



Newsletter

*ELEC*tronic

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AN ELECTION LAW ENFORCEMENT COMMISSION NEWSLETTER
"Furthering the Interest of an Informed Citizenry"

Comments from the Chairman Eric H. Jaso

Lobbyist influence comes from access, not money. – Barack Obama

Governmental Affairs Agents, otherwise known as lobbyists, will again be filing their annual reports with ELEC in February.

The annual reports detail information on clients, fees, communication costs, benefit passing, and lobbyist salaries.

These reports, which are readily available to be viewed by the public online, enable citizens to observe the activities of individual lobbyists, their firms, and learn of the interests they represent.

The reports are also useful to ELEC staff, who use the information to analyze trends in New Jersey lobbying activity.

For example, despite the pandemic, last year's reports showed that lobbying is alive and well in New Jersey.

According to filings made last February, which reported lobbying activity, lobbyists and their clients spent a record \$105 million in 2019.

As has been the trend, 2019 activity demonstrates that lobbying in New Jersey is becoming more sophisticated, as lobbyists reported increases in spending on communications while maintaining traditional lobbying, though the age-old tool of benefit passing declined.

Benefit passing is "goodwill" lobbying where lobbyists pay for an official's meal, the theatre or a ballgame, etc.

Communication spending involves grassroots lobbying, whereby lobbyists communicate directly with the public through advertising and social media in order to mobilize the people on behalf of legislation or regulation.

Since 2011 lobbyists and their clients, have been able to file their reports electronically, rather than submit them by mail or in person; a procedure that proved very useful during the pandemic.

Among the many enhancements which accompanied electronic filing are streamlined forms and software that

perform all calculations. Moreover, lobbyists can refresh the document or delete outdated information as well as save forms for revision and resubmission in future years.

As part of the Commission's continuing effort to enhance and modernize its delivery of services to the public and filing communities, staff implemented a process by which lobbyists can now register and pay the annual fee by credit card.

The availability of paying by credit card began in November 2021 and promises to be a time saving and efficient measure for the future.

We are proud of our efforts in the area of lobbying regulation and of the ongoing effort to introduce new initiatives that are of benefit to the people and various filing communities.

Regarding lobbying, ELEC is dedicated to providing the public with excellent service and accurate, timely information about this important area and will do so in the future.

IN THIS ISSUE

- Comments from the Chairman
- Executive Director's Thoughts
- White Paper 29- Low-key Legislative Election in 2019 Foreshadowed Bigger Shakeup in 2021
- 2022 Commission Meeting Schedule
- 2022 Reporting Dates

COMMISSIONERS

- P. 1 Eric H. Jaso, Chairman
- P. 2 Stephen M. Holden, Commissioner
- P. 3 Marguerite T. Simon, Commissioner
- P. 3 Edwin R. Matthews, Legal Counsel
- P. 4

Executive Director's Thoughts

Jeff Brindle

Need for Broader Disclosure Law More Urgent Than Ever As Independent Spending Soars to New Record

Reprinted from insidernj.com

By October 29, 2021, three days before election day, almost \$40 million had been spent by independent groups in the gubernatorial primary and general elections, with \$26 million, or 63 percent, spent on the general election alone.

Following a trend that began a little more than a decade ago, this spending by independent, so-called "Hidden Money" groups, is a new high. The total may even be larger once more reports become available in coming weeks.

Independent Spending in NJ Gubernatorial Elections Since 2009

Election Year	Spending (Primary and General)
2009	\$ 14,080,168
2013	\$ 21,350,619
2017	\$ 24,504,152
2021 (Preliminary)	\$ 39,502,499
Total	\$107,266,605

While independent spending has become a major force in New Jersey elections, the state's disclosure law for those groups is notoriously weak.

If a 501c non-profit group or Super PAC or 527 political organization uses the so-called magic words such as "vote for" or "vote against", which clearly indicate they are engaged in elections, they are required to disclose only their expenditures, not the source of their money.

If these groups solely run issue-oriented ads for or against candidates with no direct reference to the election, they are not required to publicly report even their expenses, let alone their contributions. About 25 other states have statutes requiring full disclosure for such ads.

New Jersey has been fortunate because many groups that have been involved in recent campaigns voluntarily disclose their contributions and expenditures by filing reports with ELEC. But some don't. Others don't report directly to ELEC. Or they report well after the election.

It takes a good deal of detective work to discover the extent of spending by these shadowy groups that are exempt from disclosure rules long followed by candidates, parties and traditional political action committees.

Recently, I spent time with former Governor Tom Kean as part of the History of the Commission Project I have begun at ELEC.

In the interview, seen at https://www.elec.nj.gov/aboutelec/ELEC_OralHistory.htm, the former Governor, speaking of these Hidden Money groups said: "I don't mind people giving what they want to give but I want to know who gave it and why."

