

R E C O M M E N D A T I O N S  
PROPOSING AMENDMENTS TO THE  
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES REPORTING ACT

N.J.S.A. 19:44A-1 et seq.

ELECTION LAW ENFORCEMENT COMMISSION

NOVEMBER, 1982

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# State of New Jersey

## ELECTION LAW ENFORCEMENT COMMISSION

### COMMISSIONERS:

ANDREW C. AXTELL  
 CHAIRMAN  
 M. ROBERT DECOTIIS  
 VICE CHAIRMAN  
 HAYDN PROCTOR  
 ALEXANDER P. WAUGH, JR.

NATIONAL STATE BANK BLDG., SUITE 1114  
 28 W. STATE STREET, CN-185  
 TRENTON, NEW JERSEY 08608  
 (609) 292-8700

SCOTT A. WEINER  
 EXECUTIVE DIRECTOR

EDWARD J. FARRELL  
 COUNSEL

### INTRODUCTION

This report of recommendations represents the end product of the Election Law Enforcement Commission's extensive review of the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq., and the program of campaign finance disclosure provided for by that legislation. Since the enactment of the Reporting Act and the creation of the Commission in 1973, other comprehensive reviews of the disclosure program have been undertaken by previous Commissions and members of the Legislature. In a few instances, these studies have resulted in amendments modifying, to one degree or another, New Jersey's program of campaign finance disclosure. However, in most instances these proposals have not been enacted, and as a result, the current reporting program remains essentially unchanged from that which was first implemented in 1973.

As the Commission approached its 10th year of operation, it considered it appropriate to once again comprehensively review the Reporting Act. The Commission's intent in undertaking this review was to insure that New Jersey's campaign finance disclosure program remains both viable and valuable in the context of current campaign finance activities. To achieve this end, the Commission sought to identify and propose for elimination unnecessary and burdensome reporting requirements which do not produce, by way of public disclosure, meaningful information. On the other hand, the Commission sought to identify refinements to the disclosure program to insure that information pertaining to activity which has a significant impact on election finance activity is provided to the public in a meaningful, timely and usable fashion.

During its review of the Reporting Act, the Commission solicited comments from public officials holding municipal, county and state offices. In addition, comments and suggestions were solicited from the chairpersons of the state and county political party committees. The Commission recognizes that there are undoubtedly many individuals and organizations which have not provided their comments to date but whose contributions in consideration of amendments to the Reporting Act will prove invaluable. In order to avoid

unnecessary delays in the process, the Commission has promulgated this report in the anticipation that such individuals and organizations will have an opportunity to comment during the Legislature's consideration of these or other proposals.

This report is intended to reflect both the underlying viability of the Reporting Act as well as its need for modification and updating. It is the hope of the Commission that the review process can be commenced immediately so that appropriate amendments can be enacted in time for implementation for the 1983 elections.

In summary, the Commission has sought to strike a balance between the imposition on candidates and political committees of responsibilities and obligations inherent in a public disclosure program with the benefits of public access to information which is provided by the program. In so doing, the Commission has attempted to focus upon defining current problems and issues and identifying possible solutions. The Commission is confident that the pending legislative review will yield valuable modifications to the State's program.

November, 1982

## SECTION I: SIMPLIFICATION OF FILING

### RECOMMENDATION #1:

Permit any candidate whose campaign finance activity is conducted exclusively by and through a reporting political committee to designate that committee as the candidate's reporting vehicle and thereby be relieved of all other reporting requirements under the Reporting Act.

### COMMENTARY:

During the 1982 general election the Commission implemented a policy which permits candidates to designate a reporting political committee as their exclusive campaign fund and thereby avoid the necessity of filing additional, individual reports which would merely disclose the receipt of an allocation from the reporting committee. Under the Commission's policy, candidates must accept responsibility for lateness or any other deficiency in the reports filed on their behalf by the designated reporting committee. Further, only candidates whose financial activity is conducted exclusively by the designated committee can use the short form designation.

The Commission proposes that this policy be codified into the Reporting Act. Candidates and treasurers would thereby be relieved of filing requirements if the designated committee is filing reports that reveal all of the financial activity of such candidates. Under such circumstances, the public interest in full disclosure is not compromised while candidates are relieved of filing unnecessary and duplicate campaign reports.

