



State of New Jersey

## ELECTION LAW ENFORCEMENT COMMISSION

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PAULA A. FRANZESE  
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LYNNAN B. WARE  
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GREGORY E. NAGY  
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JAMES P. WYSE  
Counsel

### PUBLIC SESSION MINUTES

July 18, 2000

Chair Martin, Vice Chair Franzese, Commissioner Ware, Commissioner Lederman, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present. Counsel Wyse was not present.

#### 1. Open Public Meetings Statement

Chair Martin called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., adequate 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 11:00 a.m. in Trenton, New Jersey.

#### 2. Approval of Public Session Minutes of June 22, 2000

On a motion by Vice Chair Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission approved the Public Session Minutes of June 22, 2000.

#### 3. Executive Director's Report

##### A. FY-01 Budget

Executive Director Frederick M. Herrmann reported that the overall operating budget is \$3.6 million for FY-01. He added that \$7 million to fund gubernatorial candidates in the primary was also included in this fiscal year's budget.

##### New Funding

Executive Director Herrmann noted that the budget contains an increase of \$385,000 for the electronic disclosure initiative. The Executive Director said that the money will cover nine new computer staff positions. According to the Executive

Director, the new staff will allow ELEC to maintain, upgrade, and enhance the system. Executive Director Herrmann said that as he explained to the Senate Budget Committee, "you wouldn't want to fly with an airline that didn't have a ground crew." Executive Director Herrmann advised the Commission that the new staff members will provide technical support to ELEC's current staff and candidates filing electronically. He said that they will also provide technical and informational support to the public, campaigns, and the media using the web site. Executive Director Herrmann noted that ELEC is no longer a 9-5, Monday-Friday operation but a 24/7 one. The Executive Director added that \$600,000 has also been appropriated for 11 temporary positions to administer the Gubernatorial Public Financing Program.

B. Staff Activities

Executive Director Herrmann said that the fourteenth floor space has been approved for the Review and Investigation and the Gubernatorial Public Financing staff. He informed the Commission that the new computer staff will be located on the 12<sup>th</sup> floor near the computer section.

Executive Director Herrmann introduced Renee Cardelucci, who has joined ELEC as the new legal secretary for the Review and Investigation Section.

Executive Director Herrmann reported that in June, the COGEL Steering Committee met in Florida and approved his suggestion that COGEL become a co-sponsor of the Quarterly Ethics Journal Public Integrity. Executive Director Herrmann reported on his negotiations vis-à-vis Public Integrity and COGEL. He said that as part of the deal, all COGEL members will be getting a free subscription to the journal as part of their membership package. He added that this new relationship will help Public Integrity by expanding its subscriber list and will benefit COGEL with additional exposure. Executive Director Herrmann advised the Commission that he has completed the Fourth Edition of the COGEL Campaign Financing and Lobbying Bibliography. He reported that COGEL is planning an electronic as well as a print edition.

The Executive Director mentioned that Deputy Legal Director Nedda Gold Massar and he will be attending the 13<sup>th</sup> annual conference of the Northeastern Regional Conference on Lobbying (NORCOL) to be held in Providence, Rhode Island on Sunday, August 6th. He said that he will be making a presentation on New Jersey lobbying activities over the past year and will also be distributing a publication entitled, "Lobbying in New Jersey 2000" that he updates annually for the conference and the Second Edition of the NORCOL Lobbying Guidebook which he compiled last year.

C. Legislative Developments

Executive Director Herrmann reported that on July 12, 2000, the Assembly State Government Committee held a public hearing at Drew University on A-2647 (Weingarten and O'Toole). According to the Executive Director, this bill is identical to

S-1468 (Gormley) and provides that gubernatorial candidates will be ineligible for public financing unless they disclose the contributors to their 527 committees. He said that former Governor Thomas Kean, Senator William Gormley, and Essex County Executive James Treffinger testified in favor of the bill. Executive Director Herrmann stated that “although the Commission does not meet until next week and has not had an opportunity to review the bill, historically ELEC has supported legislation promoting disclosure.” According to the Executive Director, the committee did not vote on the legislation which is anticipated to be acted upon in the fall.

