



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

William H. Eldridge  
Chairman

Owen V. McNany, III  
Vice Chairman

David Linett  
Commissioner

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Frederick M. Herrmann, Ph.D.  
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PUBLIC SESSION MINUTES

FEBRUARY 14, 1995

Chairman Eldridge, Vice Chairman McNany, senior staff, Counsel Wyse, and Deputy Legal Director Nedda Gold Massar were present. Commissioner Linett was not in attendance for the first part of the meeting.

Chairman Eldridge 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 9:00 a.m. at the New Somerset County Administration Building, Somerville, New Jersey.

2. Approval of Public Session Minutes of January 17, 1995

On a motion by Vice Chairman McNany, seconded by Chairman Eldridge and passed by a vote of 2-0, the Commission approved the Public Session Minutes of January 17, 1995.

3. Executive Directors' Report

A. Staff Activities

Executive Director Herrmann said that on January 24, 1995, he testified before the Government Administration and Elections Commission of the Connecticut Legislature at an informational forum on public financing.

The Executive Director reported that on January 30, 1995, he participated in a Department of Law and Public Safety training on the problem of sexual harassment. He noted that Deputy Director Brindle attended the program on February 1, 1995. He added that former Commissioner Alexander P. Waugh hosted the seminar.

Executive Director Herrmann advised the Commission that a member of the public who recently visited the New Jersey Election Law Enforcement Commission (ELEC) wrote that the "attitude exhibited by your staff could well be used as a model for other State agencies." He said that Assistant Compliance Officer Andrew Mersel, Associate Report Examiner Brett Mead, Systems Administrator

Anthony Chianese, Senior Receptionist Debra Kostival, and Associate Receptionist Irene Comiso were specifically mentioned.

Executive Director Herrmann stated that he met with Thomas L. Gais of the Nelson A. Rockefeller Institute of Government located in Albany, New York to discuss the problems of administering, implementing, and enforcing campaign finance laws. He said that the Institute is conducting a study on the impact and effectiveness of campaign finance reforms in the states and selected major cities.

Executive Director Herrmann announced that the NORCOL Lobbying Handbook, which is a compendium of regional lobbying forms and other materials, is nearing publication. The Executive Director has compiled this document in his role as Chairman of the Northeastern Regional Conference on Lobbying (NORCOL). He said that the Commissioners will be given copies with the March agenda.

#### B. Legislative Developments

Executive Director Herrmann said that on January 24, 1995, Deputy Director Brindle testified favorably before the Senate State Government Committee on S-980 (Schluter) and S-981 (Schluter). According to the Executive Director, S-980 provides that a candidate for selection to fill a legislative vacancy must file campaign finance and personal financial disclosure (PFD) reports with ELEC. He said that S-981 moves jurisdiction over political disclaimers on campaign materials from the Attorney General to ELEC. Executive Director Herrmann advised that both bills were released from the Committee.

#### C. Budget

Executive Director Herrmann reported that due to ongoing conversations between ELEC staff and the Office of Management and Budget (OMB) and Department of the Treasury staff, Governor Whitman did not recommend a cut to ELEC's FY-96 budget, which will remain at \$1.417 million.

#### D. Recomputerization

The Executive Director related that Director of Administration Barbra Fasanella contacted OMB about our request for recomputerization funding. He told the Commission that OTIS recommended in its report on ELEC's computer situation that the next step in recomputerization be an "implementation analysis." Executive Director Herrmann advised the Commission that staff is seeking funding for the analysis and OMB has forwarded the request to the "Government That Works Committee" for consideration.

#### E. National Ethics News

Executive Director Herrmann informed the Commissioners that legislation in Colorado directs the Secretary of State to establish a remote access system for reviewing campaign finance reports. He advised them that legislation in Missouri allows its Ethics Commission to establish a system of electronic

reporting. According to the Executive Director, the Missouri legislation restricts candidates to one committee each.

Executive Director Herrmann reported that the federal increase of the income tax check-off from \$1 to \$3 resulted in a 257% increase in receipts in its first year in effect. He reminded the Commissioners that they should amend the public financing recommendation to include the recommendation to adjust the gubernatorial check-off for inflation.

F. Future Meetings

The Commission will meet in Maplewood on March 21, 1995, at 9:00 a.m. It will meet again in Summit on April 18, 1995 at 9:00 a.m. The Commission currently plans to meet on May 16 and June 20, 1995 in Maplewood at 9:00 a.m.

4. Adoption of Regulation Concerning Annual Fee for Legislative Agents

For detailed information please see the memorandum from Gregory E. Nagy, Legal Director, to Frederick M. Herrmann, Executive Director, Ph.D., dated February 3, 1995, and entitled Lobbying Fee Regulation. Also see the Public Session Minutes of November 15, 1994.