SECTIONS AFFECTED: N.J.S.A 19:44A-16(a), 19:44A-22(a).

RECOMMENDATION #2:

A) Revise the due dates of campaign reports to provide more time for treasurers to close their books prior to reporting.

B) Establish a notice requirement for pre-election contributions in excess of \$500 not appearing on the other pre-election campaign finance reports.

COMMENTARY:

Under present law, the Reporting Act requires campaign reports to be filed 25 and 7 days before an election and 15 days afterwards. The Commission proposes to change those dates to 29 days and 11 days prior to the election and 20 days after the election. Such a schedule would permit treasurers additional time to prepare election finance reports. Moreover, by requiring the first pre-election report to be filed 29 days before the election, the public would have access to campaign finance information four days earlier. Additionally, the move from a 7 day pre-election report to an 11 day pre-election report will allow campaigns and their committees to devote more of their time during the critical last week of the campaign to non-reporting activities.

Another current requirement is that treasurers must file reports that provide information through the day before the filing deadline. This requirement is difficult to comply with and is frequently cited as a reason for late filing. The Commission proposes that treasurers be permitted to close their books 48 hours prior to the filing deadline, thereby affording them more time to complete their reports and file timely.

The elimination of the 7 day pre-election report lessens, to some degree, the extent of pre-election disclosure. Instead of a pre-



election report filed 7 days prior to the election containing information through the eighth day preceeding the election, the Commission's proposals envision reports filed 11 days before the election containing information only through the thirteenth day preceeding the election. In response to this situation the Commission is also proposing, as an integral part of the restructuring of filing dates, that candidates or their campaign committees be required to send to the Commission, within 48 hours of receipt of a contribution in excess of \$500, a notice setting forth the date and amount of the contribution as well as the name and address of the contributor when such a contribution is received between the preparation of the 11 day pre-election report and the date of the election. (It is intended that this notice could be provided by any written means; for example, letter, telegram, mailgram, etc.)

This 48 hour notice requirement will further promote public access to campaign finance information by making available information regarding significantly large contributions during the last week of the campaign, which, under present law, would not be disclosed until the 15 day post-election report.

SECTIONS AFFECTED: N.J.S.A. 19:44A-16(b). In addition, a new Section must be enacted which would provide for the disclosure of contributors over \$500 who contribute prior to the election but after the cutoff date for the closing of the books on the 11 day pre-election report.

RECOMMENDATION #3:

Clarify the filing deadlines for the Designation of Treasurer and Depository, Form D-1.

COMMENTARY:

Present law requires that a Designation of Treasurer and Depository, Form D-1, be filed by candidates or political committees before the receipt of any contribution or the making of any expenditure. While the form anticipates the designation of a treasurer and depository, although not the establishment of a bank account, the requirement that the form be filed prior to accepting contributions is at best confusing and often violated unintentionally by candidates and committees receiving a contribution prior to their having the opportunity to complete the D-1 form. The Commission proposes the filing requirement for the D-1 form be amended to require its filing with the Commission within 10 days after the establishment of a depository or the filing of the first campaign finance report, whichever occurs first.

SECTIONS AFFECTED: N.J.S.A. 19:44A-9; 19:44A-10.

RECOMMENDATION #4:

Provide for an option to file the Sworn Statement in lieu of a campaign report (Form A-1) simultaneously with a Designation of Treasurer and Depository.

COMMENTARY:

Under present law, the Sworn Statement, Form A-1, must be filed with the Commission no later than 25 days before the election. The Commission proposes that the Sworn Statement filed by candidates or multi-candidate joint campaign funds be combined with the D-1 form. By so doing, candidates and treasurers spending less than \$2,000, or \$4,000 in the

case of a joint committee (see Recommendation #5), can satisfy their entire reporting obligation with a single filing. Candidates and committee treasurers who submit Sworn Statements to the Commission will continue to have no further filing obligations, other than the identification of contributors of over \$200 in the event they should receive such contributions. Candidates who intend to spend more than \$2,000, or \$4,000 for joint multi-candidate committees, will disregard those provisions of the form which serve as the Sworn Statement.

