

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

MINUTES - July 18, 1977 Meeting

PRESENT

Frank P. Reiche, Chairman
Sidney Goldmann, Vice-Chairman
Josephine S. Margetts, Member
Archibald S. Alexander, Member
Lewis B. Thurston, III, Executive Director
Edward J. Farrell, Legal Counsel
Herbert Alexander, Consultant
Neil Upmeyer, E.L.E.C. staff

Pursuant to the Open Public Meetings Law, P.L. 1975, c.231, annual notice of the meetings of the Commission, as amended, was filed with the Secretary of State's office, copies were posted in the State House Annex, copies were mailed to the Newark Star Ledger and the Philadelphia Bulletin and the entire State House Press Corps.

The meeting convened at 10:15 a.m.

1. Discussion of Current Litigation

Pursuant to C.10:4-12 of the Open Public Meetings Law, the Commission went into executive session to discuss current litigation in which it is a party. The primary discussion was in regard to the Chamber of Commerce vs. ELEC regarding the question of the applicability of contribution limitations to the payment of primary debts of gubernatorial candidates. The case of Donato vs. Byrne et al was also discussed.

2. Current Investigation

The Commission remained in executive session to hear a report from the executive director on a current investigation of a complaint involving a 1977 election.

3. Approval of Executive Session Minutes of July 5, 1977 Commission Meeting

The Commission approved these minutes in executive session. At the conclusion of this action, the Commission returned to public session.

4. Accounting for "Street Dollars"

The executive director indicated that he felt that more detailed and comprehensive disclosure of "street money" (primarily cash paid to election day workers) was needed. He suggested the Commission consider proposing a regulation to provide for this in time for the 1977 general election. After discussion, it was agreed that the executive director and counsel will draft a proposed regulation for consideration by the Commission at its meeting on August 15. It was anticipated that if such proposed regulation could be agreed upon at the August 15 meeting, that it could be published in the September edition of the New Jersey Register and a public hearing held in September. It was agreed that this procedure would

be attempted: filing with the Division of Administrative Procedure by August 22, publishing in the New Jersey Register on September 8 public hearing on September 19, and adoption on or after September 28.

5. Minutes of Commission Meeting of July 5, 1977

The Commission approved these minutes.

6. Discussion of Public Financing Procedures and Problems

Neil Upmeyer indicated that it appears the first submission by gubernatorial candidates applying for matching funds will be made on August 1 by Governor Byrne and Senator Bateman. He briefly reviewed the procedures involved for the candidates and the Commission. Mr. Thurston indicated that a written request had been received from Robert Raymar, counsel to the Byrne for Governor Campaign, requesting that submissions be permitted on July 18 because of the disruptive effect that the Appellate Division opinion in the case of Common Cause vs. ELEC had on preparation for a submission on July 11. He indicated that after consultation with the chairman, counsel and director of public financing, the request was denied because it was felt that the schedule of submission dates previously agreed upon by the Commission was adequate. This was conveyed to Mr. Raymar by a letter from the executive director.

7. Requests for Information From Bateman and Byrne Campaigns

The Commission reviewed the subject matter of 6 letters from Robert Raymar, counsel to Byrne for Governor Committee, (2 each dated June 23, June 30 and July 14) and 2 letters from Richard Weinroth, an attorney with the Bateman campaign, (2 letters dated July 15) requesting clarification and guidance in regard to various matters in connection with the gubernatorial general election.

The following policy determinations in regard to these matters were made by motion and voted by the Commission, as follows:

1. On a motion by Vice-Chairman Goldmann, seconded by Chairman Reiche, the Commission voted 4-0 to permit gubernatorial candidates participating in public financing to use public funds to reimburse the candidate's regular campaign bank account for expenditures made from that account which are permissible expenditures to be funded out of public money.
2. On a motion by Vice-Chairman Goldmann, seconded by Commissioner Margetts, the Commission indicated that all reimbursements as described in number 1 above must be identified specifically on the candidates' 25-day and 7-day pre-election reports for the general election. All designations of expenditures made from private contributions to be reimbursed from public funds would have to be made no later than the eighth day prior to the general election and, as stated in the previous sentence, reported on either the 25-day or 7-day pre-election reports.

The vote was 4-0.

3. On motion by Vice-Chairman Goldmann, seconded by Chairman Reiche, the Commission agreed that any reimbursement as described in number 1 above would be for a specific expenditure item paid for by one check and in the exact amount of that check and that the reimbursement be reported in this manner. The vote was 4-0.
4. On a motion by Vice-Chairman Goldmann, seconded by Commissioner Alexander, the Commission agreed that it may ask for additional information concerning such allegedly reimbursable expenditures as described in number 1 above, if necessary, at any time and may make such information public if it so desires. The vote was 3-1, with Commissioner Margetts in the negative because she believes the Act does not contain authority for the Commission to disclose such expenditure information publicly except at the designated statutory dates.
5. On a motion by Commissioner Alexander, seconded by Vice-Chairman Goldmann, the Commission indicated that candidates for Governor participating in public financing must provide copies of backs of checks and drafts only in those circumstances where the backs of the identified checks contain endorsements or information of any type other than a deposit notation. Additionally, the submission by the candidates of only the front of such documents would be a representation that nothing is on the back and the candidates shall certify to this in each submission. The vote was 4-0.
6. On a motion by Commissioner Alexander, seconded by Vice-Chairman Goldmann, the Commission agreed to retain its previously agreed upon schedule of certification meeting dates in August and not add additional dates as had been suggested by the representatives of Governor Byrne and Senator Bateman. The vote was 4-0.
7. On a motion by Commissioner Alexander, seconded by Chairman Reiche, the Commission agreed to permit the Republican and Democratic candidates for Governor, if they so desire, to place in escrow accounts contributions in the aggregate to either the general or primary election campaign in excess of \$600 received after the date of the primary, pending the outcome of litigation in the case of Common Cause vs. ELEC which is presently before the N.J. Supreme Court. The vote was 4-0.
8. On a motion by Chairman Reiche, seconded by Vice-Chairman Goldmann, the Commission indicated that the expenses of polls taken by the campaign organizations which are used in whole or in part to assist in determining media advertising placement, are not expenses under the public financing statute which may be paid for by public

funds. The vote was 3-1, with Commissioner Alexander in the negative.

9. On a motion by Vice-Chairman Goldmann, seconded by Commissioner Margetts, the Commission voted 4-0 that candidates may not accept and deposit checks from one person or organization for more than \$600 but must return the check to the contributor. Additionally, checks written on joint checking accounts must be signed by both individuals to be attributable to both. The vote was 4-0.

The Commission then discussed the other policy questions raised in these letters. Counsel was directed to forward written responses to Messrs. Raymar and Weinroth on the basis of the Commission discussion and conclusions reached at this meeting.

8. Advisory Opinion Requests

The Commission discussed and agreed upon advisory opinions in regard to the following requests:

- 0-17-77 (Thomas C. Kim)
- 0-20-77 (Irving C. Marcus)
- 0-21-77 (Ralph N. Villanova)
- 0-22-77 (F. Coldren)
- 0-28-77 (Charles B. Carroll, Treas. for John Callagher, Independent candidate for Governor)
- 0-29-77 (Alfred J. Villoresi, Raldolph Twp. Library Board of Trustees)
- 0-18-77 (Robert Raymar, Counsel to Citizens for Byrne Committee).

9. Adjournment - The Commission adjourned the meeting at 4:30 p.m.

Respectfully submitted,



LEWIS B. THURSTON, III
Executive Director