whether the checkoff provision of the income tax would still be legally binding in view of the new constitutional amendment.

Major aspects of the preparation for public financing involved hiring staff, developing a data processing system and acquiring office space and materials and equipment to administer the program. The executive director and the Commission initially estimated that approximately five new staff members, additional consultant work and increased time from the existing staff would be required to administer this program. After an intensive search in December the Commission employed Neil Upmeyer as director of public financing to begin this process. He had been in charge of the congressional monitoring program for the Common Cause national organization in Washington, D.C. prior to his employment by the Commission. Additional employees were hired early in 1977 to complete the staffing.

The Commission was fortunate to be able to acquire approximately 1500 sq. ft. of additional office space adjacent to its present location to house the new public financing staff.

The Commission staff consulted extensively with the staff of the Division of Data Processing and Telecommunications regarding development of a computer program to assist in administering the public financing program.

Thus, as 1976 ended, the Commission had hired a director of public financing, formulated a blueprint for staffing, acquired the necessary additional office space, commenced development of a computer program, completed a review of the statute, and begun the process of formulating comprehensive regulations to implement the statute.

### **ELECTIONS — 1976**

The Commission received approximately 18,000 documents from 5,645 candidates and 1,522 committees in 1976. The documents, which are public records, were made available for public inspection immediately after filing. The number of filing entities for each election were as follows:

<b>ELECTION</b>	<b>CANDIDATES</b>	<b>COMMITTEES</b>
May Municipal	355	56
June Primary	3070*	72
June Municipal Runoff	25	2
November General	2195	592
** Annual Reports		800
<b>TOTAL</b>	<b>5645</b>	<b>1522</b>

\*Includes 1025 candidates for presidential convention delegate and alternate delegate later exempted from filing because of Federal pre-emption of New Jersey activity in this area.

\*\*Required of political party committees to be filed March 1, 1976 for calendar year 1975 activity.

The Commission estimates that approximately \$4.4 million was spent by all candidates and committees in 1976, compared to an estimated \$4 million in 1975. 30% of that total was attributable to the statewide referendum on casino gambling in Atlantic City, which accounted for \$1.3 million. That amount approximated the total spent (\$1.4 million) by all candidates for the 80 Assembly seats the previous year.

Because of the fact that candidates who filed affidavits indicating they would not spend in excess of \$1,000 are not required to

specify their total spending, and because some campaigns with outstanding debts or surpluses will continue to make expenditures in the future relative to 1975 elections, the total statewide expenditure figures necessarily are approximations.

## **CASINO GAMBLING REFERENDUM**

The most notable non-Federal election campaign in New Jersey in 1976 was the statewide referendum on the general election ballot to authorize casino gambling in Atlantic City. Proponents outspent opponents of the question by \$1,330,615 to \$21,250 and the question was approved by a vote of 1,535,249 to 1,180,799. Most observers agreed that the large expenditures by those in favor, the greatest amount spent on a statewide referendum in recent memory, and under-organized and under-financed opposition contributed significantly to passage. The greater voter turnout in a Presidential election may also have been a major factor.

The 1976 question differed significantly from the 1974 question, which was defeated by a vote of 1,202,638 to 790,777, in two major aspects: casinos would be limited to Atlantic City, a major resort, and not authorized in other areas of the State; and the casinos would be operated by private interests, not by the State Government. Proponents of the '74 question spent \$576,000 to \$36,500 for their opponents.

The major proponent in 1976 was the Committee to Rebuild Atlantic City, a coalition of business, labor, civic and political forces, based in and around Atlantic City, which spent \$1,232,256. Approximately one-third of its total expenditures was made to a Philadelphia advertising agency for advertising via television, radio, newspapers and literature. A California-based individual, with considerable experience in operating similar referenda campaigns, was brought in to direct the effort. Approximately \$168,000 in so-called "street money" was paid to various political leaders and political organizations throughout the State to get out the vote.

By far the largest single contributor to the overall casino effort was Resorts International Inc., a corporation operating casinos in the Bahamas and interested in expanding their operations to Atlantic

City. Most of the other major contributors were based in Atlantic City. 57% of the total contributions came from sources in Atlantic City while 22% originated from sources outside of New Jersey.

The following table lists major contributors to both the 1974 and 1976 efforts.

