



ELEC *tronic*

An Election Law Enforcement Commission Newsletter

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Comments from the Chairman

Eric H. Jaso

When New Jersey lobbyists (described in the law as “governmental affairs agents”) file their annual financial reports in February, they will do so electronically.

This initiative is part of the Commission’s ongoing effort to enhance disclosure and modernize its delivery of services to the public.

Through this relatively new program, lobbyists file annual financial reports electronically.

The annual reports detail information on clients, fees, communication costs, benefit passing, and lobbyist salaries.

These reports enable the public to observe the activities of individual lobbyists, their firms, and learn the interests they represent. ELEC staff also uses the information to analyze trends in New Jersey lobbying.

For example, last year’s reports showed a marked decrease in benefit passing and a considerable increase in grassroots lobbying/issue advocacy.

Benefit passing represents goodwill lobbying in the traditional sense of lobbyists paying for a legislator’s meal, the theatre, a ballgame, etc.

Grassroots lobbying involves lobbyists communicating directly with the public through advertising and other means, such as social media, in order to mobilize the people on behalf of legislation or regulation.

The new e-filing program enables approximately 935 lobbyists to save time by using the online form. Lobbyists can save the forms for resubmission in future years and revise them to reflect any changes.

Among the many enhancements which accompanied the initiative are streamlined forms and software that performs all calculations.

In addition, lobbyists can refresh the document with new information or delete outdated information.

While this initiative was certainly a step in the right direction, ELEC by no means rested on its laurels. Now, the agency enables electronic filing of reports of lobbying activity filed each quarter, Notices of Representation, and Notices of Termination.

These new electronic filing programs are examples of how ELEC has managed to do more with less. Other recent accomplishments include electronic filing for “pay-to-play” reporting and creating and publishing a local contributor database.

We are proud of having moved forward with these new initiatives, and accomplished our goals, despite budgetary and staffing restraints.

ELEC is dedicated to providing the public with excellent service and accurate, timely information about lobbyist activities, political contributions and election-related spending. These initiatives help us continue to meet those objectives.

“Furthering the Interest of an Informed Citizenry”

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COMMISSIONERS:

Eric H. Jaso, Chairman
 Stephen M. Holden, Commissioner
 Marguerite T. Simon, Commissioner
 Edwin R. Matthews, Legal Counsel

Executive Director's Thoughts

Jeff Brindle

Federal Case Could Upend New Jersey's Campaign Finance Law

Reprinted from [Observer / PolitickerNJ.com](#)

On Nov. 28, the U.S. Court of Appeals for the District of Columbia ruled that limits on individual contributions to candidates for a single election are constitutional.

Laura Holmes and Paul Jost, a married couple from Florida, challenged a provision in the Federal Election Campaign Act (FECA) that limits contributions by individuals to \$2,700 in the primary and \$2,700 in the general election.

As noted in [a previous column in Observer](#), in New Jersey, "The state's statute specific to this issue mirrors federal law." In other words, individuals in New Jersey are permitted to contribute \$2,600 in the primary and a separate \$2,600 in the general election.

Therefore, a contrary ruling declaring the federal structure unconstitutional would have affected New Jersey's campaign finance law. It still might, if the U.S. Supreme Court takes up the case and finds for Holmes and Jost.

Their challenge centered on the argument that, under federal law, candidates who are not opposed in the primary are allowed to "bank" election contributions for general election purposes.

According to the plaintiffs, "banking," or rolling over \$2,600 to the general election, allows a candidate to spend \$5,200 in the general election. This, they say, gives an unfair advantage to an unopposed candidate over an opponent who was engaged in a competitive contest.

Holmes and Jost, while not challenging contribution limits per se, maintain that it is a violation of their First Amendment rights to bar them from contributing \$5,200, or two times \$2,600, to a candidate in the general election.

In other words, the plaintiffs were calling for contribution limits based on an election-cycle standard rather than a per-election basis.

The Appeals Court rejected "plaintiffs' invitation to upend the per-election structure of FECA's base limits on individual contributions to candidates."

