

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

September 13, 1979 Meeting

PRESENT

Sidney Goldmann, Chairman
Josephine S. Margetts, Member
Andrew Axtell, Member
Lewis B. Thurston, Executive Director
Edward J. Farrell, General Legal Counsel
Herbert Wolfe, Assistant Executive Director
*Gregory E. Nagy, Staff Counsel

The chairman called the meeting to order and announced that pursuant to the Open Public Meetings Law, P. L. 1975, c.231, annual notice of the meetings of the Commission, as amended, has been filed with the Secretary of State's office, and that copies have been posted in the State House Annex, and mailed to the Newark Star Ledger, the Philadelphia Bulletin and the entire State House press corps.

The meeting convened at 10:15 a.m.

1. Tribute to Commission member Archibald S. Alexander, deceased

Chairman Goldmann and the other members of the Commission and staff present, expressed their shock, sadness and regret at the sudden death of Commission member Archibald S. Alexander on September 3, 1979. The Commission members agreed to adopt the resolution attached to these minutes expressing its profound regret on Mr. Alexander's death and its sincere condolences to his family. It was agreed that a copy of the resolution will be forwarded to Mrs. Alexander.

2. Regulation Governing Filing Obligations of Political Action Committees

The Commission reviewed the comments submitted by a number of political action committees to its proposed regulation governing their filing requirements which was published in the August edition of the New Jersey Register. The Commission agreed to modify the regulation in several respects (see copies of the proposed and final adopted regulation attached to these minutes). On a motion by Commissioner Axtell, seconded by Commissioner Margetts and a vote of 3-0, the Commission agreed to adopt the modified regulation.

3. Reporting Obligations of Political Information Organizations

The Commission discussed the current status of these requirements, including the current status of the case of New Jersey Chamber of Commerce, et al. vs. New Jersey Election Law Enforcement Commission, now awaiting a decision by the New Jersey Supreme Court. The Commission had previously postponed the filing dates for 1977 and 1978 Annual Reports of such organizations because of the pendency of this litigation, with the latest dates being October 31, 1979 for designation of campaign treasurer and depository and December 1, 1979 for the filing of 1977 and 1978 Annual Reports. In view of the continued pendency of this matter before the New Jersey Supreme Court and the imminence of the adjourned filing dates, the Commission agreed that a further postponement was now appropriate. On a motion by Commissioner Margetts, seconded by Commissioner Axtell and a vote of 3-0, the Commission agreed to postpone the filing date for designations of treasurer and depository to January 31, 1980 and the dates for the filing of 1977 and 1978 Annual Report of political information organizations to March 1, 1980.

4. Review of Effect of Office of Administrative Law Procedures on E.L.E.C. Enforcement Proceedings

The executive director and staff counsel reported on the experience to date with hearings conducted in recent months by the Office of Administrative Law. The Commission generally discussed areas of difficulty. It was agreed that settlements or consent orders which might be requested to be entered into by representatives of the Commission would be inappropriate and contrary to the letter and spirit of the Campaign Contributions and Expenditures Reporting Act. It was also agreed that in certain cases where a penalty history in similar cases can be readily provided that a representative of the Commission would be authorized to make such representations at the hearings, but that in other cases the Commission representatives would not be so authorized and such representations would not be appropriate. It was further agreed that Chairman Goldmann and the executive director will meet with Mr. Kestin, Director of the Office of Administrative Law, to discuss these matters and communicate the policy to him.

5. Advisory Opinion Requests

0-10-79, Kurt Johnson - The Commission reviewed this advisory opinion request and agreed upon a response, indicating that in the facts and circumstances of this case as presented, N.J.S.A. 19:44A-11 does not prohibit political party clubs from making expenditures on behalf of candidates in primary elections.

0-11-79, Paterson Regional Development Corporation - The Commission discussed this advisory opinion request and agreed upon a response, indicating that in the facts and circumstances of this case as presented the corporation would be subject to the reporting requirements of the Campaign Contributions and Expenditures Reporting Act relative to its activity on behalf of the public question to change the form of Government in Passaic County, beginning at the time that the public question is authorized for the ballot.

6. Status Report on Legislation to Provide Public Financing of Gubernatorial Primary Elections

The executive director indicated that A1698, the legislation to provide for public financing and contribution limits for gubernatorial primary elections, which has passed both houses of the New Jersey Legislature, is still awaiting action by the Governor. He reported further that a bill to provide for expenditure limitations in both the primary and general elections for Governor had just been introduced by Senator Steven Perskie and indicated he expected the Governor to support this legislation. The Commission indicated that this legislation is inconsistent with the approach recommended by the Commission in its report on public financing.

