



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

RALPH V. MARTIN
Chair
PAULA A. FRANZESE
Vice Chair
LYNNAN B. WARE
Commissioner
SUSAN S. LEDERMAN, Ph.D.
Commissioner

Respond to:
P.O. Box 185
Trenton, New Jersey 08625-0185
(609) 292-8700
Website: <http://www.elec.state.nj.us>

FREDERICK M. HERRMANN, Ph.D.
Executive Director
JEFFREY M. BRINDLE
Deputy Director
GREGORY E. NAGY
Legal Director
JAMES P. WYSE
Counsel

PUBLIC SESSION MINUTES

September 19, 2000

Chair Martin, Commissioner Ware, Commissioner Lederman, Counsel Wyse, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present. Vice Chair Franzese participated by telephone.

1. Open Public Meetings Statement

Chair Martin called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 *et seq.*, adequate 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 11:00 a.m. in Trenton, New Jersey.

2. Approval of Public Session Minutes of July 18, 2000

On a motion by Commissioner Ware, seconded by Vice Chair Franzese and passed by a vote of 3-0, the Commission approved the Public Session Minutes of July 18, 2000.

Commissioner Lederman arrived during the Executive Director's Report.

3. Executive Director's Report

A. Staff Activities

Executive Director Frederick M. Herrmann reported that the Center for Public Integrity in Washington, D.C. is conducting a national survey about how to structure an ethics agency that is based on his article "Bricks Without Straw." According to the Executive Director, the study is using the three empowerment criteria (autonomy, funding, and enforcement capability) developed in the article to evaluate the effectiveness of ethics agencies across the country.

Executive Director Herrmann stated that on August 6, 2000, Deputy Legal Director Nedda Gold Massar and he attended the 13th annual meeting of the Northeastern Regional Conference on Lobbying (NORCOL) in Providence, Rhode Island. He mentioned that the keynote speaker was an attorney from Massachusetts who recounted the case of a Bay State lobbyist who was prosecuted for mail fraud for a minor lobbying violation that the state ethics agency had decided not to pursue. Executive Director Herrmann said that he made a presentation during the annual state update portion of the program.

The Executive Director introduced Maria Novas-Ruiz who started on September 11, 2000, as an Assistant Legal Director. Executive Director Herrmann said that she brings a strong background to the Commission, having worked at the Waterfront Commission, clerked for Superior Court Assignment Judge Burrel I. Humphreys, and been employed at the United Nations.

The Executive Director noted that Deputy Director Jeffrey M. Brindle has set up a paid internship program in which students will be able to earn 3 college credits. He said that staff will be developing interesting and meaningful projects for the students.

Executive Director Herrmann reported that Director of Compliance and Information Evelyn Ford and her staff will be holding two informational training seminars during September for the fall election at the Roebling Building. He added that she is also helping Jeff Garfield, the Executive Director of the Connecticut Elections Enforcement Commission, who is working on developing a training video for his state.

Executive Director Herrmann said that ELEC was a pioneer in this area when it produced a taped training session in 1993. The Executive Director advised the Commission that the 12th floor recarpeting will be completed in late September and the Review and Investigation staff will be relocated to the 14th floor.

B. Computer Developments

The Executive Director informed the Commission that on August 11, 2000, Director of Systems Administration Carol Neiman attended a national meeting about campaign finance electronic filing held in Chicago. According to the Executive Director, she updated the attendees on ELEC's computerization initiative. Executive Director Herrmann noted that Director of Systems Administration Neiman and her staff have made a number of improvements to the web site including: the addition of ELEC's regulations, clearer report images, an e-mail capability, a link to 527 committee information on the I.R.S. site, and a redesigned start page that is more easily accessed by search engines and has an apt quotation from James Madison ("And a people who mean to be their own governors, must arm themselves with the power that knowledge brings.").

Executive Director Herrmann said that he received a call from a representative of the Joint Legislative Audit and Review Committee of the Washington State Legislature.

He advised the Commission that the Committee is doing a national survey as part of a performance audit of the Public Disclosure Commission and is particularly interested in computerization and web sites. He said that the caller told him that “what the people of Washington State want is what ELEC has done.”

C. COGEL Conference

Executive Director Herrmann announced that the COGEL conference will be held from Sunday, December 3 to Wednesday, December 6, 2000. He indicated that it will be held in Tampa, Florida. According to Executive Director Herrmann, among the speakers will be Governor Jesse Ventura of Minnesota and Professor Larry Sabato of the University of Virginia, a noted expert in politics and campaign finance. He asked the Commission to let him know by September 25th if any Commissioners wish to attend.

D. Fall Meeting Schedule

October 24, 2000 at 11:00 a.m. in Trenton.
November 21, 2000 at 11:00 a.m. in Trenton.
December 19, 2000, at 11:00 a.m. in Trenton.

4. Public Hearing – Proposed Amendments to Implement Inflationary Campaign Cost Adjustments

A public hearing was held at 11:15 a.m. on the proposed amendments to the regulations to implement statutorily-mandated, quadrennial campaign cost adjustments. As required by N.J.S.A. 19:44A-7.1 and 7.2, the Commission calculated the change in campaign costs over the past four years and determined that campaign costs had risen by 21.32 percent. The Commission has proposed amendments to the various limits and thresholds applicable to gubernatorial and non-gubernatorial candidates, committees, and other entities. The proposed amendments to the regulations were published in the August 21, 2000 New Jersey Register. The Commission is required to determine the cost index by December 1, 2000, and to report the changes to the Legislature by December 15, 2000.

Testimony was offered by Staci A. Berger representing New Jersey Citizen Action. The public hearing was recorded and a transcript will be available for public review.

5. Gubernatorial Public Financing Electronic Filing Project

Deputy Legal Director Nedda Gold Massar reported to the Commission on the status of the project to design software for publicly-financed gubernatorial candidates to file electronically their gubernatorial campaign reports and gubernatorial matching fund submissions. These reports are required by the Campaign Contributions and Expenditures Reporting Act and Commission regulations. Deputy Director Massar stated that although the Campaign Reporting Act and Commission regulations do not specifically provide for filing reports by electronic means, staff suggests that the statutory requirement to file a Form P-1 or G-1 “report” should not be construed to preclude any reporting format other than a traditional paper and ink report. Staff recommended that the Campaign Reporting Act and Commission

regulations be construed to permit electronic filing as long as statutory and regulatory certification requirements are met and safeguards exist to maintain the integrity of the information filed electronically. The Gubernatorial Electronic Filing System (GEFS) software and the filing procedures are designed to meet those criteria.

Deputy Legal Director Massar said that because of the complexity of the matching fund process during the past year staff has worked with ACI, Inc., the State contract vendor, to design GEFS. The GEFS software will be made available free-of-charge to gubernatorial candidates and treasurers, and will permit them to enter contributor and expenditure data into a single database, to maintain electronic records of contributions received and expenditures made, and to prepare and file Forms P-1 and G-1 on a CD. Because GEFS has been designed to provide all contribution and expenditure information required by the Campaign Reporting Act and Commission regulations, and because it has been specifically created as a tool for use with Electrak, the Commission's database, staff recommends that only electronic reports prepared using GEFS be accepted for filing with the Commission.

Staff expects that it will distribute GEFS software to gubernatorial candidates and treasurers in the near future and plans to provide individual training sessions for each campaign.

Director Massar next outlined procedures for a campaign's use of GEFS. These procedures involve the following:

- Creating the report for filing,
- Encrypting the Data onto the CD, and
- Completing the CD label and certifications.

Deputy Director Massar reviewed the proposed Commission procedures for receipt of the electronic report and Public Financing staff. These procedures involve the following issues:

- Data stamping the CD,
- Creating a log,
- "Burning" a duplicate CD,
- Sealing the original CD,
- Loading the data from the CD into Commission's computer system,
- Making information available to the public, and
- Instructing the gubernatorial candidates and treasurers.

Commissioner Lederman asked if electronic filing will speed up delivery of information to the public.

Deputy Director Massar responded that it should speed the process up.

A Star-Ledger reporter, Joseph Donohue, asked if raw data will be available.

Deputy Director Massar said that the same information as before will be available. She said that raw data will not be made available.

Staff believes that these procedures for processing CDs containing Forms P-1 and G-1 preserve the integrity of the reports electronically filed by a gubernatorial candidate and treasurer.

Staff made the procedures for managing electronic filing of gubernatorial reports available to the Commission in greater detail in the memorandum from Nedda Gold Massar, Deputy Legal Director, to Frederick M. Herrmann, Ph.D., Executive Director, dated September 8, 2000, and entitled "Gubernatorial Public Financing Electronic Filing Project."

6. Resolution to go into Executive Session

On a motion by Commissioner Ware, seconded by Commissioner Lederman and passed by a vote of 4-0, the Commission resolved to go into Executive Session to discuss the following matters which will become public as follows:

- A. 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.
- B. 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.

7. Return to Public Session

On a motion by Commissioner Lederman, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission voted to return to Public Session.

Adjournment

On a motion by Commissioner Lederman, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission voted to adjourn at 1:00 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director