



Newsletter ELECtronic

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AN ELECTION LAW ENFORCEMENT COMMISSION NEWSLETTER "Furthering the Interest of an Informed Citizenry"

Comments from the Chairman

Eric H. Jaso

Campaign Expenditure Reporting to ELEC

"Politics has become so expensive that it takes a lot of money even to be defeated." – Will Rogers

This month, we discuss New Jersey's campaign-expenditure reporting requirements.

New Jersey's Campaign Contributions and Expenditures Reporting Act requires campaigns to report to ELEC the following information about all campaign expenditures:

- 1. The date the expenditure was made;
- 2. the full name and address of the payee;
- 3. the purpose of the expenditure;
- 4. the amount of the expenditure; and
- 5. the number of the check.

ELEC's regulations flesh out the statute's requirements. For example, to report the purpose of the expenditure, the campaign should "describe the specific election-related reason for the expenditure." Reasons can be stated

briefly: "newspaper advertising,"
"postage," "printing of campaign fliers,"
and "telephone expense," are acceptable
descriptions. However, ELEC will not
accept "generic, non-informative
descriptions" such as "petty cash" or
"operations."

Similar reporting requirements exist for credit card payments.

When a campaign committee reimburses a person or entity for a credit or debit card charge, the following information must be reported:

- 1. The name of the credit card holder;
- 2. the name and address of the vendor;
- 3. the date of the purchase;
- 4. the purpose of the purchase which includes a specific itemization of the goods and services purchased;
- 5. the amount of the purchase; and
- 6. the name of the payee, and the number, date, and amount of the reimbursement check.

When the committee itself pays for an expenditure with a credit or debit card, the following information is to be reported:

 The name and address of the lending institution issuing the card;

- the check number, payment date, and amount of expenditure paid to the issuer of the card; and
- an itemization of each purchase, including name and address of the vendor, date and amount of purchase, the purpose of the purchase, and goods and services acquired.

The Campaign Act and ELEC's regulations limit how candidates can use their campaign funds, allowing only six permissible uses:

- 1. The payment of campaign expenses;
- 2. the making of donations;
- contributions to other candidates;
- 4. overhead expenses of the campaign;
- 5. reimbursement of contributors; and
- the payment of ordinary and necessary expenses of holding public office.

Candidates may NOT use their campaign funds to pay for or reimburse personal expenses. The regulations provide guidance on what constitutes personal use.

To bolster awareness and compliance in this area, ELEC provides many educational and training resources for candidates, treasurers, campaign staff, and members of the public.

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Executive Director's Thoughts Jeff Brindle

Pending Campaign Finance Bill Will Bring Long-Needed Reforms

Reprinted from insidernj.com

After being voted out unanimously and with bipartisan support by two state Senate Committees and an Assembly committee, the "Elections Transparency Act" (S-2866/A4372) stalled before the Legislature left for its summer recess on June 29.

Co-sponsor and Senate President Nicholas Scutari (D-Union) told Politico on July 5, 2022 that he believes it will pass in the fall.

The Act represents a bipartisan effort cosponsored by Scutari and Senate Minority Leader Steve Oroho (R-Sussex) along with Assembly Majority Leader Louis Greenwald (D-Camden).

The proposed legislation requires independent, so-called "Hidden Money" groups, to disclose contributions and expenditures in the context of electioneering activity and within limited timeframes of 30 days before a primary election or 60 days before a general, municipal, runoff, school board or special election.

During its path through the committee process, the legislation was amended to "narrowly tailor" disclosure by independent groups in ways that would make the provision constitutionally sound.

It included amendments that limited disclosure by these groups to

"electioneering communications" within the tight timeframes noted above. These expenditures tend to be the largest for most campaign committees.

Besides requiring Hidden Money groups to be more transparent in terms of their financial activity, the legislation seeks to strengthen political parties and candidates, which unlike independent groups are subject to contribution limits, disclosure, and more under New Jersey statutes.

By increasing contribution limits applicable to political parties and candidates, the legislation will bring greater balance to the State's electoral process. Special interests that now routinely spend tens of millions independent of parties and candidates in state elections have gained a huge influence over those elections.

Moreover, while financial activity by independent groups has grown sharply, financial activity by parties and candidates has been declining precipitously.