This sentiment is not new for the former Governor. At a public hearing in 2000, Kean was critical of these groups describing them as "termites getting at the roots of democracy."

About sixteen independent committees (at least that we know of) participated in this year's gubernatorial contest. Both the Republican Governors Association (\$3.8 million) and the Democratic Governors Association (\$2.7 million) were among the heavy hitters this election season.

Others spending significant amounts in the gubernatorial contest were Our N.J. (\$6.7 million), Garden State Forward (\$5.5 million) and Committee to Build the Economy (\$2.9 million).

No one is suggesting that these groups do not have a right to participate in New Jersey's elections. They have an absolute First Amendment right to participate, and to raise and spend as much money as they please on election-related activity.

But former Governor Kean is correct that the public has a right to know who is behind this immense spending, which has come to dominate New Jersey elections.

While independent groups were spending tens of millions on the gubernatorial contest, political parties were again left in the dust.

For example, through three quarters of the year, the Big Six Committees (party entities including the two state party committees and four Legislative leadership committees) spent just \$10.1 million, a sum considerably lower than the \$40 million spent by independent groups.

The forty-two county party organizations, during the same period have spent just \$6.1 million, a sum less than even the Big Six party committees.

Combined, the Big Six and county party committees spent just 41 percent of the total \$40 million spent by independent committees on the gubernatorial contest during this year's election cycle. Yet, the independent spenders have no legal requirement to disclose their contributors under current law.

This does not even include the additional \$16 million spent by independent groups participating in the legislative elections.

So all told, Hidden Money groups spent a record \$55 million participating in the gubernatorial and legislative primary and general elections compared to \$16 million spent by the state and county party entities.

Unfortunately, this is typical of election cycles in New Jersey in recent years. Hidden Money groups are unbound in terms of their financial activity whereas more accountable political parties are highly regulated in terms of contribution limits, disclosure, and organization.

There is no reason why independent groups and political parties cannot be treated equally under campaign finance laws. If independent, Hidden Money groups pursue election-related activity, they should be required to fully disclose their contributions and expenditures.

And even at that independent groups would still have the advantage as the 2010 U.S. decision in Citizens United permits groups spending independently to receive contributions in unlimited amounts.

Along with a better disclosure law, the Election Law Enforcement Commission (ELEC) has proposed reforms that would strengthen accountable political parties and bring parity between them and independent groups.

Those recommendations include: removing parties from Pay-to-Play, including special interest PACs under Pay-to-Play, requiring contractor donations to independent groups to be disclosed, allow parties to participate in gubernatorial elections, increase contribution limits applicable to parties, allow county parties to give to each other, and a personal recommendation, provide tax credits for contributions to parties.

White Paper 29- Low-key Legislative Election in 2019 Foreshadowed Bigger Shakeup in 2021

The 2019 legislative election ended up costing less than half the record \$71 million of the 2017 election but unleashed a political tremor that wasn't fully felt until 2021, according to a new report by the New Jersey Election Law Enforcement Commission (ELEC).

White Paper 29: "Legislative Election 2019- Shakeup in the 1st" found that the 2019 legislative election ended up costing \$30.9 million, including \$21.6 million spent by candidates and \$9.3 million by independent special interest groups. It was the least costly legislative election since the \$18.6 million campaign of 2009.

"Politically, the 2019 election featured a welcome win for Republicans, who seized back the state Senate and two Assembly seats in the First Legislative District," said Joseph Donohue, ELEC's Deputy Director and author of the report. "However, overall spending was a dud compared to the epic legislative campaign of 2017, which was the priciest legislative campaign in state history."

"Despite the lack of heavy spending, 2019 in retrospect was a turning point. It marked the first time since 2009 that Republicans had added legislative seats. It also turned out to be the first wave of a political shift that struck even harder in the recent 2021 election, when Republicans won another Senate seat and added six more Assembly seats," he said.

The most notable campaign finance milestone in 2019 occurred when NJ

United, a 501c4 social welfare group, spent \$1.4 million on the election- the most ever by such a group.

"While this group disclosed its donors voluntarily (though not until after the election), most do not," Donohue said. "If more such "dark money" groups get involved in New Jersey elections and refuse to be as open about their donors as NJ United, it will become much harder if not impossible to determine what special interests are trying to influence elections and why they may be giving."

The white paper repeated ELEC's long-standing recommendation that the Legislature require independent special interest groups- also called outside or dark money groups- to disclose their contributions and expenses just like candidates, parties and traditional political action committees have been doing for decades. The white paper can be obtained at

<https://www.elec.nj.gov/aboutelec/whitepapers.htm>.

COMMISSION MEETING SCHEDULE FOR CALENDAR YEAR 2022

January	18, 11:00 a.m.
February	15, 11:00 a.m.
March	15, 11:00 a.m.
April	19, 11:00 a.m.
May	17, 11:00 a.m.
June	21, 11:00 a.m.
July	19, 11:00 a.m.
August	16, 11:00 a.m. (if necessary)
September	20, 11:00 a.m.
October	18, 11:00 a.m.
November	15, 11:00 a.m.
December	20, 11:00 a.m.