D. National News

Executive Director Herrmann reported that a recent study by the Brennan Center at the New York University School of Law sheds important light on the issue of 527 committees. He said that the study concluded that during the 1998 Congressional elections, “just four percent of ads by candidates used the Supreme Court’s ‘Magic Words’ of express advocacy.” He suggested that the implication is that there is really no distinguishable difference between “Issue Advocacy” and “Express Advocacy” in the real world of campaigning. Executive Director Herrmann said that consequently, the protection by the Courts of issue speech by not requiring its reporting seems to make little sense. Moreover, stated Executive Director Herrmann, the study argues that the “Magic Words” test has “blown a huge hole in the nation’s campaign finance laws.” Executive Director Herrmann added that the study cites the erosion of contribution limits, prohibited contributions, and disclosure. According to Executive Director Herrmann, the study concludes that there is a “remarkable degree of disconnection between the way campaign finance laws have been applied and the way campaigns are conducted.”

E. Commission Meeting Schedule

- September 19, 2000 at 11:00 a.m. in Trenton
- October 24, 2000 at 11:00 a.m. in Trenton

4. Proposed Amendments to Implement Inflationary Campaign Cost Adjustments

The Commission is required by law to conduct a study of the impact of inflation on election costs and make adjustments to the various reporting, contribution limit, and other thresholds and ceilings in the Campaign Reporting Act no later than December 1<sup>st</sup> of the year preceding the gubernatorial general election. The formula to be used for making these adjustments is contained in the statute. Accordingly, staff presented the text of proposed amendments to the Commission regulations to implement the adjustments.

The proposed regulations are divided into two parts. The first part addresses non-gubernatorial candidates and committees; the second addresses gubernatorial public financing. The Campaign Reporting Act requires that the regulations be effective by December 1<sup>st</sup>, and the Commission must issue a report to the Legislature on the adjustments by December 15<sup>th</sup>.

Statutory changes enacted in 1989 require that the Commission established an index reflecting changes occurring in the general level of prices of particular goods and services

which directly affect the overall costs of election campaigning in this State. The index will impact changes in both the gubernatorial thresholds and limits as well as non-gubernatorial thresholds and limits.

Applying this index, which was first described in the Commission's June, 1988 "Gubernatorial Cost Analysis Report," and employed in 1992 for the 1993 gubernatorial public financing program, and in 1996 for gubernatorial and non-gubernatorial candidates and committees, staff has determined that costs relevant to campaigning in New Jersey have risen in the period following the 1997 gubernatorial general election and has applied an index of 21.32 percent to the various limits and thresholds in the regulations that are required to be adjusted. The new amounts are as follows:

#### 2001 Gubernatorial Cost Index Adjustment

Limit/Threshold	1997 Amount	Cost Index Multiplier	Sum	2001 Rounded Amount (pursuant to <u>N.J.S.A.</u> <u>19:44A-7.1</u> )
Contribution Limit	\$2,100.00	1.2132	\$2,547.72	\$2,600.00
Qualification Threshold	\$210,000.00	1.2132	\$254,772.00	\$260,000.00
Amount Not Matched	\$69,000.00	1.2132	\$83,710.80	\$84,000.00
Primary Public Fund Cap	\$1,860,000.00	1.2132	\$2,256,552.00	\$2,300,000.00
Primary Expenditure Limit	\$3,100,000.00	1.2132	\$3,760,920.00	\$3,800,000.00
General Public Fund Cap	\$4,600,000.00	1.2132	\$5,580,720.00	\$5,600,000.00
General Expenditure Limit	\$6,900,000.00	1.2132	\$8,371,080.00	\$8,400,000.00

**2001 Non-Gubernatorial Contribution Limit Amount Adjustments**

<b>1997 Contribution Amount</b>	<b>Cost Index Multiplier</b>	<b>Sum</b>	<b>2001 Rounded Amount (pursuant to <u>N.J.S.A.</u> <u>19:44A-7.1b</u>)</b>
\$1,800	1.2132	\$2,183.76	\$2,200.00
\$5,900	1.2132	\$7,157.88	\$7,200.00
\$30,000	1.2132	\$36,396.00	\$37,000.00
\$59,000	1.2132	\$71,578.80	\$72,000.00

