



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

William H. Eldridge
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Owen V. McNany, III
Vice Chairman

David Linett
Commissioner

Michael Chertoff
Commissioner

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PUBLIC SESSION MINUTES

JUNE 20, 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 9:00 a.m. at the Maplewood Municipal Building, Maplewood, New Jersey.

3. Approval of Public Session Minutes of May 23, 1995

On a motion by Chairman Eldridge, seconded by Commissioner Linett and passed by a vote of 4-0, the Commission approved the Public Session Minutes of May 23, 1995.

4. Executive Director's Report

A. Staff Activities

Executive Director Herrmann reported that on June 5, 1995, he spoke before the New York City Campaign Finance Board about the desirability of mandating debates as part of a gubernatorial or mayoral public financing program.

He indicated that New Jersey was the first jurisdiction to have such a requirement. The Executive Director noted that the session was televised over a city-wide cable television network and that numerous public interest groups were represented in the audience. Executive Director Herrmann said that there is a good deal of interest in the criteria used by ELEC to select sponsors and how it is determined by statute which candidates should be allowed to participate.

Executive Director Herrmann mentioned that White Paper Number Ten Nonconnected, Ideological PACs in the Garden State, written by Deputy Director Brindle, received a good write-up in Election Administration Reports, a national newsletter.

B. Legislative Developments

Executive Director Herrmann advised the Commission that on June 1, 1995, he testified before the Senate State Government Committee on S-1990 (Schluter) and S-1991 (Schluter) which implement some of ELEC's recommendations for improving the Gubernatorial Public Financing Program.

According to the Executive Director, S-1990 increases the number of debates in the primary and general elections from two to three, and, based on a suggestion from the New Jersey Business and Industry Association (NJBIA), removes the restriction on debate sponsorship that requires television experience conducting debates since 1976.

Executive Director Herrmann said that S-1991 alters the check-off from the Gubernatorial Public Financing Program from \$1 to a \$1-\$3-\$5 option indexed to future inflation. He noted that ELEC's original suggestion was to increase the checkoff to \$3. He said that this version was based on a recommendation from the Governor's office.

The Executive Director said that both bills were released, but S-1990 was amended to drop the NJBIA language. He indicated that the Committee also released S-1670 (Bubba/Singer), which establishes a Truth-In-Campaign Commission and provides for a review of complaints about false statements in campaign advertising.

Executive Director Herrmann told the Commission that the Committee requested that the Office of Legislative Services (OLS) prepare a First Amendment review of the bill's provisions. He said that the bill requires that ELEC staff this new Commission.

Executive Director Herrmann advised the Commission that on June 8, 1995, he testified before the Assembly State Government Committee on A-1948 (Russo/Haytaian), which redefines terms in the lobbying law and requires quadrennial adjustments of various thresholds for inflation.

He said that legislative agents are to be referred to as contract or employee lobbyists and lobbyists are to be referred to as lobbyist organizations.

Executive Director Herrmann added that thresholds in the law have remained the same since its enactment 14 years ago, that both ELEC and the Rosenthal Commission had previously supported the changes made in the bill, and that this legislation was released unanimously.

The Executive Director related to the Commission that on June 19, 1995, he testified before the Senate State Government Committee on S-2020 (Ewing),

which extends the filing date for Personal Financial Disclosures (PFDs) from April 24 (10 days after the filing of nominating petitions) to May 15. Executive Director Herrmann said that this change still allows adequate time for preelection disclosure, allows ELEC enough time to receive candidate names from the Secretary of State and then mail forms, and permits the candidates enough time to receive their forms and send them back to ELEC.

Executive Director Herrmann said that the bill, released by a vote of 4-1, was amended to require filing of PFDs by April 15 (the deadline for filing nominating petitions). The Executive Director said that the bill would disqualify candidates from running for office if PFDs were not filed on time.

C. National Ethics News

Executive Director Herrmann congratulated Commissioner Chertoff on being named Counsel to the special Senate Committee set up to investigate the Whitewater situation.

The Executive Director advised the Commission that an attempt in Congress to repeal the Presidential Public Financing Program failed after receiving intense media opposition.

Executive Director Herrmann reported that a U.S. Supreme Court decision which held that Arkansas cannot limit the terms of its Congressional members could possibly invalidate New Jersey's new Recall Act with respect to federal officials. He noted that editorials in the New York Times and Philadelphia Inquirer suggest that the decision makes campaign financing reform initiatives even more important as a mechanism for insuring an open democratic process.

5. Summer Meeting Schedule

The Commission will meet in Maplewood on July 14, 1995 at 3:00 p.m. and on August 15, 1995 at 9:00 a.m. in Somerville, New Jersey.

6. Public Hearing on Proposed Regulations Concerning Reporting of Expenditures and Independent Expenditures

A public hearing on proposed regulations concerning Reporting of Expenditures and Independent Expenditures, transcribed by a court reporter, commenced at 9:30 a.m. No witnesses appeared to testify.

On a motion by Commissioner Linett, seconded by Commissioner Chertoff and passed by a vote of 4-0, the Commission closed the public hearing at 9:37 a.m.

7. Advisory Opinion Request No. 09-1995

This advisory opinion request was submitted by Hunt H. Parry, Esq., on behalf of Jim Van Etten, candidate for Monmouth County Sheriff in the 1995 primary election. Mr. Parry asked if Candidate Van Etten may transfer the funds remaining in his candidate committee to a continuing political committee

(CPC) that he plans to establish. Mr. Parry said that upon closing out the candidate committee, Mr. Van Etten would assume leadership responsibilities in the CPC. Staff circulated a memorandum recommending a response.

On a motion by Vice Chairman McNany, seconded by Commissioner Chertoff and passed by a vote of 4-0, the Commission determined that the contemplated transfer of funds is impermissible pursuant to N.J.S.A. 19:44A-9(h) and 19:44A-11.2, and authorized staff to issue an advisory opinion in accord with the memorandum.

The Commission concluded that there are restrictions on the use of campaign funds, specifically with regard to personal use of such funds. It also concluded that the statute does not permit the existence of a candidate committee and candidate controlled committee at the same time. It therefore held that the candidate committee must close out its account pursuant to the statutory guidelines for the use of candidate committee funds prior to the former candidate establishing a continuing political committee.

8. Advisory Opinion Request No. 10-1995

This request for an advisory opinion from the Attorney General was submitted through the Commission. The request was submitted by H. Lee Rowell, Vice President of Government Affairs, AVCO Financial Services.

In his request, Mr. Rowell asks the Commission to inquire if non-regulated subsidiaries of holding companies that are regulated by N.J.S.A. 19:34-45 should also be barred from making political contributions.

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 3-0, the Commission directed staff to refer the request to the Attorney General for response. Commissioner Chertoff abstained from voting.

9. Resolution to Go Into Executive Session

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 4-0, 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 no later than 35 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 no later than 50 days after mailing.

11. Independent Funding for ELEC and Tenure for ELEC Commissioners

Chairman Eldridge said that he would like the Commission and staff to explore ways by which ELEC could gain more budgetary independence. He also said that he would like to examine the issue of lifetime tenure for Commissioners. He said that he had raised these issues in the past and would like to see the Commission review these topics and make recommendations regarding them.

Commissioner Chertoff said that he sees the need for fixed terms but not for tenure. He said that as a practical matter it would seem that public officials, and the public, would object to Commissioners being appointed for life.

Executive Director Herrmann indicated that staff was planning to look at these issues as part of a study of the new law to be conducted after the election.

The Executive Director said that the Commission has always supported the concept of autonomy in funding and structure and had made recommendations to that effect in a previous White Paper Autonomy and Jurisdiction. He said the Commission had also explored alternative sources of funding in another previous White Paper.

Commissioner Linett said that the problem is with funding, not with the appointment process, or with the appointments.

Commissioner Linett asked how the agency could get the momentum going for funding and autonomy.

Executive Director Herrmann reiterated that an examination of these issues could occur following the election as part of a broader study of the new law's impact.

Chairman Eldridge asked if staff could draft a background memorandum by the next meeting for a public hearing in August.

Commissioner Linett said that he had no objection to discussing this issue in August. Commissioner Chertoff concurred.

Chairman Eldridge directed staff to prepare a background memorandum on Commissioner tenure and Commission budgeting for the July meeting.

12. Adjournment

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 4-0, the Commission voted to adjourn at 11:10 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "F. M. Herrmann", is written over a light gray rectangular background.

FREDERICK M. HERRMANN, PH.D.

FMH/jah