2022 Reporting Dates

	INCLUSION DATES	REPORT DUE DATE
FIRE COMMISSIONER – FEBRUARY 19, 2022		
29–day Preelection Reporting Date	Inception of campaign* – 1/18/2022	1/21/2022
11–day Preelection Reporting Date	1/19/2022 – 2/5/2022	2/8/2022
20–day Postelection Reporting Date	2/6/2022 – 3/8/2022	3/11/2022
48–Hour Notice Reporting Starts on 2/6/2022 through 2/19/2022		
SCHOOLBOARD – APRIL 19, 2022		
29–day Preelection Reporting Date	Inception of campaign* – 3/18/2022	3/21/2022
11–day Preelection Reporting Date	3/19/2022 – 4/5/2022	4/8/2022
20–Day Postelection Reporting Date	4/6/2022 – 5/6/2022	5/9/2022
48–Hour Notice Reporting Starts on 4/6/2022 through 4/19/2022		
MAY MUNICIPAL – (90-DAY START DATE: FEBRUARY 9, 2022) – MAY 10, 2022		
29–day Preelection Reporting Date	Inception of campaign* – 4/8/2022	4/11/2022
11–day Preelection Reporting Date	4/9/2022 – 4/26/2022	4/29/2022
20–Day Postelection Reporting Date	4/27/2022 – 5/28/2022	5/31/2022
48–Hour Notice Reporting Starts on 4/27/2022 through 5/10/2022		
RUNOFF (JUNE)** – JUNE 14, 2022		
29–day Preelection Reporting Date	No Report Required for this Period	
11–day Preelection Reporting Date	4/27/2022 – 5/31/2022	6/3/2022
20–Day Postelection Reporting Date	6/1/2022 – 7/1/2022	7/5/2022
48–Hour Notice Reporting Starts on 6/1/2022 through 6/14/2022		
PRIMARY (90 DAY START DATE: MARCH 9, 2022)*** – JUNE 7, 2022		
29–day Preelection Reporting Date	Inception of campaign* – 5/6/2022	5/9/2022
11–day Preelection Reporting Date	5/7/2022 – 5/24/2022	5/27/2022
20–Day Postelection Reporting Date	5/25/2022 – 6/24/2022	6/27/2022
48–Hour Notice Reporting Starts on 5/25/2022 – 6/7/2022		
GENERAL (90 DAY START DATE: AUGUST 10, 2022)*** – NOVEMBER 8, 2022		
29–day Preelection Reporting Date	6/25/2022 – 10/7/2022	10/11/2022
11–day Preelection Reporting Date	10/8/2022 – 10/25/2022	10/28/2022
20–day Postelection Reporting Date	10/26/2022 – 11/25/2022	11/28/2022
48–Hour Notice Reporting Starts on 10/26/2022 through 11/8/2022		
RUN–OFF (DECEMBER)** – DECEMBER 6, 2022		
29–day Preelection Reporting Date	No Report Required for this Period	
11–day Preelection Reporting Date	10/26/2022 – 11/22/2022	11/25/2022
20–day Postelection Reporting Date	11/23/2022 – 12/23/2022	12/27/2022
48 Hour Notice Reporting Starts on 11/23/2022 through 12/6/2022		

PACS, PCFRS & CAMPAIGN QUARTERLY FILERS

1 st Quarter	1/1/2022 – 3/31/2022	4/18/2022
2 nd Quarter	4/1/2022 – 6/30/2022	7/15/2022
3 rd Quarter	7/1/2022 – 9/30/2022	10/17/2022
4 th Quarter	10/1/2022 – 12/31/2022	1/17/2023

GOVERNMENTAL AFFAIRS AGENTS (Q-4)

1 st Quarter	1/1/2022 – 3/31/2022	4/11/2022
2 nd Quarter	4/1/2022 – 6/30/2022	7/11/2022
3 rd Quarter	7/1/2022 – 9/30/2022	10/11/2022
4 th Quarter	10/1/2022 – 12/31/2022	1/10/2023

*Inception Date of Campaign (first time filers) or January 1, 2022 (Quarterly filers).

**A candidate committee or joint candidates committee that is filing in a 2022 Runoff election is not required to file a 20-day postelection report for the corresponding prior election (May Municipal or General).

*** Form PFD-1 is due April 14, 2022 for the Primary Election candidates and June 20, 2022 for the Independent General Election candidates.

Note: A fourth quarter 2021 filing is needed for the Primary 2022 candidates if they started their campaign prior to December 9, 2021.

A second quarter 2022 filing is needed by Independent/ Non-partisan General Election candidates if they started their campaign prior to May 11, 2022.

HOW TO CONTACT ELEC

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