



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

NATIONAL STATE BANK BLDG., 12th FLOOR
28 W. STATE STREET, CN 185
TRENTON, NEW JERSEY 08625-0185
(609) 292-8700

William H. Eldridge
Chairman

Owen V. McNany, III
Vice Chairman

David Linett
Commissioner

Michael Chertoff
Commissioner

Frederick M. Herrmann, Ph.D.
Executive Director

Jeffrey M. Brindle
Deputy Director

Gregory E. Nagy
Legal Director

James P. Wyse
Counsel

PUBLIC SESSION MINUTES

MAY 23, 1995

The Commissioners, Senior Staff, the Counsel, and Deputy Legal Director Nedda Gold Massar were present.

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 9:15 a.m. at the Maplewood Municipal Building, Maplewood, New Jersey.

Chairman Eldridge welcomed Michael Chertoff to the Commission as the newly-confirmed Commissioner.

3. Approval of Public Session Minutes of April 18, 1995

On a motion by Chairman Eldridge, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission approved the Public Session Minutes of April 18, 1995. Commissioner Chertoff abstained because he had not been a member of the Commission at the last meeting.

4. Executive Director's Report

A. Staff Activities

Executive Director Herrmann reported that on April 19, 1995, he participated in a panel with Alan Rosenthal of the Eagleton Institute and Jim Goodman of the Times (Trenton), discussing the regulation of lobbyists. The panel was before a Rutgers University graduate course on Public Policy Advocacy taught by Steven Salmore and Joseph Katz.

The Executive Director said that on April 20, 1995, he was a guest lecturer at a forum sponsored by the Legislative Bureau at the Seton Hall University Law School. He said that he discussed campaign finance reform and the work of the Commission.

Executive Director Herrmann announced that on April 25, 1995, Deputy Director Brindle, Director of Administration Barbra Fasanella, and he attended the Assembly Appropriation Committee meeting on the Department of Law and Public Safety's budget for FY-1996. He noted that while ELEC responded to written questions prior to the hearing, no oral questions were addressed to staff.

The Executive Director advised the Commission that on May 18, 1995, he spoke at the Haddonfield Memorial High School Career Day about working in State Government. He added that on May 22, 1995, he addressed a group from College Leadership New Jersey on the role of ELEC.

B. Issue of Local Candidates and Opening Bank Accounts

Executive Director Herrmann mentioned to the Commission that Chairman Eldridge asked staff to research the problem that local candidates with small campaign resources were having opening bank accounts. He said that in some instances banks are balking at opening campaign accounts with minimal resources. Executive Director Herrmann said that candidates are also having trouble getting IDs for interest-bearing accounts.

Executive Director Herrmann said that S-1198 (Lynch)/A-1840 (Rooney) should help to alleviate this situation by allowing mayoral and council candidates to form joint committees resulting in larger bank accounts. The Executive Director reported that staff also found that a candidate's social security number may be used to open an account and that the Division of Taxation has an "800" hotline to assign IDs. Chairman Eldridge suggested that staff provide the social security number and hotline information to candidates in routine ELEC mailings.

C. Legislative Developments

Executive Director Herrmann informed the Commission that A-1840 (Rooney), which allows Mayor/Council and County Executive/Freeholder joint candidates committees and permits joint candidate committees to be identified by jurisdiction and party as an alternative to office sought and surnames, passed 78-0 on May 1, 1995.

The Executive Director added that S-1198 (Lynch), an identical bill, was released unanimously on May 8, 1995 by the Senate Judiciary Committee. He said that on that date the Senate Judiciary Committee released the nomination of Michael Chertoff to ELEC. The nomination was confirmed by the Senate on May 11, 1995.

Executive Director Herrmann said that on May 15, 1995, he testified favorably before the Assembly State Government Committee on two bills.

The Executive Director said that he testified first on A-2583 (Augustine), which extends the Personal Financial Disclosure (PFD) filing date from 10 days after the deadline for filing nominations petitions (April 24) to May 15.

Executive Director Herrmann said that the new date still allows enough preelection disclosure time. He added that it also corresponds with the date by which legislators are required to file their ethics forms with the Joint Commission on Legislative Ethics. According to Executive Director Herrmann, the May 15th date gives both candidates and ELEC a reasonable amount of time to process reports. He indicated that ten days is not enough time for ELEC to receive candidates addresses and mail reports, and for candidates to fill out their forms and return them.

Executive Director Herrmann noted that he also testified on A-2306 (Russo/Lance), which provides for the reporting of Grassroots Lobbying activity. He said that this bill amends the current Lobbying Act to require:

- that any communication be reported as Grassroots Lobbying if the message is disseminated to the general public, intended to influence legislation or regulation, and phrased to ask members of the public to contact a public official.

It also makes an exception for true grassroots efforts by unpaid, unprofessional groups of citizens.

Executive Director Herrmann said that both A-2583 (Augustine) and A-2306 (Russo/Lance) were released by the committee. He said that A-2426 (Lustbader), which regulates deliberately false campaign advertising, was released as well.

