



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

JANUARY 22, 1992

OWEN V. McNANY, III
CHAIRMAN
STANLEY G. BEDFORD
COMMISSIONER
DAVID LINETT
COMMISSIONER

FREDERICK M. HERRMANN, PH.D.
EXECUTIVE DIRECTOR
JEFFREY M. BRINDLE
DEPUTY DIRECTOR
GREGORY E. NAGY
LEGAL DIRECTOR
EDWARD J. FARRELL
COUNSEL

All the Commissioners and senior staff were present.

Chairman McNany called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., 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 9:35 a.m. at the Commission offices, 28 W. State Street, Trenton, New Jersey.

1. Approval of Public Session Minutes of December 18, 1991

On a motion by Commissioner Bedford, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission approved the Public Session Minutes of December 18, 1991.

2. Executive Director's Report

A. Chairman Appointment

Executive Director Herrmann congratulated Chairman McNany on his appointment by the Governor and Senate to a fourth term on the Commission.

The Executive Director said that no action had been taken on the nomination of Joseph Mania and that it had expired at noon on January 14, 1992.

B. Lobbying Transition

Executive Director Herrmann reported that the lobbying transition is moving ahead very smoothly. He noted that \$45,000 in lobbying fees should be transferred by the Attorney General to ELEC as of this month.

Executive Director Herrmann said that staff is ready to administer the program. The Executive Director advised the Commission that:

1. Director of Compliance and Information Evelyn Ford is creating forms and has established all needed procedures and work assignments;
2. Systems Administrator Tony Chianese has created a computer program to produce quarterly statistical reports;
3. Director of Administration Barbra Fasanella and Personnel Officer Donna Margetts have "cleaned up" all existing backlogs in processing previously filed reports; and,
4. A training seminar will be held for lobbyists in March.

Commissioner Linett asked when the quarterly report forms will be mailed to lobbyists.

Director Ford advised the Commission that the forms will be mailed by March 1, 1992. She said that she will be discussing the forms at today's meeting.

Commissioner Linett suggested that lobbyists be given the opportunity to comment on the annual report forms.

Director Ford said that lobbyists would have input into the formulation of the forms, which are not needed until late in 1992.

C. Gubernatorial Election Check-off

Executive Director Herrmann informed the Commission that staff was successful in its efforts to persuade the Division of Taxation to change its tax booklet language on the gubernatorial election check-off to clarify that checking off does not increase tax liability of the taxpayer and to explain the benefits of the program.

The Executive Director said that the New Jersey check-off, although the highest in the nation, is following a national trend toward declining participation. He noted that the rate of check-off has dropped from 38 percent in 1985 to 32 percent in 1989. Executive Director Herrmann said that Director of Public Financing Nedda Massar will be contacting various state professional tax preparer associations to increase their awareness of gubernatorial public financing and to explain the program.

Counsel Farrell said that he hoped that the Commission was not taking the position that the check-off does not affect taxes. He said that in reality the money going into the check-off fund is taken from the general tax revenue and is not separate money.

Commission Bedford queried whether the reduction in check-off revenues could be due to a loss of support for public financing.

Executive Director Herrmann said that quite frankly, he does not know what to attribute the loss of revenues to. He said that Dr. Herbert Alexander of the Citizens' Research Foundation, University of Southern California, has said as much with respect to the loss of revenues on the national level. He said that it is possible that the recession is causing the decline.

D. Future Meetings

The Commission scheduled meetings for February 19, 1992, in Morristown; March 25, 1992, in Maplewood; and April 15, 1992, in Somerville.

E. New Secretary

Executive Director Herrmann said that the hiring of a new secretary is being contemplated. He added that a clerical staff member will be leaving to move to Delaware. The Executive Director said that the staff has managed the budget effectively and now is in the position of perhaps hiring a secretary. He informed the Commission that the staff had submitted a request to the Office of Management (OMB) for an exemption from the hiring freeze.

3. Discussion of Lobbying Forms

Director of Compliance and Information Evelyn Ford presented the proposed lobbying forms to the Commission. The proposed forms included "Notice of Representation," "Quarterly Reports," and "Notice of Termination."

Director Ford indicated that the authority for the questions appearing on the forms derives from the statute and the regulations. She said that she attempted to make the language as simple as possible without losing the sense of the law.

Following the discussion of the proposed forms, the Commission suggested that certain modifications be made to them. These changes included the clarification of Part III of the Notice of Representation; the simplification of Part II, question 3 of the Notice of Representation, which deals with the contractual arrangement between the agent and the lobbyist; the inclusion of the "periods" covered by the quarterly reports; and, the simplification of the language in the quarterly report form pertaining to any changes in the Notice of Representation.

The Commission also discussed the filing fee structure and indicated that it would consider a regulation to permit the receipt of a filing fee for annual reports in the near future.

Chairman McNany thanked Director Ford for an interesting and informative presentation. The Commission directed the staff to fax to them the suggested changes to the forms.

4. Advisory Opinion 01-1992

This advisory opinion request was submitted by Philip J. Maenza, Esq., on behalf of Barbara Keating and himself, candidate for Council in East Hanover Township, Morris County, New Jersey. Mr. Maenza asked whether funds solicited by his campaign committee to pay for litigation expenses in a postelection contest court proceeding are subject to the reporting requirements of the Campaign Contributions and Expenditures Reporting Act.

The draft response by Legal Director Nagy held that the fundraising activity described in the request is subject to the requirements of the Reporting Act because the postelection contest could overturn the election results. Therefore, fundraising activity to defray costs of litigation must be reported.

Commissioner Linett asked: what if a continuing political committee (CPC) expended money for the legal fees? How would it be reported?

Legal Director Nagy said that the CPC would report this expenditure in a quarterly report. He said also that the campaign committee would report this expenditure as an "in-kind" contribution to the committee.

On a motion by Commissioner Linett, seconded by Commissioner Bedford and passed by a vote of 3-0, the Commission approved the draft response to the advisory opinion request.

5. Resolution To Go Into Executive Session

On a resolution by Commissioner Linett, seconded by Commissioner Bedford and passed by a vote of 3-0, the Commission resolved to go into closed Executive Session to discuss the following matters which will become public as follows:

1. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public 15 days after mailing; and,
2. Investigative Reports of possible violations, which reports will not become public. However, any Complaint generated as the result of an Investigative Report will become public 30 days after mailing.

6. Adjournment

On a motion by Commissioner Linett, seconded by Commissioner Bedford and passed by a vote of 3-0, the Commission voted to adjourn at 11:56 a.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

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