



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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William H. Eldridge
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Vice Chairman

David Linett
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Michael Chertoff
Commissioner

Frederick M. Herrmann, Ph.D.
Executive Director

Jeffrey M. Brindle
Deputy Director

Gregory E. Nagy
Legal Director

James P. Wyse
Counsel

PUBLIC SESSION MINUTES

AUGUST 15, 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 July 14, 1995

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission approved the Public Session Minutes of July 14, 1995. Commissioner Chertoff abstained because he was not present at the July meeting.

4. Executive Director's Report

A. Staff Activities

Executive Director Herrmann reported that Research Assistant Steve Kimmelman has compiled an index to ELEC's Advisory Opinions. The index dates to 1986.

The Executive Director advised the Commission that staff has written to the Division of Taxation to modify the Income Tax Return Booklet's description of the Gubernatorial Public Financing Program. Executive Director Herrmann noted that ELEC is requesting that the description emphasize that the check-off money needed for the public financing program will not be used for any other purpose. He added that in 1993, general treasury funds earmarked for the program were almost used for a Shore Protection Initiative.

Executive Director Herrmann mentioned that on August 7, 1995, staff produced a video training tape for use by candidates and treasurers.

Executive Director Herrmann announced that a PACronym list has been placed in the public room. He said that under the PAC registration provisions of the new Campaign Act, PACs are permitted to use abbreviations for their official names. He added that ELEC is required to keep a list of them for public use.

B. Legislative Developments

Executive Director Herrmann informed the Commissioners that A-1840 (Rooney), which concerns the composition and identification of joint candidates committees, was signed into law on August 2, 1995.

He noted that A-2176 (Lance), which drops the requirement of designating candidate bank accounts as "the election fund of ...," was signed into law July 11, 1995.

According to the ELEC's Director, the Commission supported both bills.

Executive Director Herrmann said that A-2476 (Lustbader), the truth-in-campaigning legislation prompted by Chairman Eldridge, passed the Assembly 54-9 on June 29, 1995.

The Executive Director reported that floor amendments to S-1990 (Schluter), which increases the number of gubernatorial debates from two to three, were adopted on June 26, 1995 in the Senate.

According to Executive Director Herrmann, these amendments eliminate the prior sponsorship requirement, establish a manager who is responsible for format, and provide for a sponsor separate from the manager who is responsible for facilities and financing. Currently, a sponsor is responsible for the format as well as for facilities and financing. The amendments also expand the selection criteria used by ELEC, require three votes from ELEC for sponsor/manager selection, and require ELEC to hold postelection hearings to solicit comments and recommendations for improving the debates. Executive Director Herrmann reminded the Commission that ELEC's original recommendation was only to increase the number of debates.

The Executive Director advised the Commission that staff is concerned that this new system will make it very difficult to find organizations to run the debates. He said that staff is not sure what perceived problems are actually being addressed by many of these changes.

Executive Director Herrmann said that one new criterion is that a manager or sponsor can "have no known conflict of interest with respect to any of the candidates." He added that the bill also requires that the debate format offer "the greatest likelihood" that the debate "is focused closely on the key issues of the election."

The Commission is to become more involved in debate formatting because it will now have to consult with the party chairs in the primary and candidate

representatives in the general before selecting a manager. ELEC is also required to be part of any agreement to change a format.

In sum, Executive Director Herrmann said that staff believes that it makes sense to hold three debates as proposed by the Commission, to eliminate the prior sponsorship requirement as unnecessary and overly restrictive, and to require a three-vote majority as an additional safeguard to a fair selection. He said, however, that the other changes may be unnecessary and possibly deleterious to the continuance of the debate process.

C. ELEC in History

Executive Director Herrmann informed the Commission that the latest edition of New Jersey History, a quarterly publication of the New Jersey Historical Society, has an article on the life of Congresswoman Florence P. Dwyer, one of ELEC's original four Commissioners in 1973.

D. Future Meeting Schedule

The Commission will hold its next meeting and a public hearing on September 22, 1995, in Trenton at 9:00 a.m. The October meeting is scheduled for October 20, 1995, in Trenton at 9:00 a.m, and a public hearing on the proposed recall election regulations will be conducted.

At the suggestion of Chairman Eldridge, the Commission determined to hold a hearing at the September meeting on gubernatorial public financing, contribution limits, and ways to strengthen ELEC's ability to perform its role.

5. Readoption with Amendments of Commission Regulations (N.J.A.C. 19:25)

Legal Director Nagy reported that no written comments were received by the August 2, 1995 deadline.

On a motion by Commissioner Linett, seconded by Commissioner Chertoff and passed by a vote of 4-0, the Commission readopted with amendments its regulations at N.J.A.C. 19:25 as proposed and directed that the readoption be filed with the Office of Administrative Law (OAL).

6. Proposed Recall Regulations

The Commission reviewed the draft text circulated prior to the meeting of proposed regulations to implement the Uniform Recall Election Law.

Commissioner Linett suggested that proposed N.J.A.C. 19:25-14.5(a)4 concerning the interests and objectives of a recall committee be discussed at the October meeting. He said that the regulation should attempt to clarify the statutory text for the public. He said that N.J.A.C. 19:25-14.5(a)4 repeats the statute and that the Commission owes it to the public to be more specific.

Legal Director Nagy recommended adding a provision to proposed N.J.A.C. 19:25-14.10 to make a nominee to succeed an elected official subject to penalties for Campaign Act violations and changing the proposed text of N.J.A.C. 19:25-14.14(a)1 to require that the full name and resident address of a paid petition circulator be included on the recall petition.

On a motion by Vice Chairman McNany, seconded by Commissioner Chertoff and passed by a vote of 4-0, the Commission approved for proposal Recall Regulations as amended and directed that they be filed with the OAL.

7. Advisory Opinion Request No. 11-1995

This advisory opinion request was submitted by Michael R. DeCotiis, Esq. on behalf of the New Jersey Chapter of the National Association of Housing and Redevelopment Officials (NJ-NAHRO). Mr. DeCotiis inquired as to whether NAHRO, its president, and individual members are subject to the registration and reporting requirements of the Legislative Activities Disclosure Act. Mr. DeCotiis suggested that the organization, employees, and members are exempt as governmental entities.

Staff recommended that the Commission determine that NAHRO is not exempt under the governmental entities exemption and that the organization is subject to the requirements of the Lobbying Act.

Staff noted that NAHRO has not been established under any specific statutory authority and that membership in NAHRO is discretionary, not mandatory. NAHRO is not exempt under the governmental exemption because there is no statutory basis for the organization and local housing authorities are free to refrain from joining NAHRO's lobbying efforts. Staff suggested that this matter is distinguishable from Advisory Opinion No. 11-1982 involving the New Jersey School Boards Association. In that advisory opinion, the Commission granted the exemption to the Association because it is a body politic of the State created by statute. NAHRO is a private organization and does not share the same public status as the School Boards Association.

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 4-0, the Commission approved the staff recommendation in the foregoing advisory opinion request and directed staff to issue the advisory opinion.

8. 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.

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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.

9. 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,



FREDERICK M. HERRMANN, PH.D.

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