

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

DECEMBER 19, 1984

PRESENT:

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

ABSENT:

Haydn Proctor, Member

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

The meeting convened at 10:05 a.m. at the offices of the Commission, 28 West State Street, Trenton, New Jersey.

1. Approval of Public Session Minutes of November 20, 1984

On a motion by Vice Chairman Waugh, seconded by Chairman Axtell and a vote of 2-0, the Commission approved the public session minutes of November 20, 1984.

2. 1985 Commission Meeting Schedule

Executive Director Herrmann distributed a choice of Commission meeting schedules for 1985. These incorporated a weekly schedule for the months of April, May, September and October to accommodate gubernatorial candidates' public financing submissions. The Commissioners decided to meet on Tuesdays subject to the concurrence of Commissioner Proctor.

3. Pending Legislation: S-1523

Executive Director Herrmann reported on Governor Kean's conditional veto of S-1523. He noted that there are two major problems resulting from the provisions of the conditional veto. The first major problem is one of public policy in that the Governor's conditional veto undermines the policy goal of enabling individuals of limited financial means to run for the office of Governor. The Governor's recommended provisions that increase the qualifying threshold to \$225,000 counting only contributions from individuals and that only match the first \$250 of contributions from individuals would probably make it extremely difficult for a candidate without personal wealth or without access to major fund raisers to run for Governor. The second major problem is administrative. For the Commission to administer the program as proposed by the Governor would require a substantially different computer program that would be an additional cost. If the computer cannot be programmed in time to accommodate the provisions as recommended by the Governor, then the Commission would have to employ more staff to administer the public financing program without the aid of the

computer. That would also raise administrative costs. Mr. Herrmann said that the Democrats may be preparing another public financing bill which would incorporate the provisions of S-1523 plus a provision that would require the inclusion of all electronic media expenditures for the Governor over the past two years in his expenditure limit should he run for re-election.

4. Executive Director's Report

Mr. Herrmann reported that the Senate passed S-2307 (Contillo) on a vote of 28-5. This bill, as initially drafted, would have provided for the Commission to supervise the disclosure of legislative office accounts into which members of the Legislature could deposit surplus campaign funds. The committee replaced the Commission as administrative agency with the Legislature's Committee on Ethics. Mr. Herrmann noted that this bill represents a very narrow approach to the problem of surplus campaign funds. Although it also prohibits the personal use of these funds, it only deals with legislators and no other incumbents or candidates.

Mr. Herrmann reported that Senator Codey's S-2077, which prohibits agencies from buying air time on TV or radio featuring elected or appointed state officials for the 18-month period commencing on July 1 prior to the gubernatorial primary election, had for a second time not been considered by the Senate State Government Committee.

Mr. Herrmann reported on A-904 (Kalik), which sets an earlier date for nominating petitions to be filed. Mr. Herrmann noted that the current date by which the nominating petitions must be filed and the dates by which municipal and county clerks must certify the petitions and the names of candidates leaves the Commission with only two or three days in which to secure the names of primary election candidates and advise them of their preelection filing requirements. Mr. Schmidt noted that in the 1984 primary the Commission was receiving names over the telephone from municipal clerks and the county clerks one or two days before as well as after the first reporting date. Mr. Herrmann said that the Commission has supported A-904 because it would ease a major administrative problem for the Commission and enable it to provide more notice to primary election candidates of their filing requirements with the Commission.

Mr. Herrmann advised the Commissioners that at their next meeting Mr. Nichols would review the public financing procedures and explain the role of the Commissioners in the process.

Mr. Herrmann reported that General Counsel Farrell is working on a memorandum in response to the Attorney General's proposed decriminalization of Title 19. The proposal from the Attorney General's office would give civil jurisdiction to the Election Law Enforcement Commission over most aspects of the election law in addition to the campaign financial disclosure provisions.

Concerning the proposed increase in Commissioner per diem, Mr. Herrmann said he had contacted the Governor's office and had drafted a memorandum, which the Chairman had transmitted to the Governor. Mr. Herrmann noted that the State Commission of Investigation Commissioners receive an estimated \$375 per meeting based on a salary of \$18,000 with benefits. It was noted that the resolution of the issue will be known at the time the submission of the Governor's budget in early February. If the increase is approved by the Governor and the Legislature, Commissioners will begin to receive an increase in per diem as of their July, 1985 meetings.

Mr. Herrmann requested that a Chairman's signature stamp be used in executing Final Decisions. The question was raised whether Final Decisions have to have an original signature. Mr. Farrell offered to research the issue. Assuming that the Final Decisions do not require original signatures, then the Commissioners agreed that Mr. Herrmann should have a signature stamp of the Chairman's signature prepared for use in executing Final Decisions.

Mr. Herrmann reported that a fire safety program had been implemented in the office, including the purchasing of fire extinguishers and the posting of evacuation plans. He also reported that a security system had been developed including I.D. cards for the staff and log of after hours visitors.

Mr. Herrmann reported that Lawrence Hopkins, Report Examiner, had submitted his resignation and that steps would be taken immediately to fill the position. Mr. Hopkins is leaving the staff as of the end of January, 1985.

Mr. Herrmann reported that Mr. Farrell had prepared a memorandum on the issue of what reporting requirements can be imposed on political committees which raise and expend funds prior to a public issue being certified for the ballot. Because of Mr. Nagy's illness on Tuesday, December 18, 1984, the staff was unable to review the memorandum in detail. The issue will be brought to the Commission's attention in the near future.

5. Comments by Democratic Gubernatorial Candidate Stephen B. Wiley

Former State Senator Wiley and his assistant, Jackie Lucas, appeared before the Commission. Mr. Wiley commented on the Governor's conditional veto of S-1523. A copy of his prepared statement is attached to these minutes.

Following Mr. Wiley's presentation, the Commission held an extensive discussion of what the Commission could or should do in response to the issues raised by the Governor's conditional veto of S-1523. Commissioner Waugh suggested that the staff develop a memorandum briefly summarizing the major problems arising out of the Governor's conditional veto and posing alternatives for the Commission's consideration. General Counsel Farrell noted that one alternative might be to recommend that the Legislature simply increase, if not eliminate, the expenditure limit. Mr. Herrmann said that such a memorandum would be prepared.

6. Resolution to Enter Executive Session

On a motion by Commissioner Waugh, seconded by Commissioner McNany and a vote of 3-0, the Commission decided to go into executive session to review the executive session minutes of November 20, 1984, and to discuss investigative and enforcement matters, the results of which will be made public at their conclusion.

7. Adjournment

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

Respectfully submitted,



FREDERICK M. HERRMANN
Executive Director