

June 12, 1980

Hon. Michael J. Matthews  
2030 New Road  
Linwood, N. J. 08221

Re: A.O. 27-80

Dear Assemblyman Matthews:

This letter is in response to your letter of May 28 received on June 2, 1980 by the Election Law Enforcement Commission in which you request an advisory opinion concerning N.J.S.A. 40:73-1.

A review of our advisory opinion files reveals that this same question was asked of the Commission in 1979 by a Joseph Hillman, an attorney in Belmar, New Jersey. Enclosed herewith is a copy of that opinion (advisory opinion No. 0-06-79) and Mr. Hillman's request. The advisory opinion in that case has application to your request because the questions appear to be identical.

Very truly yours,

LEWIS B. THURSTON, III  
Executive Director

LBT/cm  
encl.

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CHIEF CLERK

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VICE CHAIRMAN

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ELECTION LAW ENFORCEMENT  
COMMISSION

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SUITE 1114

TRENTON, N.J. 08605

(609) 292-8700

LEWIS B THORNTON, II  
DIRECTOR

EDWARD J FARRELL  
COUNSEL

RECEIVED  
AUG 7 1979  
N.J. ELECTION  
LAW ENFORCEMENT  
COMMISSION

August 6, 1979

Joseph Hillman, Jr., Esquire  
Messrs. Hillman, Badach & Sullivan  
517 Fifth Avenue  
Belmar, New Jersey 07719

Re: The New Jersey Campaign Contributions and  
Expenditures Reporting Act, Chapter 83, Laws  
of 1973 as Amended and Supplemented ("the Act")  
Your letter dated May 15, 1979  
Opinion #0-06-79

Dear Mr. Hillman:

Your letter dated May 15, 1979, to the New Jersey  
Election Law Enforcement Commission ("the Commission"),  
including a request for advisory opinion, has been for-  
warded to me for reply.

The Commission does not have authority to advise  
generally with respect to the election laws, since its  
authority is limited to the area of its responsibility,  
which is the New Jersey Campaign Contributions and Expen-  
ditures Disclosure Act (N.J.S.A. 19:44A-1, et seq). This  
Act forms only a part of the election law of New Jersey  
which is contained in Title 19 of the New Jersey statutes.  
The remainder of the election law is under the jurisdiction  
of the Attorney General of New Jersey.

For your information I am enclosing a copy of Assembly  
Bill No. 3470 introduced on June 24, 1979 which would repeal  
the provision of N.J.S.A. 40:73-1 to which your request refers.  
For further information, we would suggest that you contact the  
office of the Attorney General of New Jersey.

Yours very truly,



Edward J. Farrell  
Legal Counsel

EJF:no

Enclosure

HILLMAN, BADACH & SULLIVAN RECEIVED

A PROFESSIONAL CORPORATION

*Attorneys at Law*

517 FIFTH AVENUE  
BELMAR, NEW JERSEY 07719

MAY 17 1979

JOSEPH HILLMAN, JR.  
FRANK J. BADACH  
MARE A. SULLIVAN, JR.

JAMES P. BEGGANS  
OF COUNSEL

REPLY TO  
N.J. ELECTORAL LAW ENFORCEMENT COMMISSION  
P O BOX J  
BELMAR, NJ 07719  
AREA CODE 201  
681 1500

May 15, 1979

Lewis B. Thurston, III  
Executive Director  
Election Law Enforcement Commission  
28 W. State Street  
Trenton, NJ 08608

Re: N.J.S. 40:73-1

Dear Mr. Thurston:

I have served during the recent municipal elections as the treasurer for successful candidates for the office of Commissioner in the Borough of Belmar, Monmouth County, New Jersey. In addition to the campaign disclosure requirements set forth in N.J.S. 19:44A-1 et seq., there appears to be additional disclosure requirements imposed upon successful candidates under the Commission form of government pursuant to N.J.S. 40:73-1:

"Every elective officer in any such municipality, shall, within ten days after qualifying, file with the Municipal Clerk, and publish at least once in a newspaper printed and published in such municipality, and if there be no such newspaper then in a newspaper of general circulation in the municipality, his sworn statement of all his election and campaign expenses, and by whom such funds were contributed. Any violation of the provisions of this section shall be a misdemeanor and a ground for removal from office".

Assuming that "elective officer" is defined to include successful candidates for the office of Commissioner, N.J.S. 40:73-1 appears to be duplicative, onerous and perhaps a denial of due process of law since it applies only to successful candidates for office. N.J.S. 40:73-1 does not appear to have been repealed specifically by the adoption of N.J.S. 19:44A-1 et seq. I am

Lewis B. Thurston, III  
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requesting an advisory opinion from the Commission whether N.J.S. 40:73-1 has been repealed by implication. I realize implied repealer is a creature of case law and must be strictly limited in its application. However, the Legislature must have known of the requirements of N.J.S. 40:73-1 when it adopted N.J.S. 19:44A-1 et seq. I cannot conceive of any logical reason to retain special legislation of this type considering the broad scope and remedial nature of N.J.S. 19:44A-1.

If you should determine that an advisory opinion by the Commission is not appropriate since the legislation in question does not fall within its jurisdiction, I would request that you forward this letter to the Attorney General and join in my request for an advisory opinion from the Attorney General on the issue of implied repealer. Since the opinion requested will require more time than allowed under the statute for compliance, I have prepared and filed a report which I believe complies with N.J.S. 40:73-1, which has been sworn to by each of the candidates involved.

Please give my thanks to Gregory Nagy, Esq., of your legal staff for his assistance. If this matter turns out to be one of "legislative oversight", I hope that the Commission will take some affirmative action to correct the situation. Election laws are tough enough without duplication and inconsistent requirements that appear to apply in the instant case. Thank you in advance for your assistance.

Very truly yours,

HILLMAN, BADACH & SULLIVAN

BY

JOSEPH HILLMAN, JR.

JH/dfa