SECTIONS AFFECTED: N.J.S.A. 19:44A-16(f).

RECOMMENDATION #5:

Permit multi-candidate joint campaign committees expending less than \$4,000 in an election to file Sworn Statements, similar to Form A-1, in lieu of detailed R-1 reports and only identify contributors exceeding the disclosure threshold.

COMMENTARY:

The Reporting Act now exempts any political committee from any filing requirement if it receives contributions or makes expenditures exclusively on behalf of candidates and expends less than \$1,000 for each of their campaigns and therefore, as candidates, have only A-1 obligations. The result is a gap in the reporting requirements that permits such a political committee, which acts as a joint campaign fund, to accept contributions at a rate of up to \$1,000 per supported candidate (for example, \$5,000 or \$6,000 when such a political committee supports five or six candidates) without filing any disclosure reports. Rather

than permit such joint candidate committees to escape reporting entirely, the Commission proposes that any joint campaign fund, regardless of the number of candidates it supports, receiving or expending more than \$4,000 on behalf of candidates should be required to file complete R-1 campaign reports. Further, the Commission proposes that those committees that expend less than the \$4,000 threshold be allowed to satisfy their filing obligation by submitting a Sworn Statement to the effect that their expenditures will not exceed \$4,000 and by timely identifying any contributor whose aggregate contributions exceed the disclosure threshold.

The Commission has concluded that not only is the \$4,000 threshold sufficiently high to encourage the utilization of multi-candidate joint campaign funds but it also represents a threshold which will not result in a loss of reporting of significant financial activity. Further, requiring multi-candidate committees expending less than \$4,000 to provide minimal reporting promotes public confidence in the disclosure program and increases the nature of information available to the public without imposing onerous obligations upon such joint committees.

SECTIONS AFFECTED: N.J.S.A. 19:44A-8.

RECOMMENDATION #6:

Clarify the reporting requirements of political party committees and other ongoing political committees and reduce the number of reports filed by such organizations by the elimination of their obligation to file both annual reports and campaign reports and the substitution therefore of regular quarterly reports.

COMMENTARY:

Present law requires that political party committees must file annual reports on March 1st for the preceeding calendar year. Additionally, political party committees which engage in campaign-related activity must file separate and distinct campaign disclosure reports in accordance with the pre- and post-election reporting sequence. This reporting system has resulted in considerable confusion over what types of contributions and expenditures must be reported in each setting. Additionally, a March 1st date for annual reports has proven to be problematic inasmuch as political party committees regularly organize each year during the month of June.

The Commission proposes to supersede annual and election reporting obligations for political party committees with the unified system of quarterly reporting. By so doing, such committees will no longer have to make subjective judgements whether a particular activity should be classified as organizational or campaign related. Instead, they will be able to file regular periodic reports without differentiating the nature of the finance activity which occurred during the applicable reporting period. Moreover, such a regular stream of information approach will provide the public with access to information in a more timely and meaningful way.

The Commission further proposes the application of a quarterly reporting program to other ongoing (that is, non-candidate related) political committees be they political clubs, political action committees, or any other organization which aids or promotes the candidacy of an individual or the passage or defeat of a public question. By so doing, the Commission proposes to eliminate the uncertainty which has existed

as to whether any such organization was obligated to file annual reports based upon a determination that its activities would properly categorize it as similar to a political party committee. Moreover, the Commission seeks to eliminate the uncertainty as to whether particular expenses would be properly reported in a campaign or annual report setting.

The Commission further proposes to provide guidance by the adoption of criteria so as to be able to determine whether a particular organization is in fact an ongoing political committee which is required to file campaign finance reports. Such determinations have traditionally focused on the nature and extent of an organization's political activity during a given time period or in connection with a particular election. This analysis has focused on the purpose or purposes of the organization and whether or not it could be concluded that a "major purpose" of the organization was to engage in political finance activity. It is the intent of the Commission to prepare and promulgate specific regulations which would define the characteristics of a political committee and the particular reporting obligations which would apply. Generally, it is the Commission's conclusion that an organization where more than 50 percent of its financial activity is for political purposes should be required to file complete disclosure reports addressing the organization's entire financial activity. On the other hand, the Commission recognizes that organizations where less than 50 percent of its prior years' expenditures were not related to political activity may still have such a significant impact upon the election process that some type of disclosure would be appropriate. In such a setting, one alternative would provide an organization with the option of establishing a separate segregated fund which would be subject to disclosure or providing disclosure reports for all activity of the organization.