The proposed amendment at N.J.A.C. 19:25-20.19 raises the annual lobbying filing fee from \$200 to \$325.

The Commission received three written comments regarding the proposal during the period for submitting written comments, and reviewed suggested responses.

On a motion by Vice Chairman McNany, seconded by Chairman Eldridge and passed by a vote of 2-0, the Commission adopted the regulatory amendment, raising the annual lobbying fee from \$200 to \$325, and directed staff to file a Notice of Adoption with the Office of Administrative Law (OAL).

5. Proposed Regulations Permitting Facsimile Filings

For detailed information see the memorandum from Gregory E. Nagy, Legal Director, to Frederick M. Herrmann, Executive Director, Ph.D., dated February 6, 1995, and entitled Proposed Regulations Permitting Facsimile Filings. Also see the draft regulations, which are attached to the memorandum.

The draft regulations would permit 48-hour notices of contributions received or expenditures made immediately before an election to be filed with ELEC by electronic facsimile transmission (fax).

On a motion by Vice Chairman McNany, seconded by Chairman Eldridge and passed by a vote of 2-0, the Commission proposed the regulation that would permit faxed reports of 48-hour notices, and directed staff to file a Proposal Notice with the OAL.

6. Discussion of Request by Chairman Eldridge for Summary Information Concerning Legislation

For detailed information please see the memorandum from Jeffrey M. Brindle, Deputy Director, and Nedda Gold Massar, Deputy Legal Director, to Frederick M. Herrmann, Executive Director, Ph.D., dated February 2, 1995, and entitled Chairman William H. Eldridge's Request for Summary Information on Deliberately False Political Advertising and Public Financing Legislative Recommendations.

Chairman Eldridge said that the recent public hearings held by the Commission indicate that everyone is in favor of doing something about the problem of false advertising but that precise remedies have not been readily offered.

Chairman Eldridge said that he would prefer to see the issue cleared up on its own, naturally, without legislation. In other words, he said that he would prefer that the public simply not respond to negative advertising, thereby pressuring candidates to pursue positive issue-oriented campaigns. He said that this may not occur however. Chairman Eldridge said that if he had his way candidates for Governor would not do any campaigning other than participate in a series of debates. He said that the public would view these debates and then vote.

The Chairman said that he believed that it would be useful to raise the issue of false advertising and to summarize the proceedings at this meeting. He added that he does not think that the Commission needs to take a position on any of the bills that have been introduced to curb false political advertising.

Chairman Eldridge asked if Vice Chairman McNany had any comments to make.

Vice Chairman McNany said that he had nothing to add to the discussion at this time.

Chairman Eldridge said that he would like to briefly summarize the gubernatorial public financing recommendations made by the Commission in the spring of 1994. He said that essentially the Commission made recommendations that would reduce the public money payout to candidates.

Chairman Eldridge reiterated his sense that gubernatorial candidates should be required to participate in three debates and otherwise not spend any money campaigning.

He also noted that as part of the recommendation the Commission has called for a prohibition on negative campaigning by publicly-funded gubernatorial candidates.

Legal Director Nagy noted that legislation should not target only publicly-financed candidates when seeking to curb false political advertising.

He said that all candidates must be treated the same for purposes of regulating political speech in order to minimize Equal Protection vulnerability.

Executive Director Herrmann suggested that the Commission amend the proposals to include one that would adjust the income tax check-off amount to account for inflation. He said that this proposal was advanced in the past and that it was an oversight by the Commission in not including it in the current recommendation.

Vice Chairman McNany said that he has been on the Commission for more than ten years. He said that he has learned that regulating negative advertising would be very difficult. He said, however, that some campaigns may be getting out-of-hand in terms of their negativism. Vice Chairman McNany said that it would be nice if legislation could do something about this situation.

Vice Chairman McNany added that without public financing there probably would have been no debates.

7. Resolution to Go Into Executive Session

On a motion by Vice Chairman McNany, seconded by Chairman Eldridge and passed by a vote of 2-0, 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.
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.

8. Return to Public Session

9. Public Hearing on Proposed Regulations Concerning Contribution Reporting and Contribution Limits

The public hearing involved proposed new rules for Contribution Reporting at N.J.A.C. 19:25-10, proposed amendments at N.J.A.C. 19:25-1.7, 9.2, and 9.3, and proposed Repeal and new rules for Contribution Limits at N.J.A.C. 19:25.11.

The public hearing was recorded by a court reporter who will provide a transcript of the proceedings. No persons appeared to offer testimony.

10. Resolution to Return to Executive Session

On a motion by Chairman McNany, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission resolved to return to 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.
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.

11. Return to Public Session

12. Adjournment

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 3-0, the Commission voted to adjourn at 10:35 a.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

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