

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

MARCH 9, 1983

PRESENT

Andrew C. Axtell, Chairman  
M. Robert DeCotiis, Member  
Haydn Proctor, Member  
Scott A. Weiner, Executive Director  
William R. Schmidt, Asst. Executive Director  
Edward J. Farrell, General Counsel  
Sidney Goldmann, Consultant

ABSENT

Alexander P. Waugh, Jr., Member

Chairman Axtell called the meeting to order and announced that pursuant to the Open Public Meetings Law, P.L. 1975, c.231, special notice of the meeting of the Commission, had been filed with the Secretary of State's office, and distributed to the entire State House Press Corps.

The meeting convened at 10:10 a.m. at the office of the Commission, Trenton, New Jersey.

1. Approval of Minutes of Public Session of Commission Meeting of February 23, 1983

On a motion by Commissioner DeCotiis, seconded by Commissioner Proctor and a vote of 3-0, the Commission approved the minutes of the public session of February 23, 1983.

2. Review of Proposed Regulations Regarding "Testing the Waters" Activity by Gubernatorial Candidates

The Commission reviewed a four-page draft of proposed regulations concerning "Testing the Waters" prepared by General Legal Counsel Farrell and dated March 4, 1983. Mr. Farrell said the draft regulations are very similar to the FEC regulations. He said the additional point to be included in the draft regulations is a reference to the establishment of a separate bank account for gubernatorial candidates.

Chairman Axtell asked whether the funds raised for Testing the Waters would be matchable and whether funds raised this year for the 1985 election would be matchable. Mr. Farrell responded in the positive and Mr. Weiner noted that some candidates are already raising funds. Mr. Farrell recalled that the original draft of the public financing law contained a requirement that only contributions raised within the calendar year of the election were matchable. Former Chairman Goldmann said that was the case but the provision was removed before final enactment. Thus, there is no time limit on when contributions may be raised for the contributions to be matched with public funds.

Mr. Farrell and former Chairman Goldmann reviewed the underlying legal basis for the Commission imposing reporting

requirements on "Testing the Waters" activities when the individual becomes a candidate. They noted the U.S. Supreme Court decision in the Buckley case which found disclosure requirements constitutional. Mr. Farrell noted the State's interest in protecting the \$800 contribution limit and in protecting the integrity of the public funds matching program.

Mr. Weiner observed that the draft regulations would have to be placed throughout the existing regulations on the gubernatorial public financing and Mr. Farrell agreed. He suggested one section specifically on "Testing the Waters" plus appropriate references in other related sections of the regulations.

Mr. Weiner noted the October 15, 1980 date found in the existing regulations of the gubernatorial public financing program. Mr. Farrell concurred in Mr. Weiner's recommendation that all references to the October 15, 1980 date or any similar date be deleted. It was generally agreed that the October 15, 1980 date was necessary only in the context of the 1981 primary because the public financing program for the gubernatorial primary was not enacted until July 1980 and a number of candidates had already raised funds prior to that date. Thus, it was necessary in the fall of 1980 to ensure that those candidates clearly designated a principal campaign committee and returned all contributions in excess of \$800. The extent and nature of the problem will be much less for the 1985 election and there is no need administratively to impose a date similar to October 15, 1980 for the 1985 or future gubernatorial primary elections.

Chairman Axtell asked about items numbered 13 and 14 on the fourth page of Mr. Farrell's draft regulations and asked what those two provisions called for. Mr. Farrell stated that all 14 items listed on pages 3 and 4 of his draft came from former Florida Governor Askew's advisory opinion request to the Federal Election Commission. Former Chairman Goldman observed that it would not be desirable to include in the regulations the example set forth in the 14 items listed on pages 3 and 4 of Mr. Farrell's draft. Mr. Farrell and Mr. Weiner concurred.

On a motion by Commissioner DeCotiis, seconded by Commissioner Proctor and a vote of 3-0, the Commission approved the draft regulations, as amended.

### 3. Public Hearing Date for "Testing the Waters" Regulations

Mr. Weiner distributed a one-page March 8, 1983 memorandum setting forth a calendar for adopting regulations pertaining to "Testing the Waters". The Commission reviewed the calendar and on a motion by Commissioner DeCotiis, seconded by Commissioner Proctor and a vote of 3-0, the Commission approved holding a public hearing on Wednesday, May 11, 1983 in the Assembly chambers, Trenton,

New Jersey.