In developing such criteria, the Commission will be considering the percent of an organization's overall financial activity which is devoted to political finance as well as of the absolute amount of money being expended for such purposes.

Since quarterly reports filed by such organizations will not coincide with campaign cycle reports filed by candidates and their principal committees, the Commission was concerned that large contributions could be passed through such committees to a particular candidate without disclosure in a pre-election setting. Accordingly, the Commission considered the imposition of a requirement of 48 hour notice of the amount and source of contributions in excess of \$500 received by political committees from the time of their last quarterly report until Election Day. However, the Commission recognizes that some political committees will receive such contributions and distribute the proceeds among various and numerous candidates. Such activity is particularly associated with ongoing political action committees. In such instances, the Commission's concern over potential earmarking or routing of contributions without disclosure is lessened.

Accordingly, if the Commission's recommendations to adopt quarterly reports are adopted by the Legislature and enacted into law, the Commission would thereafter promulgate regulations to further define which ongoing political committees would be subject to providing 48 hour notice of significant contributors. It is the current thinking of the Commission that criteria similar to those used by the Federal Election Commission defining qualified multi-candidate committees would be used to identify committees which would be exempt from the 48 hour notice requirement. Such criteria take into account the length of

existence of such committees, the number of contributors to such committees, the number of candidates receiving contributions from the committee, and other pertinent factors.

SECTIONS AFFECTED: N.J.S.A. 19:44A-3; 19:44A-8.

RECOMMENDATION #7:

Require political committees to give notice to any candidate on whose behalf it makes expenditures.

COMMENTARY:

Present law requires that political committees must generally identify the candidates on whose behalf they are making expenditures and the amount of expenditures so made. These expenditures are in effect contributions to the campaigns of the candidates on whose behalf they are made. Therefore, the candidates must in their reports disclose receiving the benefit of expenditures made in their behalf by a supporting committee. In order to prevent unfairness to candidates, the Commission proposes that such supporting political committees be required to notify candidates of the expenditures the committees are making on the candidates' behalf in order that the candidates in turn may report the expenditures.

In a related area, expenditures by state political party committees on behalf of all party candidates, the Commission seeks to develop a system providing for centralized reporting by the state committees without artificial and arbitrary attribution to legislative candidates.

SECTIONS AFFECTED: N.J.S.A. 19:44A-8.



RECOMMENDATION #8:

Require the Secretary of State and county clerks to certify names of candidates to the Election Law Enforcement Commission.

COMMENTARY:

Present law requires that county clerks receive certifications of the correct names and address of all candidates for nomination for public office in the name of their political party. N.J.S.A. 19:23-14. The Commission proposes that the county clerks be required to certify to the Commission this information in order that the Commission may have a complete and accurate listing of all candidates as early as possible.

In order to assure a complete and accurate listing of all candidates for municipal, county or state office, it is recommended that the Secretary of State and county clerks provide the Commission with official certification of filing or withdrawal of any petition. While this information is now provided on a voluntary basis, the Commission does not receive an "official" notice of candidacies. Since such compilations are now maintained by the respective officials, no additional record keeping or reporting burden will be placed upon them.

SECTIONS AFFECTED: N.J.S.A. 19:23-21; 19:23-14; 19:23-22; 19:24-4.

RECOMMENDATION #9:

Revise the format of nominating petitions to include the initial forms to be filed by a candidate with the Commission and further provide candidates with notice of the filing requirements of the Reporting Act.

COMMENTARY:

Present law does not specify any notification to be provided to candidates that they are subject to filing requirements. As a result, particularly in primary elections, new candidates are often unaware of the obligation they have to file pre-election reports. A candidate's first awareness may occur upon receipt of correspondence from the Commission. However, the transmittal of such correspondence is possible only after the Commission has received the names of the candidates from the Secretary of State, county or municipal clerks. Since an individual may not file a petition until 40 days before the election, the candidate might not get notice until the filing date, presently 25 days before the election.