Executive Director Herrmann advised the Commission that on May 18, 1995, Governor Whitman signed the Recall Bill into law. He indicated that ELEC will now move ahead with regulations to cover the campaign financing aspects of the new act.

D. McIntyre v. Ohio Elections Commission

The Executive Director informed the Commission that on April 19, 1995, the U.S. Supreme Court struck down an Ohio law "which prohibits the distribution of campaign literature that does not contain the name and address of the person or campaign official issuing the literature."

Executive Director Herrmann said that it appears that N.J.S.A. 19:34-38.1 et seq., the political identification section of Title 19, is unconstitutional.

According to the Executive Director, ELEC currently does not have jurisdiction over the political identification law, although S-981 (Schluter) would accomplish this change. Executive Director Herrmann said that the existence of the Schluter bill makes it important for ELEC to follow the impact of this decision. The Executive Director added that the Commission needs to review N.J.A.C. 19:25-12.7(b), which is the regulation concerning the political identification of independent expenditures.

E. Future Meeting Schedule

The Commission scheduled a meeting for June 20, 1995, in Maplewood, when a public hearing is scheduled. It also tentatively plans to meet on July 18, 1995 and August 15, 1995.

5. Proposed Readoption With Amendments of Commission Regulations

The Commission reviewed a staff memorandum entitled "Readoption of Commission Regulations," which explained that pursuant to Executive Order No. 66 review and readoption of regulations is required every five years.

Commissioner Linett mentioned that now that the Commission has a regulation permitting 48-hour notices to be faxed he would like to see a statutory change requiring that 48-hour notices be received at the Commission no later than election day. He said that the Commission should recommend to the Legislature that it change the statute in the manner suggested.

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 4-0, the Commission proposed the readoption of Commission regulations with amendments and directed staff to file the proposal notice with the Office of Administrative Law (OAL).

6. Advisory Opinion Request No. 07-1995

This advisory opinion request was submitted by Dorothy K. Leslie, Treasurer, Election Fund of Maureen Ogden.

Ms. Leslie advised the Commission that Assemblywoman Ogden is not a candidate in the 1995 primary election. Ms. Leslie inquired as to the status and filing requirements of the Election Fund of Maureen Ogden, which is now designated as a primary 1995 filing.

Ms. Leslie also inquired as to guidelines for the raising of funds for this election fund and to any contribution limit restrictions that might exist relative to this fundraising.

Legal Director Nagy discussed the staff memorandum which had been circulated to the Commission and recommended that the 1995 primary election contribution limits remain applicable to any future contributions received by the candidate committee established by Assemblywoman Ogden for that election. The memorandum also indicated that Assemblywoman Ogden may make contributions to her candidate committee from her personal assets without limit.

The Commission concluded that Assemblywoman Ogden's candidate committee must continue filing quarterly reports designated for the 1995 primary election until such time as it wound up its business for that election and is dissolved.

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 4-0, the Commission directed that staff issue the advisory opinion as proposed in the staff memorandum.

7. Advisory Opinion Request No. 08-1995

This advisory opinion request was submitted by Coastal Corporation, an energy-holding corporation. The corporation sought clarification as to whether or not it is prohibited from making contributions to candidates in New Jersey.

The Commission reviewed a memorandum from Deputy Legal Director Nedda Massar concerning referral of this question to the Attorney General, whose office has jurisdiction over the statute governing such contributions.

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission directed staff to refer this request to the Attorney General.

Commissioner Chertoff recused himself from participation in this matter.

8. Report on Statutory Thresholds

Chairman Eldridge had suggested that the various statutory reporting thresholds in the Campaign Reporting Act and Legislative Activities Disclosure Act be reviewed so that the Commission can consider whether or not it should recommend that the Legislature increase them.

For review, please see the memorandum from Legal Director Nagy to Executive Director Herrmann, dated May 17, 1995, and entitled statutory reporting thresholds.

Chairman Eldridge said that he made the suggestion for staff to review this matter for the purpose of possibly recommending the upward adjustment of reporting threshold contained in the Act. He said that he had asked for this review out of concern for the little "mom and pop" campaigns, where there is little money raised, yet considerable burden imposed regarding reporting to the State.

Commissioner Linett said that two competing principles were involved with this issue. He said that he agreed the burden of filing is greater on the smaller campaigns and smaller towns. He said, however, that it is also true that in the smaller towns the impact of a \$200 or \$500 contribution is much greater than in the larger campaigns and communities. He said that a single contribution in a small town has much greater impact and potentially affords the contributor with more influence than in the larger campaigns.

Commissioner Chertoff agreed saying that a little bit of money is important in the smaller towns and campaigns. He added that the newspapers also notice single contributions more when there are fewer of them.

Executive Director Herrmann said that quadrennial adjustment of thresholds and limits are included in the campaign reform law. He added that staff would look at this issue as part of a comprehensive study of the new law following the general election.

9. Resolution to Go Into Executive Session

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 4-0, 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 no later than 35 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 no later than 50 days after mailing.

10. Adjournment

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 4-0, the Commission voted to adjourn at 11:00 a.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.