



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Vice Chair

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PUBLIC SESSION MINUTES

February 19, 2008

Chair English, Vice Chair Tober, Commissioner Burstein, and Counsel Wyse participated by telephone. Executive Director Herrmann, Deputy Director Brindle, and Legal Director Hoekje were present.

1. Open Public Meetings Statement

Chair English 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 11:15 a.m. in Trenton.

2. Approval of Public Session Minutes of January 15, 2008 and January 23, 2008

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission approved the Public Session Minutes of January 15, 2008 and January 23, 2008.

3. Executive Director's Report

A. Ethics News

Executive Director Herrmann reported that on January 14, 2008, the State Ethics Commission (SEC) approved ELEC's Code of Ethics with a number of enhancements suggested by ELEC. The Executive Director reminded the Commissioners that this year's financial disclosure statements for public officers are due at the SEC by May 15, 2008. He said that the forms and instructions are available to the Commissioners on the SEC website and that they may be filed electronically although electronic filing is not mandatory.

B. Staff Activities

According to the Executive Director, the staff had another great year in contributing to the New Jersey State Employees charitable campaign. Executive Director Herrmann noted that ELEC's employees contributed \$4,834 to the statewide effort and that the participation rate was 55 percent with an average contribution of \$127.00. Executive Director Herrmann expressed thanks to Director of Information Technology Carol Neiman and Associate Data Entry Technicians Barbara Counts and Pam Kinsey for once again running this important program for the Commission.

The Executive Director announced that the Campaign Financing Section has scheduled 13 treasurer training seminars for 2008. He indicated that ELEC has now trained 1,029 persons and that there are also now 1,050 registered lobbyists regulated by the Commission.

Executive Director Herrmann mentioned that the staff continues to work on greater utilization of ELEC's computer resources. He stated that calendar year 2007 saw a record 301,514 hits on the Commission's website. The Executive Director informed the Commission that revised and improved "Lobbying" and "Request for Information (RFI)" fill-in forms have been added to the site and that various PowerPoint training programs have been redesigned as well. According to Executive Director Herrmann, the Compliance Division will be working with candidates to promote the usage of ELEC's electronic filing software. He stated that this effort will improve disclosure and assure more efficient use of the Commission's limited staff resources.

The Executive Director advised the Commission that a Policy Analyst for Governor Bobby Jindal of Louisiana contacted him in January for assistance in drafting an Executive Branch lobbying law for his State. Dr. Herrmann said that he went over the 2004 changes made to New Jersey's lobbying law highlighting the definitions of "Governmental Affairs Agent" and "Governmental Process." The Executive Director added that New Jersey may well have the most expansive lobbying law in the nation as a governmental process includes:

- issuing Executive Orders,
- rate setting,
- contracting,
- permitting,
- licensing,
- imposing fines and penalties, and
- rendering "other administrative determinations."

Executive Director Herrmann reported that Director of Special Programs Amy Davis and he have also been assisting since September the Center for Governmental Studies in California with a study it is doing on public financing. He noted that in addition during early February, Director of Information Technology Neiman and he helped the Connecticut Elections Enforcement Commission with electronic filing and data entry issues coming from its administration of a new statewide clean elections program.

The Executive Director indicated that all of these states have been very generous in giving thanks to ELEC's staff, noting that the Commission has had a long history of providing expert assistance with campaign financing and lobbying law questions to other states and countries.

Executive Director Herrmann stated that on January 15, 2008, he was interviewed by Hank Weisbecker of NJ 101.5 Radio. Dr. Herrmann answered questions about the advisory opinion for former Senator Wayne Bryant concerning his possible use of campaign funds to pay for a criminal legal defense. Executive Director Herrmann said that the advisory opinion had been considered by the Commission earlier in the day. He commented that the request was "the first time anyone sought approval to use campaign money to defend against criminal charges." The Executive Director mentioned that ELEC "has a lot of information to sift through" and that the Commission needed an additional week to review the statute, regulations, previous advisory opinions, case law, and other relevant legal materials to reach a fair and thoughtful decision.

C. Spring Meeting Schedule

- March 18, 2008 at 11:00 a.m. in Trenton;
- April 15, 2008 at 10:00 a.m. in Trenton; and,
- May 20, 2008 at 11:00 a.m. in Trenton.

4. Proposed Rulemaking Activity in 2008

Legal Director Hoekje advised the Commission of rulemaking activity which staff expects to occur during 2008, in anticipation of the 2009 gubernatorial and other elections. Staff requested Commission authorization to publish quarterly rulemaking calendars in the New Jersey Register for the cost index amendments addressed below. Legal Director Hoekje said that the rulemaking activity is as follows:

- March/April – proposed amendments to the gubernatorial public financing primary and general election regulations, with a public hearing to follow at the June 17, 2008 meeting or at the July 15, 2008 meeting.
- May – possible "housekeeping" amendments to the campaign reporting and pay-to-play regulations.

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- July – Proposed thresholds amendments to implement the cost index adjustments to the limits and thresholds applicable to publicly-financed gubernatorial candidates, and to the thresholds applicable to non-gubernatorial candidates and committees. The quadrennial campaign cost index is required by law to be calculated this year prior to July 1, 2008. The law also requires that the Commission only make recommendations for the contribution limits applying to non-gubernatorial candidates and committees.

To insure that the cost adjustment regulations become effective prior to December statutory deadlines, staff requested Commission authorization to publish quarterly rulemaking calendars in the April 7, 2008 and July 7, 2008 editions of the New Jersey Register to announce a 30-day public comment period for the cost index amendments.

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission adopted the calendar for regulatory activity as recommended by staff.

5. Resolution to go into Executive Session

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss anticipated litigation, 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.
- 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.

6. Adjournment

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission voted to adjourn at 1:00 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director