The Commission proposes that all nominating petitions for any office contain the Commission's Designation of Treasurer and Sworn Statement, Forms D-1 and A-1. These forms could be included and be removable so that the petition itself would provide forms needed to comply with the Reporting Act. If this proposal is not practical, at least the petition could contain a notice to candidates advising them that they must comply with the provisions of the Reporting Act. Such notice might read: "NOTICE: All candidates are required by law to comply with the provisions of the 'New Jersey Campaign Contributions and Expenditures Reporting Act'. For further information, please telephone 609-292-8700."

SECTIONS AFFECTED: N.J.S.A. 19:13-4; 19:23-7.

RECOMMENDATION #10:

Eliminate reporting obligations by banks serving as campaign depositories.

COMMENTARY:

Present law requires that banks which serve as designated campaign depositories of candidates must within 15 days after a primary or general election file with the Commission originals or true copies of candidate/ treasurer statements and deposit tickets. The Commission proposes that this requirement be repealed because it does not provide useful information through disclosure and is a burden on banks that might tend to discourage them from serving as depositories. Where the Commission has found it necessary to consult bank records, it has been able to obtain all pertinent records through the voluntary cooperation of the bank or through the Commission's subpoena power.

SECTIONS AFFECTED: Repeal Section 17 of the Act.

## SECTION II: ADJUSTMENTS TO THRESHOLDS

### RECOMMENDATION #11:

Increase from \$1,000 to \$2,000 the amount of money which may be spent by a candidate prior to the candidate having to file detailed (R-1) disclosure reports.

### COMMENTARY:

Present law permits a candidate, whose expenditures will not exceed \$1,000, to be relieved of detailed reporting obligations if such a candidate files with the Commission a one-page affidavit (Form A-1) to the effect that the total amount to be expended by the candidate or by others on his behalf, will not exceed \$1,000. The Commission proposes extending the application of this short form to instances where total expenditures by a candidate, or by all others on his behalf, do not exceed \$2,000.

The current \$1,000 threshold has been in existence since the inception of the Reporting Act in 1973. As a result of the increasing costs of campaigning, candidates for local offices whose total campaign expenditures are relatively small have, in increasing numbers, each year been faced with the obligation of filing detailed reports. The inflationary impact on campaign costs has imposed detailed reporting obligations and filing obligations upon candidates whose total campaign finance activity does not, in the judgement of the Commission, require detailed reports of receipts and expenditures.

The Commission proposes no change in the requirement that candidates filing Sworn Statements in lieu of a detailed report must disclose the amounts and sources of individual contributors above a designated amount (presently \$100).

Application of this recommendation during calendar year 1981 would have resulted in an approximate 21 percent reduction in the number of R-1 reports filed. Such a reduction would have encompassed only those candidates whose total expenditures were between \$1,000 and \$2,000. Implementing this recommendation will eliminate detailed reporting obligations for those candidates which have the least impact upon election finance activity.

SECTIONS AFFECTED: N.J.S.A. 19:44A-16(d)(e).

RECOMMENDATION #12:

Increase from \$100 to \$200 the amount that may be contributed to a candidate or a committee without the recipient having to identify the contributor.

COMMENTARY:

The identity of contributors whose contributions aggregate in an amount in excess of \$100 is presently required under the Reporting Act. The Commission proposes that the amount be increased to \$200.

The current \$100 disclosure threshold has been in existence since the inception of the Reporting Act in 1973. Inflationary impact over the ensuing nine years has eroded the significance of the \$100 contribution. To the extent that a \$100 contribution represented an activity which warranted disclosure the Commission believes that the passage of time and impact of inflation justify an increase in the disclosure threshold.

Enactment of the proposed increase in the contribution disclosure threshold will further alleviate reporting burdens upon those candidates who receive contributions in amounts less than \$200 per contributor. While, in the absolute sense, there will be a limitation to the information being disclosed, the Commission believes that such a result is outweighed by the fact that disclosure of contributors will be concentrated upon those instances having the most significant impact on election finance activity.