In referencing the U.S. Supreme Court's bow to Congress in establishing contribution limits in general, the Appeals Court stated, "we conclude the same is true of Congress' intertwined choice of the time frame in which that amount may be contributed."

Despite the fact that the 11-judge D.C. Court upheld FECA's per-election contribution limit basis, the case may well be appealed and taken up by the U.S. Supreme Court.

Bradley Smith, a former FEC member and free speech advocate, said the election-cycle contribution split clearly favors incumbents, who often face little primary opposition and

simply roll their primary contributions into their general election campaign kitties.

"Campaign finance laws often raise difficult questions about the intersection of free speech and elections, but not every case is a tough one. Some laws are just plain dumb and unfair, no matter what your views on campaign finance," said Smith in an April 10, 2017, op-ed column in the Washington Examiner. His group, Center for Competitive Politics, represents the Holmes and Jost.

Opponents say the case could be a trojan horse to try to unravel contribution limits entirely, or at least push the courts closer to that point. "This is a seemingly minor case that could have major implications for campaign finance regulation," said Noah Lindell of the Campaign Legal Center in a March 27, 2017, analysis of the case.

If the Supreme Court does take up the case, how it will rule is anyone's guess. It could defer to Congress and, as in *Buckley v. Valeo* (1976), to precedent. Conversely, a newly constituted conservative-leaning court could find the per-election contribution limit structure in violation of First Amendment rights.

If the high court were to reverse the Appeals Court it would not only upend the federal per-election contribution limit structure but New Jersey's structure as well.

New Jersey's statute is in many ways identical to federal law. Individuals are permitted to contribute \$2,600 in the primary and \$2,600 in the general. Moreover, candidates in

New Jersey are permitted to carry over campaign funds into the next election cycle.

Where the state's statute differs from the federal model is in the fact that candidates are allowed to form joint committees, permitting double — sometimes triple — the \$2,600 contribution to an individual candidate committee.

If the U.S. Supreme Court were to find federal per-election contribution limits unconstitutional, New Jersey's per-election basis would similarly be deemed in violation of the First Amendment.

Candidates would have to establish election-cycle committees rather than separate committees applicable to the primary and general elections.

A contribution limit of \$5,200 per cycle would apply to single candidate committees with multiples of that figure applying to joint candidate committees.

A variation of this concept already applies to political parties and political action committees (PACs). Contribution limits apply to these entities on a per-year, rather than per-election, basis.

If the U.S. Supreme Court accepts the case, it certainly is preferred that it rule against Holmes and Jost. To do so would help to maintain stability in the campaign finance system. However, if the court were to rule in favor of the plaintiffs, it would not be the end of the world.

The same rules of transparency, record-keeping, permissible uses of campaign funds, and reporting would apply, and the integrity of

contribution limits would continue to be protected. In some ways an election-cycle structure may make matters simpler and more straightforward, and perhaps more fair.

Public Hearing

The New Jersey Election Law Enforcement Commission is proposing amendments concerning statutorily required inflationary campaign cost adjustments for non-Gubernatorial and Gubernatorial candidates and committees.

According to Executive Director Jeff Brindle, among other provisions, the proposed amendments:

- Implement statutorily-required quadrennial inflationary adjustments to specific limits and thresholds in the New Jersey Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.);
- Apply an index of **13.13** percent to the various limits and thresholds required to be adjusted and round adjustments pursuant to statutory direction;
- Adjust the threshold for Form A-3 (Committee – Sworn Statement); and
- Adjust the threshold for 48-hour expenditure reporting notice requirements for political party committees, legislative leadership committees, independent expenditure filers, and candidates.

The proposed amendments were published in the New Jersey Register on November 6, 2017, and are available on the Commission's website at www.elec.state.nj.us. Copies of the Commission's proposal may also be obtained by calling the Commission at (609) 292-8700.