7. Attorney General's Opinion Re Political Action Committees of Banks

The Commission reviewed the opinion of the Attorney General rendered to the Commission recently in response to a 1977 request by the Commission on the question of whether certain aspects of political action committees by banks were inconsistent with N.J.S.A. 19:34-45, which generally prohibits contributions to candidates or parties by banks. The executive director indicated that he had forwarded a copy of the opinion to the Commissioner of Banking and to the New Jersey Banker's Association.

8. Approval of Minutes of Commission Meeting of August 1, 1979

On a motion by Commissioner Axtell, seconded by Commissioner Margetts and a vote of 3-0, the Commission approved the public session minutes of the meeting of the Commission of August 1, 1979.

9. Complaint by Assemblyman Dean Gallo Re Bumper Sticker for Voter Registration

The executive director reported that a complaint had been received by Assembly Assistant Minority Leader Dean Gallo to the effect that bumper stickers distributed by the Office of the Secretary of State urging persons to register to vote, which contained the names of Governor Byrne and Secretary of State Lan, were political campaign literature possibly in violation of election statutes. The Commission reviewed the complaint and the bumper sticker in question. On a motion by Chairman Goldmann, seconded by Commissioner Axtell and a vote of 3-0, the Commission agreed to dismiss the complaint because of a lack of any evidence indicating a violation of the New Jersey Campaign Contributions and Expenditures Reporting Act.

10. Advisory Opinion Request

0-13-79, Dianne Foley, NEW JOBS - The Commission reviewed this advisory opinion request which involved a question from NEW JOBS as to its campaign filing obligations. The Commission agreed on an advisory opinion which indicated in part, that based on the facts and circumstances presented, NEW JOBS would have an obligation to file campaign reports for the 1979 General Election.

11. Executive Session

On a motion by Commissioner Margetts, seconded by Commissioner Axtell and a vote of 3-0, the Commission went into executive session to discuss the determinations in late filing cases from the 1979 Primary Election, determinations in cases involving non-timely filing of 1977 and/or 1978 Annual Reports by county and state political party committees, and the executive session minutes of the Commission meeting of August 1, 1979. Upon conclusion of these matters, the Commission returned to public session on a motion by Chairman Goldmann, seconded by Commissioner Margetts and a vote of 3-0.

12. Determinations of Late Filing Cases from 1979 Primary Election

On a motion by Chairman Goldmann, seconded by Commissioner Axtell and a vote of 3-0, the Commission agreed upon the determinations and fines for each of the cases listed on the sheets attached to these minutes.

13. Determinations Re Cases of Non-Timely Filing of 1977 and 1978 Annual Reports of County and State Political Party Organizations

On a motion by Chairman Goldmann, seconded by Commissioner Margetts and a vote of 3-0, the Commission agreed on the determinations and fines indicated on the sheets attached to these minutes for the county and political party organizations listed for violations of non-timely filing of 1977 and 1978 Annual Reports.

14. E.L.E.C. vs. Harold Walsky, C-101-79(P) and William Staff, C-118-79(P)
On a motion by Chairman Goldmann, seconded by Commissioner Margetts and a vote of 3-0, the Commission found a violation for non-timely filing in the 1979 Primary Election by Mr. Walsky and imposed a fine of \$25 and found a similar violation by Mr. Staff and reprimanded him without a fine. These two cases were held over from the Commission's previous meeting.

15. Executive Session
On a motion by Commissioner Margetts, seconded by Commissioner Axtell and a vote of 3-0, the Commission went into executive session to discuss current investigative matters. Upon completion of the discussion, the Commission returned to public session on a motion by Chairman Goldmann, seconded by Commissioner Axtell and a vote of 3-0.

16. E.L.E.C. Meeting Schedule
The Commission agreed to cancel its previously scheduled meeting on November 21, 1979 and to add to its meeting schedule November 28, 1979.

17. Adjournment - The Commission adjourned the meeting at 3:15 p.m.

Respectfully submitted,



LEWIS B. THURSTON, III
Executive Director

LBT/cm

*Staff Counsel Gregory Nagy was not present and did not participate in the discussion of Item No. 15 investigative matter.