**CONTRIBUTORS OF \$5,000 OR MORE IN SUPPORT  
OF THE 1976 CASINO QUESTION\***

	1976	1974	Total '74 & '76
Resorts International, N. Miami	\$201,630	-	\$201,630
Chalfonte-Haddon Hall, Atlantic City**	52,235	12,000	64,235
The Press & Sunday Press, Atlantic City	45,000	11,800	56,800
Howard Johnson, Atlantic City	25,793	8,000	33,793
P & F Union Local 121	20,000	-	20,000
Atlantic City Holiday Inn	17,450	10,000	27,450
Allegheny Airlines, Washington, D.C.	15,000	-	15,000
Atlantic City Assoc., Inc., Charleston, S.C.	14,000	-	14,000
Sheraton Deauville Hotel, Atlantic City	12,230	15,900	28,130
Atlantic City Convention Hall	11,500	-	11,500
Marlboro-Blenheim, Atlantic City	11,000	6,000	17,000
Maxwell, R.C. Co., Trenton, Atlantic City	9,200	2,500	11,700
Kay Electric Co., Atlantic City	9,000	2,650	11,650
Ramada Inn Operating Co., Atlantic City	8,580	6,000	14,580
Taylor Supply Co., Pleasantville	6,400	650	7,050
Consolidated Laundries, New York City	6,000	150	6,150
Atlantic City Airlines	5,709	2,500	8,209
Cynwyd Investments, Bala Cynwyd, Pa.	5,500	-	5,500
Seashore Supply Co., Atlantic City	5,200	650	6,850
McGahn & Frias, Atlantic City	5,120	2,500	7,620
Arkboard Inc., Atlantic City	5,000	10,000	15,000
Atlantic Coast Liner, Atlantic City	5,000	-	5,000
Batzer, Steven, Mt. Laurel	5,000	-	5,000

\*The figures in the middle column represent contributions in support of the 1974 casino question. There were no contributors of more than \$5,000 to the committees opposing the casino gambling referendum.

\*\*Chalfonte-Haddon Hall is owned by Leeds & Lippincott Company, a fully-owned subsidiary of Resorts International.

Brigantine Castle, Brigantine	5,000	-	5,000
Colonial Frozen Foods, Atlantic City	5,000	2,500	7,500
Dillion, John, Ventnor	5,000	2,500	7,500
Ginsburg Bakery Superior Bakers, Inc., Atlantic City	5,000	-	5,000
Harrison Beverage Co., Pleasantville	5,000	2,500	7,500
Hertz Rent-A-Car System, Atlantic City	5,000	3,150	8,150
Polakoff, B. & Sons, Inc., Pleasantville	5,000	2,500	7,500
Rothenberg, Albert, Margate	5,000	2,500	7,500
7-up Bottling Co. of Bridgeton	5,000	-	5,000
7-up Bottling Co. of Camden, Gloucester	5,000	-	5,000
<b>TOTALS</b>	<b>\$551,547</b>	<b>\$106,950</b>	<b>\$658,497</b>

The opposition included the Coalition of Religious Organizations and Concerned Groups Against Casino Gambling, a coalition of persons and organizations largely associated with Protestant and Catholic churches, the United States Attorney for New Jersey, who feared an infiltration of casinos by organized crime, and several newspapers. Many of the more prominent politicians supported the question, but with varying degrees of enthusiasm.

The Commission staff spent a substantial amount of time answering inquiries from the groups active on the question, reviewing the reports filed, auditing the Committee to Rebuild Atlantic City and cooperating with other law enforcement agencies which reviewed the information filed with ELEC.

## **CONVENTION DELEGATES**

The most significant office contested in 1976, of course, was President of the United States. The New Jersey Campaign Contributions and Expenditures Reporting Act does not vest any authority in the Commission relative to reporting by candidates for President or Vice President or the other Federal offices of Senator and member of the House of Representatives. The Act does, however, indicate that its provisions apply "in any primary election for delegates and alternates to the national conventions of a political party."

Accordingly, in the late winter and spring of the year the Commission began the process of applying the Act's provisions to candidates for delegates and alternate delegate to the Presidential nominating conventions. Among other things, this process, which took considerable staff effort, involved obtaining the names and addresses of such candidates after they filed their nominating petitions, making forms and information about the Act available to them and formally and informally answering many questions concerning the requirements.