League of Women Voters, an organization universally respected for its work on behalf of honest and fair elections and its efforts to sponsor and conduct debates throughout New Jersey.

The League contends that doubling contribution limits means more money would pour into elections.

What was not pointed out, however, is the fact that the limits have not been raised since 2004 (18 years) and that inflation related to campaign costs has increased by 80 percent during this period. By combining that 80 percent inflation rate with the high inflationary pressures of present times, the recommended contribution limit increases in the bill are right on target when applied to the 2023 legislative elections.

Plus, if the higher limits encourage special interests to send larger checks to party committees, it might reduce spending by independent groups. So the change may not drive up the overall cost of elections as much as some might expect. If at all.

Group	2005	2021	Change-%
Big Six- Two State Parties and Four	\$19,667,905	\$17,046,596	-13%
Legislative Leadership Committees	\$19,007,903	\$17,040,330	-13/0
County Political Parties	\$19,009,467	\$13,234,794	-30%
Totals	\$38,677,372	\$30,281,390	-22%
Independent Spending by Special Interests	\$ 411,224	\$57,504,301	+13,884%
Grand Totals	\$39,088,596	\$87,785,691	+125%

The legislation seeks to even things up. It does so not only by requiring disclosure by independent groups but by increasing contribution limits applicable to candidates and parties, a recommendation made by ELEC in its annual reports for more than a decade.

The provision to increase contribution limits was opposed by the New Jersey

By opposing the proposed increases in contribution limits because it would mean more money in elections and benefit political parties, the League is respectfully fighting the last war when political parties were much more dominant and independent spending was a rarity.

Furthermore, opposition to raising contribution limits ignores the direction the U.S. Supreme Court appears to be taking in terms of campaign finance law. The trend can be seen in its 2019 case involving contribution limits in the Alaska case, *David Thompson v. Heather Hebdon*.

In its ruling, the Supreme Court reiterated points made in an earlier case in 2006, Randall v. Sorell, wherein recently retired Justice Stephen Breyer observed "contribution limits that are too low . . . harm the electoral process by preventing challengers from mounting effective campaigns against incumbent officeholders; thereby reducing democratic accountability."

The Court also indicated in the *Hebdon* ruling that Alaska's limits are not adjusted for inflation, which over time they will "inevitably become too low."

Thus, since 2006 the U.S. Supreme Court has shown concern for contribution limits, the necessity of inflationary adjustments, and their respective relationship with First Amendment rights.

Progressive interests in New Jersey also targeted changes the bill would make to the State's convoluted pay-to-play law.

Historically, the progressive movement has brought about many important improvements to government, including secret ballots, regulation of railroads and utilities, recall elections, civil service and campaign finance reform.

But opposition from current leaders seems to overlook serious problems with the complicated pay-to-play law that make compliance and enforcement very difficult.

This opposition also misses another important point —the current law discourages participation in politics by some honest business people who fear

running afoul of the complex law and causes others to seek ways to legally circumvent it.

Because special interest PACs and independent groups have not been included under the law, ELEC statistics show that contractor donations have increasingly bypassed the law through donations to PACs and independent groups. This makes it more difficult to connect the dots between a contribution and a contract.

Amendments put forth in the pending reform bill move the needle in a better direction.

ELEC has proposed that the law be simplified, and disclosure strengthened, by having just one State law and disclosure of contracts over \$17,500. As part of that simplification, the Commission has recommended ending the Fair and Open loophole, which exempts county and municipal governments from the State law if they publicly advertise a contract. The state Comptroller's Office has supported this view.

ELEC has also proposed sunsetting the ability of local governments to enact their own ordinances. Separate local laws not only can differ substantially from the State law. But they also are subject to more frequent changes when new officials are elected to office. The result is a maze of different laws throughout the state.

While the legislation does not eliminate the Fair and Open loophole, it does sunset local ordinances (of which there are now about 160 different ordinances), which is a step in the right direction toward one State law.

Having just one State law is not the only way the reform bill strengthens the payto-play law. The bill also expands

disclosure by contractors by requiring the Commission to establish a new business entity database. This will lead to more complete transparency of political activity by businesses entering public contracts.

In addition, S-2866/A4372 continues to place accountability on officeholders responsible for rewarding contracts in that the same rules will apply to them under the proposed legislation as exist now.