The Commission will conduct a hearing to elicit public comment concerning the proposal on **Tuesday, January 16, 2018 at 11:00 A.M.** at:

Election Law Enforcement Commission
25 South Stockton Street, 5th Floor
Trenton, New Jersey 08608

The Commission invites participation in this hearing and requests that any testimony be limited to no more than ten minutes. Persons wishing to testify at the January 16, 2018 hearing are requested to reserve time to speak by contacting Administrative Assistant Elbia L. Zeppetelli at (609) 292-8700 no later than **Tuesday, January 9, 2018.**

Submit written comments by **January 11, 2018** to:

Scott T. Miccio, Assistant Legal Counsel
Election Law Enforcement Commission
P. O. Box 185
Trenton, New Jersey 08625-0185

20-Day Post Election Reports Reveal New Record

Driven skyward by what appears to be the most expensive legislative campaign in American history, independent spending in legislative races reached a new record in 2017, according to reports filed with the New Jersey Election Law Enforcement Commission.

An estimated \$14.4 million was spent by independent groups just in the third legislative district, with the total cost reaching about \$18.7 million when candidate spending is included. Data provided by the National Institute on Money in State Politics indicates this may be the most money ever spent in a single legislative district throughout the United States.

Table 1
Most Expensive Legislative Campaigns in the United States*

STATE	YEAR	WINNER	PARTY	DISTRICT	INDEPENDENT SPENDING	CANDIDATES-CONTRIBUTIONS/SPENDING	TOTAL	INFLATION ADJUSTED
NJ	2017	Sweeney, Senate President Steve	Democrat	3	\$14,421,793	\$ 4,322,147	\$18,743,940	\$18,743,940
CA	2000	Burton, Senator John	Democrat	3	NONE	\$11,529,589	\$11,529,589	\$16,515,232
CA	2016	Grayson, Assemblyman Tim	Democrat	14	\$10,877,097	\$ 1,700,541	\$12,577,638	\$12,926,448
CA	2008	Strickland, Senator Tony	Republican	19	\$ 2,126,934	\$ 8,534,885	\$10,661,819	\$12,214,768
CA	2014	Backer, Assemblywoman Catharine	Republican	16	\$ 7,134,313	\$ 4,544,783	\$11,679,096	\$12,168,833

*List includes campaigns where most or all of money was spent in district. Illinois House Republican Leader Jim Durkin raised \$19.4 million in 2016 election but gave \$18.5 million to other candidates or parties. Non-New Jersey candidate totals are contributions and were provided by the National Institute on Money in State Politics.

“As independent special interest groups rapidly expand their influence over elections, spending records seem to be falling by the wayside almost every election cycle,” said Jeff Brindle, ELEC’s Executive Director. “The amount spent on the third legislative district alone this year is staggering. It is more than most past gubernatorial candidates have spent statewide.”

“We urge both parties to adopt ELEC-recommended legislation that would require independent spenders to fully disclose their fund-raising and spending in New Jersey campaigns,” he added.

Independent spending totaled \$20.9 million in the general election and \$2.2 million in the primary for a grand sum of \$23 million. That is 43 percent more than the previous record of \$16.1 million in the 2013 election year.

Table 2
Spending by Independent Special Interest Committees in New Jersey Legislative Elections

YEAR	PRIMARY	GENERAL	BOTH ELECTIONS	HOUSES RUNNING
2007	\$ 0	\$ 165,000	\$ 165,000	Senate, Assembly
2009	\$ 0	\$ 15,999	\$ 15,999	Assembly
2011	\$ 0	\$ 1,835,000	\$ 1,835,500	Senate, Assembly
2013	\$ 635,354	\$15,442,717	\$16,078,071	Senate, Assembly
2015	\$ 924,723	\$10,724,287	\$11,649,010	Assembly
2017	\$2,160,923	\$20,893,258	\$23,054,181	Senate, Assembly

Reports that reflect campaign finance activity through November 24 show legislative candidates have raised \$43 million, spent \$35.4 million, and report \$7.7 million in cash reserves, which can be tapped for future campaigns. Overall spending in the general election, including independent committees, totals \$56.3 million.

Table 3
Campaign Finance Activity of Legislative Candidates through November 24, 2017 (General Election Only)

GROUP	RAISED	SPENT	CASH-ON-HAND
Legislative Candidates	\$42,991,915	\$35,384,677	\$7,658,934
Independent Committees	NA	\$20,893,258	NA
TOTAL		\$56,277,935	

Largely due to its involvement in the 3rd district race, Garden State Forward, a 527 political organization operated by the New Jersey Education Association, topped all independent spenders in this year’s legislative elections at \$6.6 million.

Another group heavily involved in the same race, New Jerseyans for a Better Tomorrow, spent about \$5.8 million and took the number two spot.

Table 4
Independent Committee Spending on 2017 Legislative Elections

GROUP	PRIMARY	GENERAL	BOTH ELECTIONS
Garden State Forward (New Jersey Education Association)***	\$ 640,574	\$ 5,947,098	\$ 6,587,672
New Jerseyans for a Better Tomorrow	\$ 825,043	\$ 5,002,655	\$ 5,827,698
General Majority PAC		\$ 5,555,354	\$ 5,555,354
Stronger Foundations Inc (Operating Engineers Local 825)	\$ 285,100	\$ 1,225,105	\$ 1,510,205
Carpenters for Growth and Progress		\$ 1,250,500	\$ 1,250,500
NJ Coalition of Real Estate	\$ 15,000	\$ 566,568	\$ 581,568
Better Education for Kids Inc.*	\$ 80,726	\$ 357,347	\$ 438,073
Progressive Values Committee		\$ 410,030	\$ 410,030
Growing Economic Opportunities (Laborers)	\$ 158,491	\$ 163,577	\$ 322,068
Republican State Leadership Committee**		\$ 212,056	\$ 212,056
Opportunity for All		\$ 135,030	\$ 135,030
National Association of Realtors Fund	\$ 117,481		\$ 117,481
General Growth Fund (General Majority affiliate)		\$ 43,264	\$ 43,264
Local Government Voter Education	\$ 36,058		\$ 36,058
New Jersey Working Families		\$ 17,181	\$ 17,181
Food and Water Action		\$ 7,493	\$ 7,493
New Jersey Family First	\$ 2,450		\$ 2,450
TOTAL	\$2,160,923	\$20,893,258	\$23,054,181

*Also gave \$25,000 to Senate Democratic Majority
 **Also gave \$25,000 to Senate Republican Majority
 ***Includes \$250,000 to Progressive Values Committee

An estimated one of three dollars spent on the 2017 legislative election poured into the third legislative district.

Table 5
Estimated Cost of 3rd District
Legislative General Election

GROUP	AMOUNT	NOTE
New Jerseyans for a Better Tomorrow	\$ 5,002,655	
Garden State Forward (NJEA)	\$ 4,757,678	Committee gave no district breakdown. Estimate based on heavy media spending in district. Represents 80 percent of total legislative spending.
Candidates- Democrats	\$ 4,125,878	
General Majority PAC	\$ 2,627,793	Contribution to New Jerseyans
Carpenters Fund for Growth and Progress	\$ 1,250,500	Includes \$250,000 to General Majority
Better Education for Kids	\$ 357,347	
NJ Coalition of Real Estate	\$ 296,400	
Candidates- Republicans	\$ 196,269	
Stronger Foundations Inc. (Operating Engineers)	\$ 129,420	
League of Humane Voters of NJ	NA	Spent under \$6,300; no details required
PROJECTED TOTAL	\$18,743,940	

Another indication of the extraordinary scope of spending in the district is that media spending alone totaled at least \$7.6 million, according to Advertising Analytics, an advertising tracking service.

The 3rd district media buy alone- \$8.6 million- is more than the previous state record for a legislative district- the \$6.1 million campaign in 2003 between Democratic Senator Fred Madden (D-4th) and Republican George Geist. (In current dollars, it cost \$8.2 million).

Table 6
Television Advertising Buys
June through November

GROUP	AMOUNT
Garden State Forward	\$3,263,283
New Jerseyans for a Better Tomorrow	\$2,066,000
Sweeney Burzichelli & Taliaferro	\$1,519,000
Sweeney, Stephen*	\$ 996,141
Carpenters Fund for Growth and Progress	\$ 732,000
TOTAL	\$8,576,424

Source: Advertising Analytics
 *Candidate reports

Ten of the 40 legislative districts- one quarter of the total- drew at least \$40 million in spending, about 71 percent of the \$56.3 million spent overall on the general election.

