

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

FEBRUARY 11, 1985

PRESENT:

Andrew C. Axtell, Chairman
Alexander P. Waugh, Jr., Vice Chairman
Haydn Proctor, Member
Owen V. McNany, Member
Frederick M. Herrmann, Executive Director
Edward J. Farrell, General Counsel
Gregory E. Nagy, Staff Counsel

Chairman Axtell called the meeting to order and announced that pursuant to the "Open Public Meetings Act," P.L. 1975, c.231, special notice of the meeting of the Commission had been filed with the Secretary of State's office and distributed to the entire State House press corps.

The meeting convened at 10:05 a.m. at the offices of the Commission, 28 West State Street, Trenton, New Jersey.

1. Approval of Public Session Minutes of January 29, 1985

On a motion by Commissioner McNany, seconded by Vice Chairman Waugh and a vote of 3-0-1 (Commissioner Proctor abstained since he was absent from the January 29, 1985 meeting), the Commission approved the public session minutes of January 29, 1985.

2. Executive Director's Report

Executive Director Herrmann reported on the Governor's proposed FY86 budget. He said he spoke to Michael Ferrara, Manager of Budget Operations in the Office of Management and Budget, regarding possible ambiguities in the language in the budget for public financing. Mr. Ferrara stated that the intent of the language is to finance the program fully even if there is a change in the law. He will advise his supervisor, Richard Standiford, Director and Comptroller of the Office of Management and Budget, of the Commission's concern regarding receiving additional monies for possible future candidates.

Mr. Herrmann reviewed a two-page letter from Cary Edwards, Chief Counsel to the Governor, regarding the Governor's conditional veto of Senate Bill No. 1523 and the Commission's correspondence to the Governor and legislative leaders. Mr. Edwards will advise the Commission if the Commission can assist in the preparation of amendments to the public financing statutes.

The Executive Director advised the Commission that he spoke to the Municipal Clerks' Association on Saturday, February 2, 1985, at the Tinton

Falls Hilton Hotel. In his address, Mr. Herrmann described the functions of the Commission and discussed areas where the municipal clerks could assist candidates in meeting their filing obligations.

Mr. Herrmann reported that Joint Appropriations Committee of the Legislature has scheduled April 17, 1985, as the date for the Commission's annual appearance. In the past, the Committee's primary concern with the Commission budget has been the funding of the public financing program. Mr. Herrmann said that the Committee may have questions regarding the number of persons who are participating in the "check-off" procedure. Taxpayers may indicate that \$1 of their income tax may be placed in the Gubernatorial Elections Fund. The percentage of taxpayers participating in the "check-off" provides some measure of public sentiment in favor of the program.

The Executive Director said that he has been invited to speak before Pennsylvania Common Cause on the subject of public financing on April 30, 1985. There is a Commission meeting on that date. However, unless the agenda for that meeting becomes unusually heavy, Mr. Herrmann will be absent from the meeting.

Mr. Herrmann said that the "Council on State Governments" has scheduled a northeast regional conference in Maine during July. He suggested that Cheryl R. Clarke, Assistant Staff Counsel and Director of Lobbying, propose that a special panel on lobbying legislation be conducted at that time. Assuming the Council agrees, Ms. Clarke will consult with Louis Cotrona, Executive Director of the Temporary Commission on Lobbying, on the specifics.

Mr. Herrmann said that the Commission received a letter from the Council on Governmental Ethics Laws (COGEL) regarding hosting the 1987 conference. He suggested that the Commission wait until 1988 before considering such a project because of legislative elections scheduled for 1987. Chairman Axtell asked Mr. Herrmann to write COGEL and express the Commission's interest in hosting the 1988 conference but not the 1987 session.

The Executive Director advised the Commission that he met with James Cochran, the building superintendent, to pay a courtesy call for his assistance in various matters.

Mr. Herrmann advised the Commission that the compliance manual has been rewritten and improved. He said this summer the staff will consider improvement in graphics and editorial presentation for the 1986 edition. The 1985 manual will be distributed to the public in March.

Mr. Herrmann stated that the staff is developing an intern program. The Commission will be recruiting from Trenton State College, Princeton University, Rider College, Rutgers University, and other New Jersey colleges.

The Executive Director said that the staff will be working on written job descriptions.