Implementation of this recommendation will result in the New Jersey contributor disclosure requirements being consistent with those under federal law. While not compelling, this resultant symmetry will facilitate the filing of campaign reports by federally qualified political action committees which the Commission has permitted to file copies of their federal reports to satisfy part of their New Jersey filing obligation.

SECTIONS AFFECTED: N.J.S.A. 19:44A-8; 19:44A-11; 19:44A-12; 19:44A-14; 19:44A-15; 19:44A-16(d)(e)(f)(g); 19:44A-18.

RECOMMENDATION #13:

Prohibit all currency contributions except those that qualify as "public solicitations". Increase the amount which may be contributed through a public solicitation from \$10 to \$20.

COMMENTARY:

Present law permits contributions of currency. As a result, it

is difficult, if not impossible, to verify that reporting entities have disclosed the identity of all major contributors. The only record of a currency contribution is that maintained by the reporting entity. However, a reporting entity willing to engage in illegal conduct can withhold the identity of a major currency contributor by merely characterizing the source of the contribution as coming from several contributors who do not exceed the threshold for disclosure of contributor identification. Furthermore, contribution by check minimizes any risk of reporting contributions under fictitious names. Banks are required to photocopy all checks deposited in a bank account. Accordingly, if the Commission determines that it is necessary to conduct an audit of a reporting entity, it would be possible to compare the campaign report with bank records and thereby verify the identity of all major contributors.

The Commission has also concluded that a complete bar to currency contributions would not be appropriate. Such an absolute prohibition could unduly alter and restrict traditional fund raising activities, (such as passing a hat, or collecting other voluntary currency contributions at the time of an event) while not significantly adding to the public's confidence in the disclosure system or the major contributor information available to the public through filing reports. Accordingly, the Commission concluded that it was appropriate not only to continue but also expand the concept of public solicitation.

The term "public solicitation" is defined in N.J.S.A. 19:44A-3(j) and permits a campaign to conduct such fund raising activity as passing the hat or collecting donations on a street corner so long as no cash contribution exceeding \$10 is solicited from any contributor. The Commission proposes raising this sum to \$20 per person so that candidates

and political committees may have more flexibility to conduct on the spot fund raising activities without incurring requirements to identify individual contributors or to obtain contributions by check or money order.

Record keeping for public solicitation could be satisfied, as is now the practice, by describing the nature of the event where the solicitation occurred, the approximate number of persons attending or otherwise involved, the total money collected, and the day and circumstances of the solicitation. It is the conclusion of the Commission that appropriate disclosure would be obtained from such a narrative rather than an accounting format. The Commission has also concluded that the basic information provided by such a narrative would provide sufficient information so that any instance where a very substantial contribution, in excess of the public solicitation limit, was being given and received as part of the solicitation could be identified.

The Commission's authority to impose civil penalties should be extended to violations of these requirements. Legislative consideration of the imposition of criminal penalties for the acceptance of cash contributions is also appropriate.

SECTIONS AFFECTED: N.J.S.A. 19:44A-3(j); 19:44A-9; 19:44A-10; 19:44A-19.



### SECTION III: TECHNICAL AMENDMENTS

#### RECOMMENDATION #14:

Clarify that receipts and expenditures occurring prior to a formal declaration of candidacy are subject to disclosure.

#### COMMENTARY:

Present law requires reporting and disclosure once an individual becomes a candidate. N.J.S.A. 19:44A-3(c). Such reports must include all financial activity from the inception of one's candidacy. Such a period clearly can and often does precede the formal filing of a petition seeking to place one's name on the ballot. Based upon the current law, the Commission has adopted a policy that pre-candidacy activity, commonly referred to as "testing the water" activity such as travelling, lectures, test polls, and the like, is not reportable even if the individual on whose behalf such activity is undertaken subsequently becomes a candidate. By contrast, the Federal Election Commission requires reporting if the individual subsequently becomes a candidate. 11C.F.R. 100.7(b)(1). (The FEC regulations also subject such testing the waters activity to applicable contribution and expenditure limitations. The Commission's proposal at this juncture does not address the application of such limitations as they would apply in the context of a gubernatorial candidacy. Rather, the Commission's recommendations presently deal solely with disclosure.)