**Table 7
Top Ten Districts by Spending**

DISTRICT	CANDIDATES	INDEPENDENT COMMITTEES*	TOTAL SPENDING
3	\$4,322,147	\$14,421,793	\$18,743,940
11	\$3,729,836	\$ 1,226,713	\$ 4,956,549
2	\$3,247,506	\$ 587,956	\$ 3,835,462
16	\$2,757,545	\$ 347,970	\$ 3,105,515
38	\$2,118,009		\$ 2,118,009
39	\$1,984,134		\$ 1,984,134
36	\$1,649,714		\$ 1,649,714
21	\$1,366,945		\$ 1,366,945
8	\$ 747,227	\$ 382,820	\$ 1,130,047
14	\$1,029,062		\$ 1,029,062
		TOTAL	\$39,919,377

*District breakdown not available for all expenditures.

Democrats enjoyed an overwhelming fund-raising advantage over Republicans and independent candidates.

**Table 8
Party Breakdown of Legislative Campaign Finance Activity
through November 24, 2017**

PARTY	RAISED	SPENT	CASH-ON-HAND
Democrats	\$31,834,507	\$25,403,202	\$6,466,113
Independent Candidates	\$ 16,513	\$ 15,941	\$ 543
Republicans	\$11,140,896	\$ 9,965,534	\$1,192,279
TOTAL	\$42,991,915	\$35,384,677	\$7,658,934

Losers were woefully outspent by winners, most of whom were incumbents.

**Table 9
Campaign Finance Activity
Winners Versus Losers**

GROUP	RAISED	SPENT	CASH-ON-HAND
Winners	\$36,110,348	\$28,952,901	\$7,198,380
Losers	\$ 6,881,567	\$ 6,431,776	\$ 460,554
TOTAL	\$42,991,915	\$35,384,677	\$7,658,934

Assembly candidates raised more and spent more funds but Senate candidates have more leftover cash.

Table 10
Campaign Finance Activity by Legislative House

GROUP	RAISED	SPENT	CASH-ON-HAND
Assembly Candidates	\$22,570,547	\$19,204,127	\$3,407,132
Senate Candidates	\$20,421,368	\$16,180,550	\$4,251,802
TOTAL	\$42,991,915	\$35,384,677	\$7,658,934

Numbers for candidates are taken from 20-day post-election fundraising reports received by noon November 30, 2017. They reflect activity through November 24.

Reports filed by legislative and gubernatorial candidates are available online on ELEC’s website at www.elec.state.nj.us. A downloadable summary of data from legislative reports is available in both spreadsheet and PDF formats at <http://www.elec.state.nj.us/publicinformation/statistics.htm>.

Some, but not all, independent groups file reports with ELEC. These reports can be searched at <http://www.elec.state.nj.us/ELECReport/SearchIndExp.aspx>. Some also disclose their activities in reports made public by the Internal Revenue Service at www.irs.gov/Charities-&-Non-Profits/Political-Organizations.

2018 Meeting Schedule

Unless otherwise indicated in the future, meetings will be held at the Commission’s offices at **25 South Stockton Street, 5th Floor, in Trenton**. It is anticipated that meetings will begin at 11:00 a.m., unless otherwise indicated.

January.....	16
February.....	20
March.....	20
April.....	17
May	15
June.....	19
July.....	17
August.....	21
(if needed)	
September	18
October	16
November	20
December	18

