



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

RALPH V. MARTIN
Chair

PAULA A. FRANZESE
Vice Chair

SUSAN S. LEDERMAN, Ph.D.
Commissioner

PETER J. TOBER
Commissioner

Respond to:
P.O. Box 185
Trenton, New Jersey 08625-0185

(609) 292-8700

Web site: <http://www.elec.state.nj.us/>

FREDERICK M. HERRMANN, Ph.D.
Executive Director

JEFFREY M. BRINDLE
Deputy Director

GREGORY E. NAGY
Legal Director

JAMES P. WYSE
Counsel

PUBLIC SESSION MINUTES

December 18, 2002

Chair Martin, Commissioner Lederman, Commissioner Tober, Counsel Wyse, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present. Vice Chair Franzese was absent.

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 November 18, 2002

On a motion by Commissioner Lederman, seconded by Commissioner Tober and passed by a vote of 3-0, the Commission approved the Public Session Minutes of November 18, 2002.

3. Executive Director's Report

A. National News

Executive Director Herrmann reported that the Center for Governmental Studies in Los Angeles has recently released a new survey of electronic filing systems for campaign finance reporting. He said that it covers 50 states, 6 cities, and 6 Canadian provinces. According to the Executive Director, election officials reported that these systems worked well, saved money, and were popular with the public. Executive Director Herrmann noted that they also stated that the news media and candidates were strongly satisfied with electronic filing programs.

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Executive Director Herrmann stated that 46 states and the federal government collect campaign finance disclosure statements with computer technology. He mentioned that most post some of the information collected on the web. The Executive Director said that the survey concluded that disk filing will eventually be replaced by internet filing. Executive Director Herrmann reported that ELEC is currently working on this transition, but progress has been delayed by recent budget cuts due to the state's economic problems.

B. Staff Activities

The Executive Director announced that Director of Systems Administration Carol Neiman helped to form a state Filenet users group. He said that Filenet is the system used to scan reports onto the web. Executive Director Herrmann advised the Commission that Assistant Director of Systems Administration Kim Vandegrift has been participating in the Department of Law and Public Safety's Internet Standards Committee. According to the Executive Director, she has not only collected important information to improve our web site but has also made some solid suggestions to the department to upgrade theirs.

Executive Director Herrmann mentioned that on December 10, 2002, Director Neiman and Assistant Systems Administrator Vandegrift attended a systems security seminar to prevent hacking with a speaker from the FBI.

The Executive Director added that on December 14, 2002, he was a featured speaker at a lobbying seminar sponsored by the Institute for Continuing Legal Education (I.C.L.E.) in New Brunswick. At the seminar, the Executive Director spoke about the role of ELEC in regulating lobbyists, gave a legislative history of lobbying regulation in New Jersey and the United States, and explained current statutory and regulatory requirements governing lobbyist reporting. Executive Director Herrmann told the Commission that on the program were four lobbyists who discussed their activities in influencing legislation and regulations. He said that among those in the audience were: Senator John Matheussen, Assemblyman Matt Ahearn, former Commissioner of Banking and Insurance Lisa Randall, and Former Assemblyman Paul Kraemer.

Executive Director Herrmann announced that three ELEC staffers will be serving on Council on Governmental Ethics Law (COGEL) committees in the coming year:

- Executive Director Frederick M. Herrmann on the Awards and Publications Committees;
- Deputy Legal Director Nedda Gold Massar on the Model Law Committee; and,
- Director of Systems Administration Carol Neiman on the Technology Committee.

Executive Director Herrmann informed the Commission that Director of Systems Administration Neiman and Associate Data Entry Technician Barbara Counts once again did a marvelous job with the employees charitable campaign. He reported that \$4,304 was raised from 43 employees. The Executive Director expressed thanks to Carol and Barbara for their leadership through which ELEC received the coveted platinum award for the eighth time.

C. Winter Meeting Schedule

- January 24, 2003, at 11:00 a.m. in Trenton;
- February 24, 2003 at 11:00 a.m. in Trenton; and,
- March 17, 2003 at 11:00 a.m. in Trenton.