Further, because the legislation directly places responsibility on officeholders and not parties, officeholders will be all the more under the microscope in terms of putting the public's interest first since the law bans officeholders from accepting contractor contributions for a period of time prior to voting to award such contracts.

The proposed legislation would also encourage contractors to give to political parties, which are highly regulated and subject to contribution limits and disclosure. Political parties represent a broad coalition of people rather than the more narrow interests of special interest PACs and independent groups, both of which are not included under the current Pay-to-Play law.

As veteran political consultant Julie Roginsky said in the July 1, 2022 Star-Ledger "Friendly Fire" opinion piece: "The current system does more to obscure money in politics than anything this legislation (S-2866/A4372) would do. . . rather than donating directly to a politician or the politician's political party, he (a vendor) just deposits an unlimited amount of money in a dark money PAC that elects a politician."

Whenever major reforms are proposed to the State's campaign finance law there are bound to be different points of view in terms of the efficacy of the recommendations. That was the case in 1993, the last time the Legislature reformed campaign finance law in the State by formalizing legislative leadership committees, strengthening parties (subsequently weakened by pay-to-play laws) and instituting contribution limits, and requiring quarterly reporting by CPC's.

While the 1993 Rosenthal Commission reforms were controversial to some, in the end they served the public well. But things change in politics, as evidenced by the emergence of independent groups. Campaign finance law must continue to evolve.

Overall, S-2866/A4372 represents positive change for New Jersey by increasing contribution limits, strengthening political parties and candidates, requiring disclosure for independent groups, simplifying pay-to-play along with enhancing disclosure, and requiring inflationary adjustment of contribution limits.

Like the 1993 reforms, the changes included in S-2866/A4372 bring with it opposition. That is the beauty of democracy.

Yet on balance, this bill will update campaign finance law in New Jersey, helping it to comply with current trends witnessed in U.S. Supreme Court decisions as well as to address emerging domination of elections by independent groups.

Training Seminars

*All webinars will run for approximately 2 hours.

CPC WEBINARS			
R-3 eFile ONLY Program Training	CPC/PPC Compliance Seminar		
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September 27, 2022 10:00 AM	August 09, 2022 10:00 AM		
	September 21, 2022 10:00 AM		
	October 13, 2022 10:00 AM		
CPC Seminar (In-Person) at ELEC Office			
Contact ELEC for Registration and Date Information			
CANDIDATE WEBINARS			
R-1 eFile ONLY Program Training	Campaign Compliance Seminar		
K-1 erile ONLI Flografii Italiilig	AND eFile Training		

R-1 eFile ONLY Program Training	Campaign Compliance Seminar AND eFile Training
September 29, 2022 10:00 AM	August 02, 2022 10:00 AM
	September 08, 2022 10:00 AM
	September 15, 2022 10:00 AM
	October 05, 2022 10:00 AM
	October 12, 2022 10:00 AM
Candidate Seminars (In-Person) at	ELEC Office

Contact ELEC for Registration and Date Information

For up-to-date information on training, please visit ELEC's website at www.elec.nj.gov.

Former Governor Whitman Backs Disclosure for Independent Spenders and Maintaining Public Funds for Gubernatorial Candidates

Former Governor Christine Todd Whitman said she strongly supports expanded public disclosure by special interest groups that are spending fastrising sums on New Jersey elections independently of parties or candidates.

"...to allow them to raise that money without having to disclose in the same time frame that a candidate has to disclose is just wrong. People should know because it makes a difference," Whitman said during a June 3, 2022 interview with ELEC Executive Director leff Brindle.

"It makes the difference when you know it's a Citizens for Green Grass and then you find out it's a big oil company. Yeah, but they use that nice name, right? People just get confused...(anonymity) allows them to have an influence that they should not otherwise have," she said.

While Whitman was speaking generally about the need for disclosure by independent groups, legislation is pending in both houses (S-2866/A4372) that includes this among its changes to campaign finance law.

Whitman is the eighth person to participate in an ongoing project entitled "History of the NJ Election Law Enforcement Commission (ELEC)." Full interviews can be viewed on ELEC's website at:

https://www.elec.nj.gov/aboutelec/ELEC_ OralHistory.htm. Whitman, a Republican, became governor when she defeated Democratic incumbent Jim Florio in 1993. She ran for reelection and won in 1997. She resigned on January 31, 2001 to become the ninth administrator of the U.S. Environmental Protection Agency under President George W. Bush.

During both gubernatorial runs, Whitman participated in an ELEC program that furnishes public funds to candidates for governor who agree to limit their spending. The program began in 1977 and has become a national model for several other states.

Whitman continues to believe the program is important even in the Super PAC era.

"I think it's critical because it does limit the amount of money that you get from other people and that you can spend, basically," she said.

"...taking the public funds was a way to assure the voting public that there were limits here and that you weren't going to be beholden to any one particular group of people who had given you the most money, and therefore that industry or that lobbying group was going to really call the shots and you had to pay attention to them more than you would have otherwise," Whitman said.

"I believe it's important, and I think it is a measure of trust that you can establish with the public. So I've always been a big supporter of that," she added.

In 1998, Whitman approved a \$1 million special appropriation for ELEC- \$1.8 million in current dollars- that enabled a major upgrade of its website. The overhaul made it easier for the public to search for information about candidates, parties, political action committees and lobbyists.

She said she had no hesitation.

"We believed in ELEC. I think there's nothing more important than the public confidence in our electoral system," Whitman said. "We lose that without non-partisan ELECs of the world."

One Whitman-enacted bill that the Commission helps enforce is a 1995 bill that expanded the citizen right to recall to more elected offices.

Before the bill became law, only local officials were subject to recall. Whitman's bill added governors and state legislators.

While no governor or sitting legislator has yet been ousted as a result of a recall election, Whitman believes it gives public officials another reason not to abuse their power.

"The fact that it is there it is somewhat of a warning and a little bit of a guardrail against some behavior," she said.

The History of the Commission Project Archive:

- Volume I Interview with ELEC
 Chairman Eric Jaso- 2017-Present
- Volume II Interview with former <u>ELEC Executive Director Lewis</u> Thurston- 1976 -1981
- Volume III Interview with former
 State Assembly Speaker Joe Roberts 2006-2009
- Volume IV Interview with former New Jersey Governor Thomas H.
 Kean 1982-1990
- Volume V Interview with former
 New Jersey State Senate President
 John Lynch- 1989-1991
- Volume VI Interview with former ELEC Chairman Ron DeFilippis- 2010-2017 ►
- Volume VII Interview with former <u>ELEC Chairwoman Jerry English-</u> <u>2004-2010</u>

Big Six Committees Tread Water in Year When Federal Elections Dominate

With no state elections this year, the so-called "Big Six" fund-raising committees reached the year's mid-point with slightly below average fund-raising and spending, according to quarterly reports filed with the New Jersey Election Law Enforcement Commission (ELEC).

The two state parties and four legislative leadership committees have raised nearly \$2.2 million and spent \$1.7 million so far in 2022. That's 3.9 percent and 4.4 percent, respectively. below averages for seven years without state elections dating back to 2010. On the plus side, the combined cash-on-hand of \$1.45 million is 11 percent above the \$1.3 million average for the same period.

TABLE 1
CAMPAIGN FINANCE ACTIVITY BY "BIG SIX"
AT END OF 2nd QUARTER BY YEAR

YEAR	RAISED	SPENT	CASH-ON-HAND	STATE ELECTIONS
2009	\$3,653,103	\$1,811,223	\$3,682,236	Governor and Assembly
2010	\$2,175,742	\$1,637,673	\$1,835,526	
2011	\$3,684,467	\$1,915,020	\$3,329,478	Senate and Assembly
2012	\$2,988,610	\$2,590,387	\$1,426,366	
2013	\$3,382,737	\$1,874,081	\$3,189,889	Governor and Both Houses
2014	\$1,276,109	\$1,319,714	\$ 800,994	
2015	\$2,476,599	\$1,983,389	\$2,160,318	Assembly
2016	\$1,661,559	\$1,513,987	\$1,127,086	
2017	\$2,751,561	\$2,205,599	\$2,263,401	Governor and Both Houses
2018	\$2,991,664	\$2,416,353	\$1,321,894	
2019	\$2,283,313	\$1,729,263	\$2,075,620	Assembly
2020	\$1,342,492	\$1,090,629	\$ 911,929	
2021	\$4,836,037	\$3,529,208	\$2,678,213	Governor and Both Houses
2022	\$2,167,841	\$1,737,175	\$1,450,701	
Average for Non-Federal Years	\$2,255,330	\$1,818,034	\$1,306,511	
Versus 2022-%	-3.9	-4.4	+11	

"Combined cash-on-hand is above average even though the two state parties have transferred more than \$500,000 to their federal accounts in recent months, presumably for this year's federal congressional elections," said Jeff Brindle, ELEC's Executive Director.

The Democratic State Committee has moved \$402,258 into its federal account this year while the Republican State Committee has shifted \$125,000 into its federal account.

Compared to similar totals in 2018, Democratic fund-raising and spending totals are down while Republicans have raised more this year but spent less than four years ago. Both parties report larger cash-on-hand totals versus 2018.

TABLE 2 FUNDRAISING BY "BIG SIX" COMMITTEES JANUARY 1 THROUGH JUNE 30, 2022

REPUBLICANS	RAISED	SPENT**	CASH-ON-HAND	NET WORTH*
New Jersey Republican State Committee	\$ 132,453	\$ 140,547	\$ 46,321	\$ 46,321
Senate Republican Majority	\$ 255,060	\$ 107,928	\$ 156,207	\$ 156,207
Assembly Republican Victory	\$ 211,863	\$ 68,508	\$ 201,617	\$ 201,617
Sub-Total- Republicans	\$ 599,376	\$ 316,983	\$ 404,145	\$ 404,145
Versus 2018 (Dollars)	\$ 134,049	\$ (75,645)	\$ 71,153	\$ 71,153
Versus 2018 (Percent)	29%	-19%	21%	21%
DEMOCRATS				
New Jersey Democratic State Committee	\$ 799,878	\$1,098,468	\$ 190,664	\$ 176,696
Senate Democratic Majority	\$ 448,804	\$ 57,243	\$ 642,064	\$ 642,064
Democratic Assembly Campaign Committee	\$ 319,783	\$ 264,480	\$ 213,828	\$ 183,389
Sub-Total- Democrats	\$1,568,465	\$1,420,192	\$1,046,556	\$1,002,149
Versus 2018 (Dollars)	\$ (957,872)	\$ (603,533)	\$ 57,654	\$ 97,749
Versus 2018 (Percent)	-38%	-30%	6%	11%
Total- Both Parties	\$2,167,841	\$1,737,175	\$1,450,701	\$1,406,294
Versus 2018 (Dollars)	\$ (823,823)	\$ (679,178)	\$ 128,807	\$ 168,902
Versus 2018 (Percent)	-28%	-28%	10%	14%

^{*}Net worth is cash-on-hand adjusted for debts owed to or by the committee.

Brindle said both parties would benefit from enactment of the pending "Elections Transparency Act" (S-2866/A4372). After being voted out unanimously and with bipartisan support by two state Senate Committees and an Assembly committee, the bill stalled before the Legislature recessed June 29.

Following ELEC recommendations, the bill would increase contribution limits on party committees including the Big Six and require disclosure by special interest groups that spend independently of candidates and parties. "Unlike parties and candidates, these independent groups face no contribution limits and have far eclipsed spending by party committees during the past decade," Brindle said.

"Our existing outdated statute enables them to hide their contributions though New Jersey has been lucky that many have voluntarily disclosed their donors," said Brindle. "We cannot continue to rely on this good will. Political strategies change and much of this money could suddenly turn dark. That is exactly what is happening in federal campaigns."

"I remain hopeful that the Legislature will enact the reform bill this fall," he said.

^{**}Some spending totals exceed fundraising totals because the committee dipped into reserves or incurred debt.

