



NEWS RELEASE

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FOR RELEASE:
March 28, 1990

Frederick M. Herrmann, Executive Director of the New Jersey Election Law Enforcement Commission, announced today that the Commission has scheduled a public hearing on the subject of the Commission's proposed personal interest disclosure regulation.

The hearing will be held on Wednesday, April 18th at 9:30 a.m. at the Commission's offices at 28 West State Street, 12th Floor in Trenton.

The newly proposed regulation would require the filing of a personal interest disclosure statement for any reported campaign or organizational expenditure to an immediate family member of the candidate or treasurer, or any reported expenditure to a business in which the candidate or treasurer has a substantial financial interest.

A copy of the full text of the proposed regulation is attached. The Commission invites the participation of interested persons in the April 18th hearing. Please contact Gregory E. Nagy, Legal Director, at (609) 292-8700 with any questions or to indicate a desire to participate in the hearing process. Further, the Commission welcomes any written comments which interested persons might wish to submit.

(a)

ELECTION LAW ENFORCEMENT COMMISSION**Personal Interest Disclosure Statement****Proposed New Rule: N.J.A.C. 19:25-7.8****Proposed Amendment: N.J.A.C. 19:25-1.7**

Authorized By: Election Law Enforcement Commission,

Frederick M. Herrmann, Ph.D., Executive Director.

Authority: N.J.S.A. 19:44A-6.

Proposal Number: PRN 1990-61.

Submit written comments by March 7, 1990 to:

Gregory E. Nagy, Legal Director

Election Law Enforcement Commission

National State Bank Building, 12th Floor

CN-185

Trenton, New Jersey 08625-0185

The agency proposal follows:

Summary

The Election Law Enforcement Commission (hereafter, "the Commission") proposes a new rule, N.J.A.C. 19:25-7.8, Personal Interest Disclosure Statement, and an amendment to N.J.A.C. 19:25-1.7, Definitions, by adding definitions for the terms "immediate family member" and "substantial financial interest."

The proposed new rule would require a candidate, treasurer, deputy treasurer, organizational treasurer, or deputy organizational treasurer (hereafter "candidate or treasurer") to file a personal interest disclosure statement for any reported campaign or organizational expenditure to an immediate family member of the candidate or treasurer, or any reported expenditure to a business in which the candidate or treasurer has a substantial financial interest.

The personal interest disclosure statement will provide to the Commission and the public information beyond that required under existing rules for expenditures by a candidate, political committee, or continuing political committee. The statement must contain the name of the entity filing the report, the date of the expenditure, the amount of the expenditure, and the name and mailing address of all payees or ultimate recipients. Additionally, the statement must contain the nature of the relationship between the candidate or entity making the expenditure and the payee or ultimate recipient, and must contain a full description of the services or goods provided and the rate of compensation or price per item. The statement must further describe the unique or particular qualifications of the payee or ultimate recipients, and the campaign or political purpose of the services or goods. With such information, the Commission will enhance its ability to assess whether the expenditure is in compliance with the prohibition against personal use of campaign or organizational funds set forth in existing N.J.A.C. 19:25-7.2, Use of funds: general, and in N.J.A.C. 19:25-7.4, Use or disposition of surplus campaign funds.

A candidate filing campaign reports pursuant to N.J.S.A. 19:44A-16 must file such a statement if the candidate's campaign makes an expenditure to the candidate or treasurer, to an immediate family member of the candidate or treasurer, or to a business or other income-producing enterprise in which the candidate has a substantial financial interest. For example, if a candidate or treasurer employs and compensates a family member to provide services to the campaign, a personal interest disclosure statement must be filed simultaneously with the filing of the campaign report in which the expenditure is reported.

A political committee aiding or promoting a candidate in an election pursuant to N.J.S.A. 19:44A-8(a) must file a personal interest disclosure statement for any expenditure to that candidate, to an immediate family member of that candidate, or to a business or other income-producing enterprise in which the candidate has a substantial financial interest.

A continuing political committee, such as a political action committee (PAC), aiding or promoting a candidate pursuant to N.J.S.A. 19:44A-8(b) must similarly file a personal interest disclosure statement for any expenditure to the candidate, an immediate family member of that candidate, or to a business or other income-producing enterprise in which the candidate has a substantial financial interest.

Any candidate or entity that reports making an expenditure to its treasurer, deputy treasurer, organizational treasurer, or deputy organizational treasurer, or to an immediate family member of those persons, or to a business or other income-producing enterprise in which any of those

persons has a substantial financial interest, must also file a personal interest disclosure statement.

The certification of any personal interest disclosure statement must be made by the same person or persons certifying the correctness of the accompanying report. For example, if a political committee files a report certified by its treasurer, the accompanying personal interest disclosure statement must be certified by that treasurer.

Social Impact

The Commission believes that the social impact of the proposed new rule and amendment will be beneficial. Candidates and treasurers will be required to make a public statement elaborating on any expenditure of campaign or organizational funds in which there is an appearance of personal financial interest. For example, a treasurer who pays himself or herself, or an immediate family member, a salary in compensation for services performed will be required to file a personal interest disclosure statement. That statement will document the number of hours of work, the rate of compensation, the unique or particular qualifications of the payee, and the campaign or political purpose of the services provided. In the absence of such a statement, the report filed by a campaign or organization simply indicates the name and address of the payee, the date of payment, the total amount paid, and purpose. Therefore, in the absence of this statement, neither the public nor the Commission can assess precisely what services were provided, the amount of time the services took, the rate of compensation for those services, and the nature of the relationship between the candidate or treasurer and the payee or ultimate recipient.

The Commission believes that this additional information will enhance its ability and the ability of the electorate and public-at-large to understand campaign and organizational financial activity, and to monitor compliance with restrictions against personal use of campaign and organizational funds.

The Commission has observed over the past several election cycles that the amounts of money being raised and expended by candidates and continuing political committees including PACs have rapidly accelerated. The tendency for elected candidates to retain funds for future election campaigns has also similarly increased. Under such social circumstances, the Commission believes that it is necessary for it to buttress public confidence in the integrity of the electoral process as it pertains to financial activity, and this new rule and amendment will assist in pursuing that objective.

Economic Impact

The Commission believes that the economic impact of this proposed new rule and amendment will be minimal on the affected persons. Candidates and treasurers will be required to prepare and file personal interest disclosure statements for certain expenditures, and the preparation of those statements will result in some additional minimal cost. The Commission will incur some additional costs in the filing, storage and copying of these statements. However, the Commission believes that these additional costs are more than justified by the beneficial impact of the information that the statements will contain.

Regulatory Flexibility Statement

The proposed new rule and amendment do not impose any requirements on small businesses, as that term is defined under Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The new rule and amendment affect only candidates for public elective office and other political entities required to file reports with the Commission.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

19:25-1.7 Definitions

The following words and terms, when used in this chapter and in the interpretation of the act, shall have the following meanings unless a different meaning clearly appears from the context.

"Immediate family member" of a person means a spouse, child, parent or sibling of that person.

"Substantial financial interest" means a 10 percent or greater legal or beneficial ownership of a business or other income producing enterprise which provided to the person in the prior calendar year a total of more than \$1,000 of earned and unearned income.

19:25-7.8 [(Reserved)] Personal interest disclosure statement

(a) Any report filed pursuant to the act shall include a personal interest disclosure statement if such report contain any expenditure to a payee or ultimate recipient who is any of the following:

1. A candidate filing the report pursuant to N.J.S.A. 19:44A-16;
2. A candidate who is being aided or promoted by a political committee filing the report pursuant to N.J.S.A. 19:44A-8(a);
3. A candidate who is being aided or promoted by a continuing political committee filing the report pursuant to N.J.S.A. 19:44A-8(b);
4. A treasurer, deputy treasurer, organizational treasurer, or deputy organizational treasurer of a candidate, political committee or continuing political committee filing the report;
5. An immediate family member as defined in N.J.A.C. 19:25-1.7, Definitions, of any person described in (a)1, 2, 3, or 4 above; or
6. A business or other income producing enterprise in which any person described in (a)1, 2, 3, 4, or 5 above has a substantial financial interest as defined in N.J.A.C. 19:25-1.7, Definitions.

(b) A personal interest disclosure statement filed pursuant to this section shall be on a form provided by the Commission and shall contain the following information for each expenditure described in (a) above:

1. The name of the reporting entity filing the report in which the expenditure was disclosed;
2. The date of the expenditure;
3. The amount of the expenditure;
4. The name and mailing address of all payees or ultimate recipients of the expenditure;
5. The nature of the relationship of the immediate family member and the reporting candidate or entity making the expenditure (for example, father of candidate), or the nature of the substantial financial interest in a business or other income-producing enterprise of the reporting candidate or entity making the expenditure (for example, in excess of 10 percent ownership);
6. A full description of any service provided by the payee or ultimate recipient including:
 - i. The amount of time expended by the payee or ultimate recipient in providing the service;
 - ii. The hourly or weekly rate of compensation;
 - iii. The amount, if any, paid as reimbursement for any expense incurred by the payee or ultimate recipient;
 - iv. The particular or unique qualifications of the payee or ultimate recipient to provide the services; and
 - v. The campaign or political purpose of the service; and
7. A full description of any goods provided by the payee or ultimate recipient including:
 - i. The nature of the goods;
 - ii. The price per item;
 - iii. The number of items;
 - iv. The particular or unique qualifications of the payee or ultimate recipient to provide the goods; and
 - v. The campaign or political purpose of the goods.

(c) A personal interest disclosure statement shall be certified as true and correct by the candidate, treasurer, deputy treasurer, organizational treasurer, or deputy organizational treasurer, of the candidate, political committee, or continuing political committee filing the statement.