2018 Reporting Dates

	INCLUSION DATES	REPORT DUE DATE
FIRE COMMISSIONER - FEBRUARY 17, 2018		
29-day Preelection Reporting Date	Inception of campaign* - 1/16/18	1/19/2018
11-day Preelection Reporting Date	1/17/2018 - 2/3/2018	2/6/2018
20-day Postelection Reporting Date	2/4/2018 - 3/6/2018	3/9/2018
48-Hour Notice Reports Start on 2/4/2018 through 2/17/2018		
APRIL SCHOOL BOARD - APRIL 17, 2018		
29-day Preelection Reporting Date	Inception of campaign* - 3/16/2018	3/19/2018
11-day Preelection Reporting Date	3/17/2018 - 4/3/2018	4/6/2018
20-day Postelection Reporting Date	4/4/2018 - 5/4/2018	5/7/2018
48-Hour Notice Reports Start on 4/4/2018 through 4/17/2018		
MAY MUNICIPAL - MAY 8, 2018		
29-day Preelection Reporting Date	Inception of campaign* - 4/6/2018	4/9/2018
11-day Preelection Reporting Date	4/7/2018 - 4/24/2018	4/27/2018
20-day Postelection Reporting Date	4/25/2018 - 5/25/2018	5/29/2018
48-Hour Notice Reporting Starts on 4/25/2018 through 5/8/2018		
RUNOFF (JUNE) ** - JUNE 12, 2018		
29-day Preelection Reporting Date	No Report Required for this Period	
11-day Preelection Reporting Date	4/25/2018 - 5/29/2018	6/1/2018
20-day Postelection Reporting Date	5/30/2018 - 6/29/2018	7/2/2018
48-Hour Notice Reporting Starts on 5/30/2018 through 6/12/2018		
PRIMARY (90-DAY START DATE: MARCH 7,2018)*** - JUNE 5, 2018		
29-day Preelection Reporting Date	Inception of campaign* - 5/4/2018	5/7/2018
11-day Preelection Reporting Date	5/5/2018 -5/22/2018	5/25/2018
20-day Postelection Reporting Date	5/23/2018 - 6/22/2018	6/25/2018
48-Hour Notice Reporting Starts on 5/23/2018 through 6/5/2018		
GENERAL (90-DAY START DATE: AUGUST 8, 2018)*** - NOVEMBER 6, 2018		
29-day Preelection Reporting Date	6/23/2018 - 10/5/2018	10/9/2018
11-day Preelection Reporting Date	10/6/2018 - 10/23/2018	10/26/2018
20-day Postelection Reporting Date	10/24/2018 - 11/23/2018	11/26/2018
48-Hour Notice Reporting Starts on 10/24/2018 through 11/6/2018		

RUNOFF (DECEMBER) - DECEMBER 4, 2018**

29-day Preelection Reporting Date	No Report Required for this Period	
11-day Preelection Reporting Date	10/24/2018 - 11/20/2018	11/23/2018
20-day Postelection Reporting Date	11/21/2018 - 12/21/2018	12/24/2018
48-Hour Notice Reporting Starts on 11/21/2018 through 12/4/2018		

PACS, PCFRS & CAMPAIGN QUARTERLY FILERS

1 st Quarter	1/1/2018 - 3/31/2018	4/16/2018
2 nd Quarter	4/1/2018 - 6/30/2018	7/16/2018
3 rd Quarter	7/1/2018 - 9/30/2018	10/15/2018
4 th Quarter	10/1/2018 - 12/31/2018	1/15/2019

GOVERNMENTAL AFFAIRS AGENTS (Q-4)

1 st Quarter	1/1/2018 - 3/31/2018	4/10/2018
2 nd Quarter	4/1/2018 - 6/30/2018	7/10/2018
3 rd Quarter	7/1/2018 - 9/30/2018	10/10/2018
4 th Quarter	10/1/2018 - 12/31/2018	1/10/2019

*Inception Date of Campaign (first time filers) or from January 1, 2018 (Quarterly filers).

**A candidate committee or joint candidates committee that is filing in a 2018 Runoff election is not required to file a 20-day postelection report for the corresponding prior election (May Municipal or General).

***Form PFD-1 is due on April 12, 2018 for Primary Election Candidates and June 15, 2018 for Independent General Election Candidates.

Note: A fourth quarter 2017 filing is needed for Primary 2018 candidates if they started their campaign prior to December 7, 2017. A second quarter 2018 filing is needed by Independent/Non-Partisan General Election candidates if they started their campaign prior to May 9, 2018.

HOW TO CONTACT ELEC

www.elec.state.nj.us

In Person: 25 South Stockton Street, 5th Floor, Trenton, NJ
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