In the course of this process, the Commission received a letter on May 21, 1976 from representatives of the Church, Udall, Carter and uncommitted Democratic slates of delegates indicating that on the basis of a communication they had received from the counsel to the Federal Election Commission they believed that the Federal Election Campaign Act preempted the New Jersey Campaign Contributions and Expenditures Reporting Act regarding filing by delegate and alternate delegate candidates. The Commission and its counsel reviewed the letter and FEC communication and concluded that to resolve the matter the Commission should formally request an opinion on the question from both the Federal Election Commission and the New Jersey Attorney General. The Commission made such requests on June 9 and 10, 1976, respectively.

On August 4, 1976 the Commission received in response a policy statement of the FEC signed by its chairman which concluded:

"Accordingly, since it has been specifically recognized by the Supreme Court and the Commission that contributions to and expenditures by candidates or alternates for delegate, or committees supporting such candidates, influence and are in connection with a Federal election, the New Jersey Act would appear to be preempted to the extent that it places legal duties on such candidates or committees."

After a review of the FEC statement, the New Jersey Attorney General issued an opinion on August 25, 1976 concurring with the FEC statement and indicating in part:

"This conclusion of a federal agency authorized by Congress to administer this law is the controlling interpretation of that statute, and upon careful review we find no basis to disagree with it."



In the intervening period between the letter from the various Democratic delegate slates and the FEC policy statement, there were three filing dates for the primary election. Approximately 44% of the 1025 candidates for delegate and alternate delegate made timely first filings. The Commission followed up with a communication to those candidates not filing, pending receipt of the FEC statement.

The Commission reviewed the FEC policy statement and the N.J. Attorney General's opinion, accepted their conclusions and directed the staff to inform the candidates and the public that no further action would be taken by the Commission in applying the provisions of the New Jersey Act to such candidates. Appropriate notice of the action was then conveyed to the public and candidates. The Commission indicated further that it believes some provision should be made to ensure that the Federal financial disclosure reports of such candidates be physically available in New Jersey at the time of filing in order to more adequately inform the State citizenry.

## **CONTENT OF FILINGS**

The New Jersey Campaign Contributions and Expenditures Reporting Act requires that candidates for State, county and municipal office, their campaign committees and political party committees file reports of their campaign financial activity 25 and 7 days prior to an election and 15 days after the election. Additional reports are required every 60 days thereafter if the financial business of the campaign is not concluded. Candidates not spending a total of over \$1,000 need not file the detailed reports but may, 25 days prior to the election, simply file an affidavit indicating that the expenditures on their behalf will not exceed \$1,000.

Following the pattern noted for 1975, the great majority of candidates\* filed such affidavits. The 78% who did so in 1976 is identical to the percentage of those who filed them in 1975.

\*Committees may not file such affidavits.

The totals for the year were:

<b>ELECTION</b>	<b>CANDIDATES FILING AFFIDAVITS</b>	<b>CANDIDATES FILING REPORTS</b>
May Municipal	198	157
June Primary	2796	274
June Municipal Runoff	14	11
November General	1390	805
<b>TOTAL</b>	<b>4398</b>	<b>1247</b>

There was considerable variance among elections as to the percentage of candidates filing affidavits, ranging from 90% in the primary election (which involves many uncontested races) to 56% in the May municipal election (which included a number of the State's more populous municipalities).

### **COMMISSION MEMBERSHIP AND STAFF**

The Commission ended 1976 with the same membership with which it had begun the year. On June 30, 1976 Governor Byrne reappointed and the Senate confirmed, Commission member Archibald S. Alexander. He had originally been appointed by Governor Byrne to fill the unexpired term of Bartholomew Sheehan, commencing his service on April 7, 1975. A number of staff changes occurred, including the appointment in February of a new executive director, as noted previously. A director of public financing was appointed in December.

The Commission increased its activity somewhat, meeting 24 times, as compared to 19 in 1975. Commission members, who may not hold public office or an office in any political party during their tenure, serve without compensation but are reimbursed for their expenses.

New Jersey was well represented at the annual national conference of state agencies enforcing campaign financing, ethics, personal financial disclosure and lobbyist regulation laws held in San Francisco, California in December. The chairman, executive director, counsel and general consultant all participated as speakers or panelists on the program at this 3-day conference.