The Commission proposes to adopt the federal position in recognition of the fact that financial activity for testing the waters raises substantial public interest concerns. Further, the delineation between pre- and post-candidacy financial activity is not always clear. Consequently, the public's interest in disclosure of those individuals

who are providing financing for an individual to determine whether a candidacy would be appropriate is significant.

Adoption of this policy would also provide further disclosure with regard to public referenda. At present, reporting is not required until a public question is certified for the ballot. Thereafter, the Commission's policy has required reporting of all activity associated with the certification of the public question. However, if a well financed campaign in opposition to the public question is able to prevent its certification, no public disclosure, of any kind, is required or obtained. By adopting the "testing the waters" position recommended by the Commission, the public would gain access to information about financial activity associated with the support or opposition of the certification of a public question prior to such a question being certified for inclusion as part of an election ballot.

SECTIONS AFFECTED: N.J.S.A. 19:44A-3.

RECOMMENDATION #15:

Clarify the current statutory obligation to disclose the identity of a contributor whose contributions in the aggregate exceed the disclosure threshold, and clarify that the disclosure requirement continues with every contribution in excess of the aggregate threshold.

COMMENTARY:

Present law is subject to possible uncertainty concerning the aggregation requirements for disclosing contributions in excess of the current \$100 disclosure threshold. The Commission proposes that the Act be amended to expressly require that once more than \$200 has been received from a single source (Recommendation #12) that source and any additional amount must be identified in subsequent reports.

SECTIONS AFFECTED: N.J.S.A. 19:44A-16(f).

RECOMMENDATION #16:

Clarify the existing obligation of candidates and treasurers to make and maintain contributor records.

COMMENTARY:

Present law does not expressly set forth the obligations of candidates, treasurers or political committees to maintain records of contributions. N.J.S.A. 19:44A-6(b)(2) authorizes the Commission to establish uniform methods of bookkeeping and the period of time any person is required to keep records. However, the law does not provide express penalty authority.

In the absence of detailed records of the identities of all contributors it is difficult, if not impossible, to verify the accuracy of campaign reports as they pertain to the identification of contributors and their contributions in excess of the disclosure threshold. (If a reporting entity is not required to maintain records of all contributors, it cannot aggregate contributions to determine if a single contributor, during the course of the campaign, has exceeded the threshold requiring disclosure of the contributor's identity.)

The Commission proposes that its present policy be codified by amending the Reporting Act to require candidates and political committees and their respective treasurers to make and maintain records of all contributions and to do so for four years.

SECTIONS AFFECTED: N.J.S.A. 19:44A-9; 19:44A-10.

RECOMMENDATION #17:

Clarify that the Reporting Act does not include candidates for state political party committee and delegates and alternates to national political party conventions.

COMMENTARY:

The present law is ambiguous as to whether candidates for state political party committee are subject to campaign finance reporting provisions. Further, the Act expressly requires delegates and alternates to national political party conventions to file. The Commission proposes that the Reporting Act be amended so it clearly excludes both of these categories of candidates. The Commission believes that the present law

does not require candidates for state political party committee to report. (See Commission Advisory Opinion 18-1981.) Further, federal statutes addressing reporting requirements of delegates and alternates to national political party conventions have been determined to pre-empt state reporting requirements.

SECTIONS AFFECTED: N.J.S.A. 19:44A-4.

RECOMMENDATION #18:

Delete the definition and statutory provisions relating to "political information organizations".

COMMENTARY:

Present law includes a definition for the term "political information organization" and imposes reporting requirements on such entities. The Commission proposes to delete this definition because it was principally included in the Act to impose filing requirements on organizations that conduct lobbying activity. Those portions of the Reporting Act that address lobbying were repealed by the enactment of Chapter 151 of the Laws of 1981 and therefore the term has no further application.

SECTIONS AFFECTED: N.J.S.A. 19:44A-3; 19:44A-8; 19:44A-13.

RECOMMENDATION #19:

Codify current Commission policy which permits obligations remaining at the conclusion of a candidacy to be assumed by an ongoing political committee.

