



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

William H. Eldridge
Chairman

Owen V. McNany, III
Vice Chairman

David Linett
Commissioner

NATIONAL STATE BANK BLDG., 12th FLOOR
28 W. STATE STREET, CN 185
TRENTON, NEW JERSEY 08625-0185
(609) 292-8700

Frederick M. Herrmann, Ph.D.
Executive Director

Jeffrey M. Brindle
Deputy Director

Gregory E. Nagy
Legal Director

James P. Wyse
Counsel

PUBLIC SESSION MINUTES

APRIL 18, 1995

The Commissioners, Senior Staff, the Counsel, and Deputy Legal Director Nedda Gold Massar were present.

Chairman Eldridge called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., 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 9:15 a.m. at Summit City Hall, Summit, New Jersey.

3. Approval of Public Session Minutes of March 21, 1995

On a motion by Chairman Eldridge, seconded by Commissioner Linett and passed by a vote of 2-0, the Commission approved the Public Session Minutes of March 21, 1995.

4. Executive Director's Report

The Executive Director placed the following information on the record.

A. Staff Activities

Executive Director Herrmann said that the audit by the Office of Legislative Services (OLS) for FY-93 and FY-94 has been completed. He said that the Commission passed with flying colors. The Executive Director noted that the audit covered both the personnel and fiscal areas. He said that Director of Administration Barbra Fasanella and her outstanding staff deserve much credit for the success of the audit.

Executive Director Herrmann reported that the Compliance staff is conducting candidate/treasurer seminars in Trenton. The sessions dates were April 4, 1995 for M-95 and May 1, 1995 for P-95.

B. Recent Technological Innovations

The Executive Director noted the purchase of the following items:

Two facsimile machines for 48-hour notices, a report binder machine, PCs and printers, a new telephone system with voice mail, and a video system.

He said the video system will be used for candidate/treasurer training seminars, personnel training, investigations and advisory opinions, and other official purposes.

C. Legislative Developments

Executive Director Herrmann recounted his activity relative to legislation. He said that on March 27, 1995, he testified in favor of Assemblyman David Russo's gubernatorial public financing package based on ELEC's recommendations of May 18, 1994. The testimony was given to the Assembly State Government Committee, of which Assemblyman Russo is chairman.

Executive Director Herrmann reported that the package was released favorably with two amendments:

1. One that raised the check-off to a \$1-\$3-\$5 option with quadrennial adjustments for inflation; and
2. One that removes the ban to debate sponsor applicants with no pre-1976 experience.

Executive Director Herrmann advised the Commission that Director of Administration Barbra Fasanella, Deputy Director Brindle, and he attended the Senate Appropriations Committee Budget Hearing for the Department of Law and Public Safety. According to the Executive Director, there were no questions asked about the Commission's FY-1996 budget.

The Executive Director presented the following information orally.

A. Ethics Forms

Executive Director Herrmann reminded the Commissioners that their ethics forms are due by May 15, 1995. He said that one copy is filed with Ethical Standards and one copy with the Governor's office. He said that both must be notarized with original signatures on both copies.

B. Future Meetings

The Commission decided to meet on May 23, 1995 in Maplewood at 9:00 a.m. and on June 20, 1995 in Maplewood at 9:00 a.m. A hearing on expenditure regulations will be held on June 20, 1995.

C. Approval of 1994 Annual Report

Executive Director Herrmann thanked Deputy Director Brindle for his role as project manager on the Annual Report.

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 3-0, the Commission approved the 1994 Annual Report.

5. Adoption of Regulations Concerning Fax Filing of 48-Hour Notices

Please see the memorandum from Gregory E. Nagy, Legal Director, to Frederick M. Herrmann, Ph.D., Executive Director, dated April 7, 1995, and entitled "Adoption of Facsimile Filing Regulation."

Also see the Notice of Proposal as published in The New Jersey Register and a one-page written comment from "a concerned citizen."

Staff recommended adoption of the proposal without change, except for a change of the spelling of FAX to the lower case "fax," as suggested by the commenter.

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 3-0, the Commission adopted the fax filing regulation, with the technical change to spell the word "fax" in the lower case, and directed staff to file the Certificate of Promulgation with the Office of Administrative Law (OAL).