## **PUBLIC DISCLOSURE**

Approximately 400 persons inspected the filed reports in the Commission offices. Many hundreds or thousands more viewed copies of these documents at the offices of the 21 county clerks. These documents were made available immediately after filing as public records. At the time of the prescribed filing dates the Commission staff worked overtime to insure that the substantial number of reports filed on each filing day were properly coded and filed and made available for public review on the next working day.

The Commission staff supplied copies of thousands of documents in 1976 to numerous persons and organizations upon request at a nominal charge of 10¢ a page to cover the cost of reproduction.

A basic function of the Commission continues to be the receiving and the making available for public inspection of the thousands of campaign financial disclosure reports filed with it each year. In 1976 a significant improvement in the facilities available for use in inspecting these public documents was made through a physical reorganization of the Commission's office space. A large comfortable room within the Commission's office facilities that ensures an environment conducive for review of the often complex financial data is now available for public use.

## **DATA SUMMARIES**

Continued improvement in producing data summaries of the reports filed, as required by statute, was experienced in 1976. A greater number of such summaries were produced (7 in 1976 as against 4 in 1975) and the time necessary for such production, measured from the date of the election, continued to be reduced. A summary of the reports produced in 1976, assembled and printed with computer assistance and available to the public at modest cost, follows:

<b>Election</b>	<b>Date Published</b>	<b>Months Following Election</b>
1974 General	January 28	13
1975 Municipal Runoff	March 4	9
1975 Municipal	March 7	10

<b>Election</b>	<b>Date Published</b>	<b>Months Following Election</b>
1975 Primary	June 23	12
1975 General	October 27	11
1976 Municipal	December 21	6
1976 Municipal Runoff	December 22	5

### **ASSISTING CANDIDATES**

The number of information sessions for candidates and others involved in campaigns conducted by the Commission staff doubled (from 5 to 10) in 1976. At these seminars Commission staff members explained the basic requirements of the Act, answered questions and made available written information. As in 1975, these meetings were held in various convenient locations around the State and in the evening to accommodate the candidates. Over 500 persons attended. It is anticipated that a similar series will be sponsored each year.

The number of formal advisory opinions rendered by the Commission through its legal counsel, 37, was one fewer than in 1975. Persons or organizations are authorized to request such written opinions as to whether a given set of facts and circumstances requires reporting or constitutes a violation. Additionally, the Commission staff handled several thousand inquiries from the press and public in its day-to-day routine operation.

The practice begun in 1975 of mailing certain information and forms to candidates and committees prior to each election was continued.

The various county and municipal clerks continued their important public service in disseminating Commission forms and information and otherwise assisting the candidates in familiarizing themselves with the requirements of the Act. Once again this year these public officials in this manner ably assisted the Commission in carrying out its responsibilities.

A significant revision of the forms used by candidates to file their reports was effected in 1976 by the Commission staff. The requirement that forms be notarized, found to be relatively unim-

portant for enforcement but time-consuming to candidates, was eliminated. Certain kinds of information previously required on the forms for monitoring of expenditure limits also was no longer required. It is hoped that a rearrangement of the remaining elements of the forms will make them more easily understood. A new form (c-1) for reporting contributions in excess of \$100 for those candidates filing affidavits was designed and used.

Another major aid to candidates and others requiring information about the Act was the new Commission booklet summarizing the law's provisions called "What Every Candidate Should Know . . . ." It is an improvement over the information guidelines previously developed and used.

### COMMISSION BUDGET

The Commission's total operating budget was virtually the same for fiscal year 1976-77 as for 1975-76, decreasing by \$947. An additional amount of \$786,668, the initial appropriation for public financing of the 1977 gubernatorial general election, also was included for the latter fiscal period.

### ELEC BUDGET SUMMARY — FISCAL YEARS 1974-1977

#### OPERATING BUDGET

FISCAL YEAR	REQUESTED	RECOMMENDED BY GOVERNOR	APPROPRIATED
1974	\$150,000	\$150,000	\$150,000
1975	\$259,966	\$253,166	\$253,166
1976	\$399,983	\$296,305	\$296,305
1977	\$466,874	\$228,300	\$295,358

#### PUBLIC FINANCING

1976	\$500,000	\$500,000	—
1977	\$1,786,668	\$1,786,668	\$786,668*

\*Supplemented by \$1.8 million in the next fiscal year.