**2001 Adjustments for Non-gubernatorial Candidates and Committees**

<b>Limit/Threshold</b>	<b>1997 Amount</b>	<b>Cost Index Multiplier</b>	<b>Sum</b>	<b>2001 Rounded Amount (pursuant to <u>N.J.S.A.</u> <u>19:44A-7.1b</u>)</b>
Political Committee Reporting Threshold	\$1,200	1.2132	\$1,455.84	\$1,500.00
Continuing Political Committee Reporting Threshold	\$3,000	1.2132	\$3,639.60	\$3,700.00
Contribution Reporting Threshold	\$300	1.2132	\$363.96	\$400.00
48-Hour Notice/Contribution Threshold	\$600	1.2132	\$727.92	\$800.00
48-Hour Notice/Expenditure Threshold	\$600	1.2132	\$727.92	\$800.00
Joint Candidates Committee Thresholds	\$4,700 \$7,000	1.2132	\$5,702.04 \$8,492.40	\$5,800.00 \$8,500.00
Form A-3 Threshold	\$3,000	1.2132	\$3,639.60	\$3,700.00
Form A-1 Threshold & School Board/Write-in Threshold	\$2,400	1.2132	\$2,911.68	\$3,000.00
Independent Expenditure Threshold	\$600	1.2132	\$727.92	\$800.00
Section 20.1 Penalties	\$3,500/ \$7,000	1.2132	\$4,246.20/ \$8,492.40	\$4,300.00/ \$8,500.00
Section 22 Penalties	\$3,500/ \$7,000	1.2132	\$4,246.20/ \$8,492.40	\$4,300.00/ \$8,500.00
Pro rata Return of Contributions	\$200	N/A	N/A	\$400.00

On a motion by Commissioner Ware, seconded by Vice Chair Franzese and passed by a vote of 4-0, the Commission approved the proposed amendments to adjust the limits and

thresholds for gubernatorial and non-gubernatorial candidates and committees, and directed staff to file the proposal at the Office of Administrative Law.

5. Advisory Opinion Request No. 03-2000 (The Hertz Corporation)

This Advisory Opinion Request, submitted by the Hertz Corporation, asked the Commission to seek an advisory opinion from the State Attorney General regarding the possible applicability of the statutory prohibition against political contributions by certain regulated corporations. Ms. Mary Katherine Roberts, Esq., on behalf of Hertz, wrote that Hertz is an indirect wholly owned subsidiary of the Ford Motor Company, which itself indirectly owns a separate subsidiary, Ford Motor Credit Company. Ford Credit provides wholesale financing and capitol loans to Ford retail dealerships and purchases retail installment sale contracts and retains leases with them. It also conducts insurance operations through The American Road Insurance Company. Therefore, Ford Credit may be a regulated entity subject to the statutory prohibition against the making of political contributions. The Advisory Opinion Request seeks advice on whether or not Hertz may make political contributions in New Jersey given that its corporate parent owns a subsidiary that may be a regulated entity.

On a motion by Commissioner Ware, seconded by Commissioner Lederman and passed by a vote of 3-0, the Commission voted to direct staff to forward the advisory opinion request to the Attorney General. Vice Chair Franzese recused herself from participating on this matter.

6. Resolution to go into Executive Session

On a motion by Commissioner Ware, seconded by Vice Chair Franzese and passed by a vote of 4-0, the Commission resolved to go into Executive Session to discuss the following matters which will become public as follows:

- A. 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.
- B. 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.
- C. A report on written requests for investigations of possible violations, which report will not become public. However, any complaint which may be generated as a result of a request for an investigation will become public no later than 50 days after mailing.

7. Return to Public Session

A written request from Cleta Mitchell, Esq., to defer consideration of Advisory Opinion Request No. 02-2000 to the Commission's September 19, 2000 meeting was circulated to the Commission.

Adjournment

On a motion by Vice Chair Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission voted to adjourn at 1:00 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.  
Executive Director

FMH/elz