6. Proposed Regulations Concerning Reporting of Expenditures and Independent Expenditures

Please see the memorandum from Gregory E. Nagy, Legal Director, to Frederick M. Herrmann, Ph.D., Executive Director, dated April 7, 1995, and entitled "Proposed Expenditure Regulations (Subchapter 12).

The memorandum points out that of particular interest are N.J.A.C. 19:25-12.3, N.J.A.C. 19:25-12.4, and N.J.A.C. 19:25-12.6. The proposed regulation at 12.3 provides for written notification from a committee making a coordinated expenditure on behalf of a candidate to that candidate's candidate committee. The proposal at 12.4 concerns credit card expenditure reporting, clarifying that the use of a credit card must be reported as a loan. The proposed regulation at 12.6 reflects the 1994 law requiring "street money" and other expenditures to individuals to be made by check.

A public hearing was scheduled on the proposal for the Commission's June 20, 1995 meeting in Maplewood.

Commissioner Linett suggested several changes of a technical nature to the proposed text.

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission approved the proposal with the technical changes suggested by Commissioner Linett, and directed staff to file a Notice of Proposed Rulemaking with OAL.

7. Advisory Opinion No. 06-1995

This advisory opinion request was submitted by Allen S. Zeller on behalf of the Friends of Senator Wayne R. Bryant. Mr. Zeller is the treasurer of that committee.

The request asks the following questions:

1. whether funds raised while Mr. Bryant was in the Assembly can be carried over from his position in the Assembly to the Senate;
2. whether the contribution limitations of \$1,500 per individual will apply through the June 6, 1995, special primary election;

3. whether Senator Bryant, if he wins the special primary election, is permitted to raise new funds regarding the contribution limitation for the special general election in November, 1995; and,
4. whether Senator Bryant, if he wins the November, special general election, is again permitted to raise funds anew regarding the contribution limitation for the period covering November 8, 1995 through the June 3, 1997 primary election.

Staff offered two potential responses to question number one - can Assembly funds be transferred to a Senate account?

The first option is for the Commission to determine that Senator Bryant cannot use his Assembly funds for any other office other than Assembly and that only \$5,000 in preelection funds can be transferred from his Assembly account to his Senate committee.

The second option holds that Senator Bryant may transfer the funds in his Assembly candidate committee to his Senate candidate committee because he is no longer a candidate for the Assembly. Further, as a member of the Senate and no longer a member of the Assembly, he should have access to his campaign funds to meet officeholding expenses. However, he must close his 1995 Assembly primary election candidate committee, and any contribution received by the Assembly committee must be aggregated to any contribution from the same contributor to his Senate committee for contribution limit purposes.

In regard to questions two, three, and four; staff proposes that each election being separate, new contribution limitations will apply to each and that leftover campaign funds can be transferred from Senate election to Senate election.

Chairman Eldridge said that he favored allowing Senator Bryant to transfer his Assembly funds to his Senate account.

The Commission concurred with Chairman Eldridge. It also determined that it would endorse the staff recommendations in question two, three, and four, permitting the rollover of surplus funds and confirming that new contribution limits apply in subsequent elections.

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission approved the staff recommendations, including option two on question one which permits Senator Bryant to fully utilize his Assembly funds, subject to the conditions set forth in the memorandum, and directed Legal Director Nagy to issue the Commission's response.

10. Resolution to Go Into Executive Session

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission resolved to go into closed Executive Session to discuss the following matters which will become public as follows:

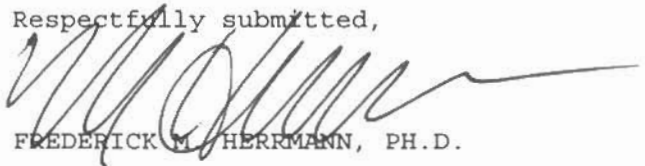
1. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public 15 days after mailing.

2. Investigative Reports of possible violations, which reports will not become public. However, any complaint generated as the result of an Investigative Report will become public 30 days after mailing.
3. A report on written requests for investigations of possible violations, which report will not become public. However, any complaint which may be generated as a result of a request for an investigation will become public 30 days after mailing.

11. Adjournment

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 3-0, the Commission voted to adjourn at 10:20 a.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

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