These figures alone do not reveal the considerable dialogue which took place in the context of a major State fiscal crisis. As the Governor and Legislature continued their attempt to end the State fiscal and school aid crisis with the enactment of an income tax or other tax plans in early 1976, Governor Byrne submitted his budget recommendations for fiscal '77. Recommendations for reduction in many State agency budgets were made, including a 23% reduction in the appropriation level for the Commission. The Governor reduced the Commission's request from \$466,874 to \$228,300, \$68,005 below the \$296,305 appropriated for fiscal '75-'76. The Commission appealed to the Legislative Joint Appropriations Committee to increase the recommended amount to at least the '75-'76 level. The Committee included such an increase in the appropriations bill it reported out which was then enacted.

A second part of the Commission budget, the initial installment of public funds to finance in part the 1977 general election campaign for Governor, became a reality for fiscal '77. Governor Byrne recommended \$1,786,668 be appropriated for this purpose, but the Legislature eliminated \$1 million of this request. The previous year the entire \$500,000 requested by the Governor for this purpose was deleted by the Legislature.

On October 1, 1976 the Commission submitted to the Governor its budget for fiscal 1978. It recommended \$448,449, \$18,425 less than requested in '77, for the operating budget. The major increase sought was \$81,955 for five new positions for the administration of the public financing of the gubernatorial election, a third investigator and two secretaries. Additionally, \$1,812,088 for public financing matching funds was requested. This brought the total Commission budget request to \$2,260,537.

## **LEGISLATION**

No significant legislation affecting the Commission was enacted in 1976.

Unfortunately, the proposed legislation of primary concern to the Commission, Assembly Bill 706, which would have amended the Campaign Contributions and Expenditures Reporting Act in a num-

ber of significant ways, remained in the Assembly Judiciary, Law, Public Safety and Defense Committee. This bill embodied a number of amendments to the Act suggested by the Commission in its last three annual reports. The Commission reiterates its strong support for this legislation.

Among the more significant changes in the Act which the Commission endorses are:

1. Amend the penalty provisions to provide that any person who violates any of the provisions of the Act would be subject to the civil penalties of the Act.

2. Amend the expenditure limit provision to condition its applicability on the candidate's receipt of public funds, in accordance with the landmark United States Supreme Court decision, *Buckley vs. Valeo* (Jan. '76).

3. Establish a threshold dollar amount for total expenditures in influencing the content, introduction, passage or defeat of legislation in a calendar year. Political information organizations which did not spend more than that amount would be exempted from the requirements of the Act. This would help to cure the constitutional infirmity found by the Chancery Division in 1975 in *N.J. Chamber of Commerce et al vs. ELEC et al*, now on appeal.

4. Eliminate the requirement that banks file deposit statements with the Commission. These statements have proved to be unnecessary in effectively administering the Act's provisions.

5. Prohibit political campaign contributions in cash in excess of \$100.

6. Establish that campaign finance disclosure reports cover activity only through the period of 3-5 days before the due date rather than through the day before the due date, to give those preparing the reports more preparation time.

It is worth noting in this report that two very major pieces of proposed legislation initiated outside of the Commission, but which would affect it greatly, also failed to be actively considered in the Legislature in 1976. The Election Law Revision Commission's bill to overhaul *Title 19*, the State election code, and vest general authority for much of its administration and enforcement with the Commis-

sion was not reintroduced in 1976 but was rewritten to be introduced in the Legislature in 1977. *Assembly Bill 1960* and *Senate Bill 1465*, initiated by Common Cause and respectively introduced in the Assembly and Senate on May 24 and May 13, 1976, which proposed to repeal the two present lobbyist regulation statutes and replace them with a new, more comprehensive proposal designed to consolidate enforcement and eliminate loopholes, were never reported out of committee in their respective houses. One of *Assembly Bill 1960*'s major elements was transfer of most of the administration and enforcement of the proposed new law to the Commission.

The Commission notes two other subject areas, not included in the Campaign Contributions and Expenditures Reporting Act, which may be appropriate for legislative consideration. There appears to be no statute which clearly indicates the permissible uses of surplus campaign funds. During 1976 the Commission received a number of inquiries from candidates as to whether certain proposed uses of surplus campaign funds were permitted. While attempting to be helpful in assisting such candidates, the Commission found that adequate answers to many such questions ultimately must depend on new legislation. In the course of the year the Commission received a number of citizen complaints about the second subject area—political activity on the job by public employees. The Act creating the Commission contains no authority to deal with such matters and, while the Commission routinely refers such matters to the Attorney General's office, it appears that there may be an inadequate statutory basis for dealing with some of them. Accordingly, the Commission believes it would be appropriate for the Legislature to review the present statutes to determine if new legislation clearly barring political campaign activity on the job by public employees might be necessary and/or desirable.