The Commission also discussed its calendar of meetings and asked the Executive Director to prepare a revised calendar to move Commission meetings back to Mondays after the month of April.

4. Advisory Opinion Request 06-1983

The Commission reviewed a one-page March 1, 1983 letter from Mark L. Husik, Director, the Governor's Club, in which Mr. Husik asked for an opinion on the Club's filing obligations. The Commission reviewed a two-page draft advisory opinion dated March 7, 1983. On a motion by Commissioner Proctor, seconded by Commissioner DeCotiis and a vote of 3-0, the Commission approved the draft opinion for release.

5. Report on Pending Legislation

Mr. Weiner reported that Assemblymen LaCorte and Zimmer have introduced Assembly Bill 3255 which would impose limits on contributions to legislative candidates. Mr. Weiner said the draft of A3255 has many of the same technical problems which Senator Perskie's bill had, such as provisions which are unenforceable, various loopholes and effectively excluding the State Committee from participating in the legislative election.

On a motion by Commissioner Proctor, seconded by Commissioner DeCotiis and a vote of 3-0, the Commission authorized the staff to work with the staff of the Office of Legislative Services on the technical questions concerning the bill.

6. Executive Director's Report

Mr. Weiner distributed a two-page February 25, 1983 letter from Commissioner Frank Reiche, Federal Election Commission, and Chairman George Salerno, New York State Board of Elections, inviting the Commission to a Regional Conference to be held in Albany, New York on September 25 through September 27, 1983.

Mr. Weiner reported that the State Bar is holding a conference on Saturday, March 12 to which Staff Counsel and Associate Staff Counsel Cullen will be going.

Mr. Weiner reported that he had submitted a request to LeRoy Weber for assistance in evaluating the data processing needs of the Commission.

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Mr. Weiner noted that the Commission will be holding a public hearing on the proposed regulations on financial disclosure statements of candidates for the Office of Governor and candidates for the Senate or General Assembly on Wednesday, March 23, 1983 at 10:00 a.m. He said the hearing is scheduled to be held at the State Assembly Chambers, State House, Trenton. If, however, only a few persons schedule themselves to be heard before the Commission, the hearing will be rescheduled to the Commission meeting room instead.

Mr. Weiner said that the move of the office from the 11th to 12th floor in the building is proceeding and the move is expected to be completed by May.

Mr. Weiner reported that Frank Holman, Executive Director of the Republican State Committee, and Jerry White, Executive Director of the Democratic State Committee have agreed to have a meeting with the ELEC staff and the staffs of the two State Committees to go over reporting requirements.

Mr. Weiner reported that the Northeast Conference on Lobbying is scheduled to be held in May at the Gateway Hilton in Newark. Mr. Weiner said he was attending a meeting this coming Friday, March 11, in New York City to finalize arrangements.

Mr. Weiner reported that he had met with the Executive Director of the New Jersey Assembly to work up a timetable to move the proposed revisions of the election laws including S1195, which would clarify permissible uses of surplus campaign funds, and the amendments to the Reporting Act. The timetable is such that the bill should be acted on before the summer recess.

Mr. Weiner distributed copies of a number of newspaper articles dealing with the reports filed by lobbyists plus copies of stories dealing with the complaint against "The Save the School Fund" and revisions to the Campaign Reporting Act.

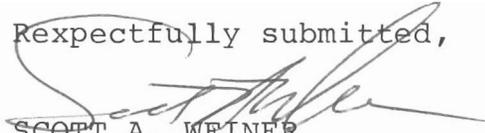
#### Executive Session

On a motion by Commissioner DeCotiis, seconded by Chairman Axtell and a vote of 3-0, the Commission voted to resolve to go into executive session to review the executive session minutes of February 23, 1983 and to discuss investigations and enforcement actions, the results of which will be made public at their conclusion.

8. Adjournment

After returning to public session, on a motion by Commissioner Proctor, seconded by Commissioner DeCotiis and a vote of 3-0, the Commission voted to adjourn.

Respectfully submitted,



SCOTT A. WEINER  
Executive Director