Robin Hodgkins of Cogent was asked to prepare a proposal concerning staff training in computer operations to be conducted at this office. Mr. Herrmann said he was advised both software and hardware training can be accomplished on site. More people can be trained and the Commission's data base can be used by conducting training in the office rather than at outside locations.

Mr. Herrmann commented on newsclippings regarding "Run Tom Run" buttons reportedly paid for by the Republican State Committee. He asked if the Commission believes that it is appropriate to contact the Republican State Committee to insure that if Governor Kean becomes a candidate the cost of these buttons be included as in-kind contributions. Commissioner Proctor and General Counsel Farrell expressed the view that any action would be premature until a campaign report is filed by the Committee.

Executive Director Herrmann asked the Commission if it wished to adopt regulations extending the "testing the waters" concept to public question activity conducted before a question is certified for the ballot. General Counsel Farrell said that he felt that the Commission could legally require reporting of pre-certification contributions and expenditures. On a motion by Vice Chairman Waugh, seconded by Commissioner McNany and a vote of 4-0, the Commission instructed General Counsel Farrell to draft regulations requiring groups that acquire reporting obligations in regard to public question activity to include pre-certification contributions and expenditures.

Mr. Herrmann discussed Senate Bill No. 2070, which Senator Leanna Brown, the sponsor, asked the Commission to review. This bill prohibits personal use of surplus campaign funds. The Commission also reviewed a two-page memorandum from Staff Counsel Nagy outlining the provisions of this bill and two others which address the same topic. Mr. Nagy noted that Senator Brown's bill does not include "continuing political committees," a term that was added in amendments to "The Campaign Reporting Act" in January 1984. Mr. Herrmann said that Senator Brown had asked him to call Assemblyman Joseph Charles, Chairman of the Assembly State Government, Civil Service, Elections, Pensions and Veterans' Affairs Committee, for the purpose of introducing an Assembly version of this bill. The Commission instructed Mr. Herrmann to indicate its support of the concept of prohibiting personal use of surplus funds but to decline any invitation to endorse any specific legislation. Mr. Nagy stated he would forward comments concerning the omission of the "continuing political committees" to Senator Brown for her consideration.

3. General Counsel's Report

General Counsel Farrell distributed a two-page draft, dated February 10, 1985, of regulations to include "continuing political committees" in the regulations governing the conduct of primary and general gubernatorial elections; see N.J.A.C. 19:25-15.1 et seq. and 16.1 et seq. Mr. Farrell said that when the Reporting Act was amended by P.L.1984, c. 579 to distinguish "political committee" from "continuing political committee" in N.J.S.A. 19:44A-3(i), there was not a concomitant amendment to the Gubernatorial elections statutes, N.J.S.A. 19:44A-27, et seq., since the amendment did not purport to address the public financing sections of the Act.

As a result of the amendment to the definition of political committee, it may be possible to give to N.J.S.A. 19:44A-29(a) the unintended meaning of excluding continuing political committees from the \$800 limit on contributions.

N.J.S.A. 19:44A-29(a) was intended to prohibit political committees, (including continuing political committees which were then included in the earlier definition of political committee) from making contributions in excess of \$800. This amendment to the regulations is intended to clarify Section 29(a) and to remove any ambiguity as to its meaning.

Mr. Farrell also distributed a one-page draft of a regulation permitting the Commission to use a facsimile signature of the Commission chairman to sign Final Decisions and other determinations pursuant to N.J.S.A. 19:44A-22.

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission approved the draft regulations and directed that they be submitted to the Office of Administrative Law as proposed amendments to the Commission's regulations.

Mr. Farrell distributed a one-page draft of regulations prohibiting personal use of surplus campaign funds. He suggested that the Commission defer any action on the proposed regulations until it can determine whether or not Senator Brown's legislation, Senate Bill No. 2070, receives any favorable consideration in the Legislature. He stated that rather than attempting to draft regulations under the existing statutes, it would be preferable if legislation governing surplus contributions were enacted. Therefore, Mr. Farrell suggested the Commission wait at least one month to determine if any progress is made in the Legislature.

4. Executive Session

On a motion by Vice Chairman Waugh, seconded by Commissioner McNany and a vote of 4-0, the Commission decided to go into executive session to discuss enforcement and investigative matters, the result of which will be made public at their conclusion.

5. Adjournment

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to adjourn.

Respectfully submitted,


FREDERICK M. HERRMANN