## LITIGATION

The most notable litigation affecting the Commission in 1976 was the landmark U.S. Supreme Court decision in *Buckley v. Valeo* concerning the constitutionality of the Federal campaign disclosure, public financing, expenditure and contribution limitations and other provisions of the Federal Act. The immediate impact of the decision



rendered in January, and the Commission action immediately following it, took place before the Commission's 1975 Annual Report went to print and are detailed in that report.

During 1976 the suit on the constitutionality of the New Jersey Campaign Contributions and Expenditures Reporting Act, which had been brought in 1974 by the New Jersey State Chamber of Commerce and a number of other plaintiffs, was on appeal to the Appellate Division of the Superior Court of New Jersey from the 1975 determination by the Chancery Division of the Superior Court. That Court had indicated that the provisions of the Act requiring reporting by political information organizations and political committees violated the freedom of speech provisions of the Federal and State Constitutions. The effect of the Chancery Division judgment had been stayed pending the outcome of the appeal insofar as it applied to political committees, thus permitting the Commission to continue to carry out its normal functions of requiring disclosure and investigating possible violations by such committees. A brief was filed on behalf of the respondent in September.\*

\*Subsequent to the calendar year 1976, the matter was heard in the Appellate Division, which reversed the decision of the Chancery Division and held that the political information organization provisions of the Act dealing with lobbying were constitutionally valid and could properly be applied to lobbying groups that expended more than \$750 a year. The decision was subsequently appealed by the plaintiffs to the New Jersey Supreme Court and is awaiting hearing in that Court.

An action brought by the American Civil Liberties Union in the Federal District Court for the District of New Jersey in 1974 raising the question of the possible unconstitutionality of certain provisions of the Act continues to be stayed by that Court pending the outcome of the State Chamber of Commerce case.

Appeals from Commission enforcement determinations may be taken to the Appellate Division. In 1976 a number of such determinations were the subject of such appeals.

An anticipated appeal by the respondents from the determination and imposition of fines by the Commission in the case of *Commission v. N.J. Republican Finance Committee, Anthony J. Scala and Joseph Intile*, relating to the 1973 gubernatorial election, was

dropped and the matter was concluded by the payment of the Republican Committee's fine in 1976 (and Mr. Scala's in 1977).

An appeal was taken to the Appellate Division from the action of the Commission in the case of John I. Dawes and David Cohen v. former Assemblyman Morton Salkind relating to improper reporting of a campaign expenditure in the 1975 Assembly General Election in the 11th Assembly District. (The action of the Commission in that case was subsequently affirmed.)

In another enforcement action by the Commission, appeals were taken by respondents Charles V. Reilly and George Luciano from the Commission determinations of violations of the Act in the 1st Assembly District election in the 1975 General Election. (The appeal of Charles V. Reilly was subsequently dismissed by the Appellate Division of the Superior Court. The appeal of George Luciano is presently awaiting argument in the Appellate Division.)

The Commission is finding with experience that increased enforcement efforts appear to result in a general increase in appeals from Commission enforcement determinations.

## **A LOOK AHEAD**

The major aims of the Commission for 1977 are as follows:

1. A successful implementation of the new public financing statute for the 1977 gubernatorial general election.
2. A successful conclusion of the litigation in *N.J. Chamber of Commerce et al v. ELEC et al*, concerning the lobbyist regulation features of the Act as applied to "political information organizations" and certain provisions of the Act relating to "political committees."
3. A revision of the New Jersey Campaign Contributions and Expenditures Reporting Act embodying the various amendments suggested by the Commission over the past three years.
4. An elimination of the enforcement backlog of cases from previous years' elections. The addition of another attorney and

another investigator to the Commission staff and the streamlining of the hearing and complaint process should help substantially to alleviate this problem.

5. An improvement in compliance and public disclosure. The use of computer data input terminals to assist in monitoring compliance and more expeditiously produce data summaries, publication of an advisory opinion index and a campaign disclosure reporting operating manual for candidates, distribution of information and forms to candidates with their nominating petitions and the hiring of a public disclosure officer to assist the executive director in information dissemination all will assist greatly in achieving these objectives.