COMMENTARY:

Current law is silent as to the assumption of candidate obligations in a post-election setting by other political committees. However, the current statute does require the filing of 60 day post-election reports until all receipts have been disposed of or any outstanding obligations have been appropriately discharged. The Commission has adopted a policy which permits ongoing political committees, with the exception of political party committees for primary elections, to assume a candidate's obligations and thus enable the candidate to stop reporting. Reporting of the candidate's outstanding obligations is done by the committee which assumed the outstanding obligations. Under the Commission's policy, political party committees may not assume primary election debts of candidates since such committees are prohibited by other provisions of law, unrelated to election finance reporting, from making contributions to primary election candidates.

The Commission recommends that its current policy be codified as part of the Reporting Act.

SECTIONS AFFECTED: N.J.S.A. 19:44A-16(b).

RECOMMENDATION #20:

Modify campaign disclosure reports so as to provide for cumulative reporting of campaign finance activities.

COMMENTARY:

Present law requires reporting candidates and political committees to disclose campaign finance activity occurring during the applicable

reporting period only. Accordingly, reports now filed seven days prior to an election reflect only that activity occurring the 25th day through the 8th day prior to the election. The Commission recommends that the statute be amended so as to provide for reporting of activity from the beginning of the campaign not merely during the reporting period in question.

SECTIONS AFFECTED: N.J.S.A. 19:44A-8; 19:44A-16(a), (b).

RECOMMENDATION #21:

Authorize the Election Law Enforcement Commission to adopt standards to provide for the administrative termination of filing requirements.

COMMENTARY:

The Commission proposes that it be authorized to enact regulations providing for the termination of reporting obligations where remaining deposits or outstanding obligations are de minimus. Candidates and committees are currently required to file reports until outstanding obligations are formally discharged. In some cases such obligations are de minimus in value and are unlikely ever to be formally discharged or forgiven. Accordingly, a primary purpose of this recommendation is to provide the means of relieving candidates and committees of continuing reporting obligations, every 60 days, when they have relatively small debts that they are unable to satisfy or remain with a relatively small amount of receipts. It is anticipated that the criteria to be adopted by regulation would consider such factors as the amount of funds remaining on deposit, the amount of outstanding obligations remaining unsatisfied,

the total amount of funds raised and spent by the reporting entity, and the length of time that these items have continued to be reported, without change.

SECTIONS AFFECTED: N.J.S.A. 19:44A-16(b).

RECOMMENDATION #22:

Clarify that filing requirements apply to a candidate even if no contributions are received or expenditures made on behalf of the candidate.

COMMENTARY:

The present language contained in the Reporting Act does not expressly address the filing requirements of candidates who neither receive contributions nor make expenditures. The Commission has consistently interpreted the Reporting Act to require that all candidates for all municipal, county, or state office must file at least the one-page sworn statement (Form A-1), even if no money is to be raised or spent. This policy has been adopted to insure the public confidence in the reporting system is protected and maintained. In the absence of receiving a report from a candidate, the public has no means of determining whether the candidate has spent nothing or whether the candidate in fact received contributions and made expenditures but has failed to comply with the filing obligation. It is the Commission's conclusion that the promotion of public confidence in the disclosure program compels the filing by candidates who make no expenditures, particularly in recognition of the fact such a filing requirement can be satisfied by the mere execution of a simple one-page statement attesting to the lack of expenditures.



SECTIONS AFFECTED: N.J.S.A. 19:44A-16(a).

RECOMMENDATION #23:

Clarify that the Governor has the authority to appoint any Commission member as its Chairman.

COMMENTARY:

Present law is ambiguous as to the authority of the Governor to appoint a member of the Commission as its chairman. N.J.S.A. 19:44A-5 provides that "[t]he Governor shall designate one of his appointees to serve as chairman of the Commission". This provision could be construed to limit the Governor in a selection of a chairman to only those Commissioners appointed by that Governor. The Commission proposes to remove any ambiguity surrounding the Governor's appointment powers with respect to its chairman.

SECTIONS AFFECTED: N.J.S.A. 19:44A-5.