	INCLUSION DATES	REPORT DUE
FIRE COMMISSIONER – FEBRUARY 19, 2022	'	
29–day Preelection Reporting Date	Inception of campaign* – 1/18/2022	1/21/2022
11-day Preelection Reporting Date	1/19/2022 – 2/5/2022	2/8/2022
20-day Postelection Reporting Date	2/6/2022 – 3/8/2022	3/11/2022
48–Hour Notice Reporting Starts on 2/6/2022 through 2	/19/2022	
SCHOOLBOARD – APRIL 19, 2022		
29-day Preelection Reporting Date	Inception of campaign* – 3/18/2022	3/21/2022
11-day Preelection Reporting Date	3/19/2022 – 4/5/2022	4/8/2022
20–Day Postelection Reporting Date	4/6/2022 – 5/6/2022	5/9/2022
48–Hour Notice Reporting Starts on 4/6/2022 through 4	/19/2022	
MAY MUNICIPAL – (90-DAY START DATE: FEBRUARY 9, 2	2022) – MAY 10, 2022	
29-day Preelection Reporting Date	Inception of campaign* - 4/8/2022	4/11/2022
11-day Preelection Reporting Date	4/9/2022 – 4/26/2022	4/29/2022
20-Day Postelection Reporting Date	4/27/2022 – 5/28/2022	5/31/2022
48–Hour Notice Reporting Starts on 4/27/2022 through	5/10/2022	
RUNOFF (JUNE)** – JUNE 14, 2022		
29-day Preelection Reporting Date	No Report Required for this Period	
11-day Preelection Reporting Date	4/27/2022 – 5/31/2022	6/3/2022
20–Day Postelection Reporting Date	6/1/2022 – 7/1/2022	7/5/2022
48-Hour Notice Reporting Starts on 6/1/2022 through 6	/14/2022	
	UNE 7, 2022	
PRIMARY (90 DAY START DATE: MARCH 9, 2022)*** – JU		
		5/9/2022
29-day Preelection Reporting Date	Inception of campaign* – 5/6/2022	5/9/2022 5/27/2022
29–day Preelection Reporting Date 11–day Preelection Reporting Date	Inception of campaign* – 5/6/2022 5/7/2022 – 5/24/2022	5/27/2022
PRIMARY (90 DAY START DATE: MARCH 9, 2022)*** – JU 29—day Preelection Reporting Date 11—day Preelection Reporting Date 20—Day Postelection Reporting Date 48—Hour Notice Reporting Starts on 5/25/2022 – 6/7/20	Inception of campaign* – 5/6/2022 5/7/2022 – 5/24/2022 5/25/2022 – 6/24/2022	
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29–day Preelection Reporting Date 11–day Preelection Reporting Date 20–Day Postelection Reporting Date 48–Hour Notice Reporting Starts on 5/25/2022 – 6/7/20 GENERAL (90 DAY START DATE: AUGUST 10, 2022)*** – 29–day Preelection Reporting Date 11–day Preelection Reporting Date 20–day Postelection Reporting Date 48–Hour Notice Reporting Starts on 10/26/2022 through RUN–OFF (DECEMBER)** – DECEMBER 6, 2022	Inception of campaign* – 5/6/2022 5/7/2022 – 5/24/2022 5/25/2022 – 6/24/2022 222 NOVEMBER 8, 2022 6/25/2022 – 10/7/2022 10/8/2022 – 10/25/2022 10/26/2022 – 11/25/2022	5/27/2022 6/27/2022 10/11/2022 10/28/2022
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PACS, PCFRS & CAMPAIGN QUARTERLY I	FILERS	
1 st Quarter	1/1/2022 – 3/31/2022	4/18/2022
2 nd Quarter	4/1/2022 – 6/30/2022	7/15/2022
3 rd Quarter	7/1/2022 – 9/30/2022	10/17/2022
4 th Quarter	10/1/2022 – 12/31/2022	1/17/2023
GOVERNMENTAL AFFAIRS AGENTS (Q-4		
1 st Quarter	1/1/2022 – 3/31/2022	4/11/2022
2 nd Quarter	4/1/2022 – 6/30/2022	7/11/2022
3 rd Quarter	7/1/2022 – 9/30/2022	10/11/2022
4 th Quarter	10/1/2022 – 12/31/2022	1/10/2023

- * Inception Date of Campaign (first time filers) or January 1, 2022 (Quarterly filers).
- ** A candidate committee or joint candidates committee that is filing in a 2022 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 April 14, 2022 for the Primary Election candidates and June 20, 2022 for Independent General Election candidates.

Note: A fourth quarter 2021 filing is needed for the Primary 2022 candidates if they started their campaign prior to December 9, 2021

A second quarter 2022 filing is needed by Independent/ Non–partisan General Election candidates if they started their campaign prior to May 11, 2022.

HOW TO CONTACT ELEC

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