

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

MARCH 11, 1985

PRESENT:

Andrew C. Axtell, Chairman  
Alexander P. Waugh, Jr., Vice Chairman  
Haydn Proctor, Member  
Owen V. McNany, Member  
Frederick M. Herrmann, Executive Director  
Jeffrey M. Brindle, Deputy Director  
Edward J. Farrell, General Counsel  
Gregory E. Nagy, Staff Counsel  
Peter D. Nichols, Director of Public Financing\*

\* Attended the public session only

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 1:35 p.m. at the offices of Edward J. Farrell, Esquire, 43 Maple Avenue, Morristown, New Jersey.

1. Approval of Public Session Minutes of February 28, 1985

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission approved the public session minutes of March 11, 1985.

2. Executive Director's Report

Public Funding Compromise Bill (S-2598 and A-3113) - Executive Director Herrmann reported that up until Friday, March 8, 1985, was under the impression that the compromise bill would pass. On Friday, he learned it would not pass. He explained that it is his understanding from talking with Legislative and Gubernatorial staff that it appears as though the bill will be enacted but will not affect the 1985 primary election although it will apply to the 1985 general election. If enactment takes too long, it may create an administrative problem for the Commission. Mr. Herrmann said that he did manage to negotiate into the bill language allowing the Commission to go into the general treasury, if necessary, to meet public financing demands for FY 1985. The bill reduces the maximum public funding from \$1.2 million for the general election and \$600,000 for the primary election to \$1 million for the general election and \$500,000 for the primary election.

Budget - Mr. Herrmann reported that the Commission has been moving ahead with the budget for fiscal year 1986. He said that Deputy Director Brindle, Director of Public Financing Nichols, Budget and Personnel Administrator Carol Neiman, and he met with the Governor's budget counsellors and two members of the Senate Minority staff at their request to explain the Commission's desire for an \$85,000 budget increase for purposes of creating one permanent computer position (professional) and funding two empty professional positions. Permission to create two permanent microfilming positions (clerical) out of existing funds was also requested. The Commission's reasoning is that it needs additional staff members. Some staff are doubling up on responsibilities and working nights and on weekends. Mr. Herrmann reported that it is important to avoid that kind of pressure on the staff. Another reason for asking for additional monies is to protect the Commission's budget. Due to federal cuts anticipated in October, this coming fiscal year may not end in a surplus for New Jersey even though many persons are projecting surplus monies at this time. Over the years, Mr. Herrmann noted that the Legislature has given the Commission more to do but with no extra money to do it.

During their budget conversation with State House staff, Mr. Herrmann and Commission staff were asked questions regarding the Commission's work involving fire districts and the disclosure of of their campaign contributions and expenditures. Mr. Herrmann said that there are certain problems associated with administering these disclosures, such as the difficulty in locating districts having elections, the lack of common election dates, and the small size of the Commission staff.

Mr. Herrmann stated that he sent out letters to the Democratic staff in the Senate and Assembly requesting meetings with them to review the Commission's budget.

### 3. Director of Public Financing's Report

Director of Public Financing Nichols presented each Commissioner with a folder filled with information regarding submissions for public funds the Commission received two weeks ago from gubernatorial candidates Robert J. DelTufo and Stephen B. Wiley. Enclosed were computerized and manual reports stating acceptable and unacceptable contributions for matching, and also a report of items matched and those rejected, along with another listing types of errors about which there were questions. Mr. DelTufo had a 22% error rate and Mr. Wiley a 3% error rate. Mr. Nichols said that a 22% error rate was generally lower than the error rate on the 1981 initial submissions. Vice Chairman Waugh asked what a candidate could do to correct errors. Mr. Nichols said that a candidate is notified of items not accepted for match immediately following Commission certification. Mr. Nichols stated that a candidate can correct errors by submitting clarifying information or documentation on any regular submission date. Mr. Nichols recommended that Mr. DelTufo be certified for \$36,240 and Mr. Wiley \$82,850.

General Counsel Farrell introduced Tom Bitar as a representative from Mr. DelTufo's campaign who said he was present to find out about its deficiencies in reporting. Mr. Nichols responded that the greatest problem area was the

listing of contribution receipt dates outside the 10-day period allowed for deposit, and that there was not any consistency in the method of entering receipt dates on the report. He said that the DelTufo staff could resolve

the problem by way of an amended statement that clarified the reason(s) for failure to deposit contributions within the 10-day period.

Mr. Bitar stated that he was concerned about the delay in having matching funds certified and asked if the Commission could expedite the certification process by allowing the DelTufo campaign to submit corrections during the certification period rather than waiting the additional two weeks to submit corrections on a regular submission date. He said that campaign commitments had already been made regarding the expenditure of public funds.

Mr. Farrell had two comments concerning Mr. Bitar's request. First, he stated that the 10-day deposit provision is not of practical relevance to public financing. Mr. Farrell stated that the statutory intent of the 10-day deposit provision was to insure preelection disclosure which, at this time, is not an issue. He stated that because the provision has little or no relevance to public funding submissions that clarifying information pertaining to this issue should be allowed during the certification period. Secondly, concerning mid-certification period amendments, he stated that it should be a staff decision as to what is a significant amendment and what is not but, in any event, all candidates must be treated identically. Further, he stated that these decisions need not wait until the Commission convenes to discuss individual cases.

Vice Chairman Waugh moved to accept the staff recommendations and certify public funds to Mr. Wiley and Mr. DelTufo, Commissioner Proctor seconded and on a vote of 4-0 Chairman Axtell certified the matching funds.

4. Returned Files

General Counsel Farrell indicated that former Executive Director Scott A. Weiner would attend the public session to review the boxes of files he was asked to return to the Commission. The Commission asked Mr. Weiner to return to the meeting after its executive session to review what correspondence he would be permitted to retain and what correspondence (confidential, et al.) he would not be permitted to keep. Mr. Weiner left the meeting at this point.

5. Executive Session

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission decided to go into executive session to discuss enforcement and investigative matters, the result of which will be made public at their conclusion.

6. Adjournment

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to adjourn.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "F M Herrmann", with a long horizontal flourish extending to the right.

FREDERICK M. HERRMANN