4. Adoption of Proposed Amendments to Commission Regulations and New Rule

Staff recommended that the Commission adopt as proposed the amendments to the regulations that were the subject of the public hearing conducted at the November 18, 2002, Commission meeting. The proposed amendments clarify the dates included in each reporting period, require reporting entities to maintain copies of reports that have been filed with the Commission, and permit unlimited contributions between candidates for the offices of county executive and freeholder in the same county. A new rule has also been proposed to establish procedures for making expenditures by debit cards.

No persons offered testimony at the November 18, 2002, public hearing, and no written comments have been received. Barring no substantive written comments being received by December 20, 2002, staff will prepare the adoption notice for filing with the office of Administrative Law (OAL), and the rules will become effective upon publication in the New Jersey Register on January 21, 2003.

On a motion by Commissioner Lederman, seconded by Commissioner Tober and passed by a vote of 3-0, the Commission approved the staff recommendation to adopt the amendments and new rule without change and directed staff to file the adoption with the OAL.

5. Proposed Amendments and New Rules

Legal Director Nagy explained several proposed rules and amendments to the regulations that had been circulated to the Commission. The major purposes of these provisions are as follows:

- To clarify that the cost of food and beverages provided to an invited speaker at an event sponsored by a lobbying entity is not required to be reported as benefit passing;
- To require county political party committees and their organizational treasuries to file an annual report identifying the municipal political party committees in their county; and,

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- To establish standards for imposition of penalties for many of the different offenses that arise under the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. The purpose is to comply with the requirement of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., to adopt rules of practice concerning penalties.

Commissioner Lederman asked whether or not the proposal concerning a speaker's food and beverage costs will have an impact on a speaker's fee. Legal Director Nagy explained that the proposal to exempt the cost of a speaker's food and beverage from reporting will have no impact on a speaker's fee which is still reportable.

Chair Martin asked whether or not the Commission had an existing definition of what is meant by the knowing, willful, and intentional acceptance of an excessive contribution. Legal Director Nagy responded that the Campaign Reporting Act contains the terms, but does not provide a definition as applied specifically in the context of acceptance of an excessive contribution. The proposed definition is therefore based upon the existing regulatory requirement to return the excessive portion of a contribution within 48-hours, an act within the control of a candidate, committee, or treasurer. Director Nagy explained the staff concern that in the absence of a definition of a knowing, willful, and intentional contribution limit violation, a respondent might attempt to argue that he had no intent to violate the contribution limit because he was ignorant of its existence.

On a motion by Commissioner Lederman, seconded by Commissioner Tober and passed by a vote of 3-0, the Commission approved proposal of the amendments and new rules and directed staff to file the proposal at the OAL.

6. Public Comment

Mr. William Baroni, Esq., spoke briefly to commemorate the retirement of Greg Nagy. He said that as a member of the "Election Lawyers Club," he appreciated the abilities, helpfulness, and professionalism of the Legal Director. He thanked him for his efforts and for dedicating his career to this area of law. Mr. Baroni stated that he deals with attorneys at other election agencies throughout the country and that Legal Director Nagy was a model for them all.

7. Resolution to go into Executive Session

On a motion by Commissioner Tober, seconded by Commissioner Lederman and passed by a vote of 3-0, 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 not later than seven business days after mailing to the named respondents.

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- 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 not later than seven business days after mailing to the named respondents.

8. Return to Public Session

On a motion by Commissioner Lederman, seconded by Commissioner Tober and passed by a vote of 3-0, the Commission voted to return to Public Session.

Executive Director Herrmann read into the record the Commission's resolution honoring Legal Director Nagy upon his retirement and commended him for his years of dedicated and ethical service to ELEC. He noted the Legal Director's reputation at the national as well as the state level. The Executive Director also read a proclamation from Governor James E. McGreevey attesting to Legal Director Nagy's distinguished career of public service.

Past Commission Chair Frank P. Reiche and past Executive Director Lewis B. Thurston, III also added their appreciation of Legal Director Nagy's distinguished career of public service.

9. Adjournment

On a motion by Commissioner Lederman, seconded by Commissioner Tober and passed by a vote of 3-0, the Commission voted to adjourn at 12:15 a.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz