



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

November 21, 2000

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

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 October 24, 2000

On a motion by Vice Chair Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission approved the Public Session Minutes of October 24, 2000.

3. Executive Director's Report

A. Staff Activities

Executive Director Herrmann reported that on October 31, 2000, Legal Director Gregory Nagy, Deputy Legal Director Nedda Gold Massar and he attended a luncheon discussion about public financing programs at the Eagleton Institute. According to the Executive Director, the speaker was Elizabeth Daniel of the Brennan Center for Justice at the NYU School of Law. He said that she reviewed the findings of her study "Subsidizing Political Campaigns: The Varieties and Values of Public Financing." Executive Director Herrmann noted that among the attendees were: Senator William E. Schluter, Common Cause Chair Harry Pozycki, and League of Women Voters President Sandy Matsen. The Executive Director mentioned that Ingrid Reed, the Director of the Eagleton New Jersey Project, was the moderator of the program.

Executive Director Herrmann reported also that on October 31, 2000, Deputy Director Jeffrey M. Brindle, Deputy Director Massar, and Director of Administration Barbra Fasanella met with the Office of Management and Budget's officials to discuss ELEC's FY-02 budget. He informed the Commission that the Office of Management and Budget will be supporting full funding of the Ballot Statement Program for the first time.

Executive Director Herrmann noted that on November 3, 2000, he hosted a visit from a 15-member delegation organized by the Japanese Ministry of Home Affairs. He told the Commission that the delegation was on a nine-day trip to the United States to study campaign financing and election administration and law. According to the Executive Director, he spoke to them about the Campaign Act and ELEC's administration of it and then answered questions during a two-hour session. The Executive Director said that it was an honor for ELEC to be singled out for a visit that also included stops in New York City and Washington, D.C. Executive Director Herrmann stated that the Commission truly has an international reputation.

Executive Director Herrmann reported that Deputy Director Brindle has completed writing White Paper #14, entitled "Local Campaign Finance." He said that it is an original study of campaign finance practices at the municipal level in New Jersey. Executive Director Herrmann suggested that the paper should generate national as well as state interest because there is very little in the campaign financing literature about local elections and the paper reaches some very interesting conclusions. He said that if the Commission approves it, copies will be sent to the State Library and the Council on Governmental Ethics Laws conference.

After some discussion, the white paper was approved.

At this juncture, Executive Director Herrmann introduced a new staff member, Rahsan Canturk, who is an Assistant Public Financing Analyst.

B. Legislative Developments

Executive Director Herrmann noted that A-2647 (Weingarten/O'Toole), which requires that publicly-financed candidates for governor disclose donors to any 527 committees or similar organizations with which they are affiliated, passed the General Assembly 77-0 on October 30, 2000. He added that on November 9, 2000, he testified on this bill and the nearly identical S-1468 (Gormley/Adler) before the Senate State Government Committee. At the hearing, the Executive Director proposed an amendment to limit disclosure to a four-year period instead of the date an organization was formed. He also suggested that a committee amendment adding 501C(3) and 501C(4) committees to the type of organizations covered be restricted to only the 501C(4) committees because 501C(3) committees are not involved in political activity. Executive Director Herrmann said that he testified that it would not be a good result to have the March of Dimes have to disclose its contributors because a future gubernatorial candidate had once been involved with its work. The Executive Director noted that the bill passed unanimously with his suggested changes.

C. Future Meeting Schedule

December 21, 2000 at 11:00 a.m. in Trenton.

The 2001 Commission Meeting Schedule was reviewed. On a motion by Vice Chair Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission approved the 2001 Commission Meeting Schedule.

4. Advisory Opinion Request No. 02-2000

Deputy Legal Director Massar reported that no additional information has been received from Cleta Mitchell, Esq. on behalf of the requesting party, eContributor.com, Inc. She suggested that staff contact Ms. Mitchell to advise her that if information is not submitted in time for the December Commission meeting, the request be considered withdrawn without prejudice until such time as more information is provided to the Commission. The Commission concurred and directed staff to contact Ms. Mitchell.

5. Advisory Opinion Request No. 04-2000

Roi Ann Morford, organizational treasurer of the New Jersey Health Care Political Action Committee (NJHCPAC) asked the Commission for an advisory opinion concerning the receipt of funds from the New Jersey Association of Health Care Facilities (NJAHCF). The funds had been held in an escrow account pending a tax ruling from the Internal Revenue Service. Ms. Morford noted that the NJHCPAC is a continuing political committee dedicated to the advancement of long-term health care facilities with membership open to all persons employed or active in such facilities. NJAHCF is a statewide association of long-term care facilities. Prior to the beginning of this calendar year, the NJAHCF members adopted a resolution to the effect that a portion of the dues from certain members could be dedicated by those members for the NJHCPAC. Such funds were to be held in escrow by the NJAHCF association until it received an Internal Revenue Service ruling that the dues dedication by some members would not jeopardize the tax exempt status of the non-proprietary members who were organized under Section 501(c)3 of the federal tax code. The funds received during this calendar year from those members who elected to dedicate a portion of their dues to the NJHCPAC is currently in the attorney escrow account. The questions posed to the Commission are as follows:

- 1) For the calendar year 2000, may the dedicated monies be reported as a single contribution from the NJAHCF, or must each long-term facility that opted to dedicate a portion of dues money to the NJHCPAC be reported?
- 2) For calendar year 2001 and after, assuming the NJAHCF continues such a voluntary dedication, how should those dedicated monies be reported?

With regard to these questions, staff recommended that:

- 1) The monies dedicated by each NJAHCF facility member must be reported as contributions from each member and may not be reported as part of a single contribution to NJHCPAC from the NJAHCF. Moreover, for calendar year 2000 only, the date of the contributions from the members must be reported as the date the funds in the escrow account are delivered or otherwise committed by the trustee of the escrow account to NJHCPAC.

With regard to question number two, staff recommended that:

- 2) For calendar year 2001, when no escrow account exists, the reporting requirements will depend on whether or not the members of the NJAHCF organization deliver their funds to NJAHCF without restricting them for use as contributions to NJHCPAC, and whether or not the members provide the NJAHCF organization with full custody and control over the funds for any use the NJAHCF organization chooses. Staff noted that in the absence of a more complete fact record pertinent to the procedure that will be followed in the future years, the Commission is unable to express an opinion until such time as another opinion with an amplified fact record is submitted.

On a motion by Commissioner Ware, seconded by Vice Chair Franzese and passed by a vote of 4-0, the Commission approved the foregoing recommendations and directed staff to issue the Advisory Opinion response.

6. Gubernatorial Cost Analysis Report

On a motion by Commissioner Lederman, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission approved the Gubernatorial Cost Analysis Report as submitted by Deputy Legal Director Massar and directed staff to deliver the Report to the Legislature.

7. 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.

8. Return to Public Session

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

9. 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

FMH/elz