

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

JULY 16, 1984

PRESENT:

Andrew C. Axtell, Chairman  
Alexander P. Waugh, Jr., Vice Chairman  
Haydn Proctor, Member  
Frederick M. Herrmann, Executive Director  
William R. Schmidt, Assistant Executive Director  
Gregory E. Nagy, Staff Counsel  
Edward J. Farrell, General Legal Counsel

Chairman Axtell called the meeting to order and announced that pursuant to the Open Public Meetings Law, P.L. 1975, c. 231, annual 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 offices of the Commission, 28 West State Street, Trenton, New Jersey.

1. Approval of Public Session Minutes of Commission Meeting of June 25, 1984

On a motion by Commissioner Proctor, seconded by Commissioner Waugh and a vote of 3-0, the Commission approved the public session minutes of June 25, 1984.

2. Advisory Opinion Request No. 15-1984 from Richard B. McGlynn

The Commission reviewed a three-page draft advisory opinion prepared by Staff Counsel Nagy in response to a June 21, 1984, advisory opinion request from Richard B. McGlynn, Esquire, on behalf of "New Jersey Citizens for Better Schools." Commissioner Waugh suggested the opinion be amended to include a caveat, similar to that in Advisory Opinion No. 12-1983, to the effect that the ultimate application of the opinion is dependent on the text of the advertisements.

On a motion by Commissioner Proctor, seconded by Commissioner Waugh and a vote of 3-0, the Commission approved the advisory opinion, as amended.

3. Executive Director's Report

Executive Director Herrmann advised the Commission that a search to fill Leslie London's position of Election Finance Analyst has begun. He said the position has been posted in the office, that the applicant pool for Executive Director has been reviewed, and that Ms. London and others have referred resumes to Mr. Schmidt, who is conducting the initial screening.

Mr. Herrmann reported that Senate President Orechio's bill, S-1523, to amend the gubernatorial public financing program, may be amended on the floor of the Senate at the Senate's July 30, 1984, session. Mr. Herrmann said that he did not perceive that the Legislature has a sense of urgency on this issue. He noted that if S-1523 is amended on the floor on July 30, 1984, the bill would then move back to a second reading. The proposed amendment would permit county and municipal political party committees to make expenditures on behalf of a gubernatorial candidate in connection with advertisements on behalf of local and legislative candidates; as long as the spending on behalf of the gubernatorial candidate does not exceed one-third of the advertisement, the amount would not be allocable to the gubernatorial candidates. Mr. Herrmann also said that he understood there are four other areas in the bill that are under review by the legislative leadership for possible amendment.

Mr. Herrmann advised the Commission that the uncertainty concerning the 1985 gubernatorial public financing program affects the Commission administratively in two respects, namely the development of regulations and the development of the Commission's new computer program. Mr. Herrmann said that the staff would begin to develop revised regulations for the public financing program right after July 30. If it appears that the Legislature is not moving ahead on the amendments to the program, then the staff will develop revised regulations based on the current law. The Commission discussed what steps, if any, it should take at this time. There was a general consensus that the Commission would wait until after July 30 to see what action the State Senate takes on S-1523. Mr. Herrmann advised the Commission that the staff is in contact with legislative staff and will seek to work with them in developing the wording on the proposed amendment to S-1523 while pointing out the serious problems the proposed amendment may present to the contribution limit.

#### 4. Adoption of Proposed Regulations

The Commission reviewed a July 11, 1984, memorandum from Staff Counsel Nagy attached to which was a copy of the proposed regulations incorporating the changes agreed to by the Commission at its previous meeting. In addition, a seven-page document entitled, "Summary of Public Comments and Agency Responses, and Revisions to Proposal" was distributed and reviewed by the Commission.

Mr. Nagy identified three changes in the proposed regulations which might warrant republishing because the changes are so substantial that they effectively destroy the prior public notice. The three changes are: the separate bank account required of continuing political committees when they are designated by one or more candidates as a campaign fund; the short form for political party committees spending less than \$1,000 in a calendar year; and the requirement that national PAC's, which register and file with the Federal Election Commission, disclose their contributions to New Jersey candidates and political committees and the contributions the PAC's receive from New Jersey contributors. He said if the Commission republishes any one or all three of these, then the effective date will be in early October as opposed to August 3. Following discussion, the Commission agreed that the separate bank account provision and the provision for national PAC's should be republished.

The following technical corrections in the proposed regulations were noted:

- On page 26 in section 19:25-11.4(e) 2., add the words "New Jersey" in front of the word "contributors."
- On page 2 in the definition section 19:25-1.7, paragraph beginning "Election-related activity", the Commission accepted a revision distributed by Mr. Nagy at the Commission meeting; the revision added the words, ". . . includes, without limitation, contributions to candidates, expenditures for fund raising, expenditures on behalf of candidates and other related political expenditures."

Mr. Schmidt raised the issue of what threshold for filing a form D-2, Designation of Treasurer and Depository, should be applied to political committees supporting or opposing a public question. He noted that such committees do not have to disclose their contributors and expenditures until an expenditure threshold of \$2,500 is reached; however, under the regulations, as proposed, such committees would have to file a Form D-2 when the committee raised or expended more than \$1,000. After discussion, the Commission decided that requiring such committees to file a Designation of Treasurer and Depository at a threshold of \$1,000 does not represent an undue burden and the regulation pertaining to this issue should not be changed.

On a motion by Commissioner Proctor, seconded by Commissioner Waugh and a vote of 3-0, the Commission authorized Executive Director Herrmann to execute the certification of adoption of the proposed regulations, as amended, and to authorize Mr. Herrmann to publish the proposed regulations dealing with national PAC's and second bank accounts for continuing political committees.

5. Resolution to Enter Executive Session

On a motion by Commissioner Waugh, seconded by Commissioner Proctor and a vote of 3-0, the Commission decided to go into executive session to discuss personnel, investigative, and enforcement matters, the results of which will be made public at their conclusion.

6. Adjournment

On a motion by Commissioner Proctor, seconded by Commissioner Waugh and a vote of 3-0, the Commission voted to adjourn.

Respectfully submitted,



FREDERICK M. HERRMANN  
Executive Director