



NEWS RELEASE

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FOR RELEASE:
April 3, 1991

PRESS ADVISORY

The New Jersey Election Law Enforcement Commission has proposed a new regulation that would permit the solicitation of campaign contributions through the use of a "900 line telephone service."

A full text of the proposal is attached.

Comments should be submitted by May 1, 1991 to Gregory E. Nagy, Legal Director, at the Commission's address. The Commission anticipates taking action on the proposal at its May 15th meeting.

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OTHER AGENCIES

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Contributions by 900 Line Telephone Service

Proposed New Rule: N.J.A.C. 19:25-11.12

Authorized By: The Election Law Enforcement Commission,

Frederick M. Herrmann, Ph.D., Executive Director.

Authority: N.J.S.A. 19:44A-6.

Proposal Number: PRN 1991-158.

Submit written comments by May 1, 1991 to:

Gregory E. Nagy, Legal Director

Election Law Enforcement Commission

CN 185

Trenton, New Jersey 08625-0185

The agency proposal follows:

Summary

The Election Law Enforcement Commission (hereafter, the Commission) recently issued an advisory opinion permitting solicitation of campaign contributions through the use of a "900 line telephone service" (see Advisory Opinion No. 09-1990). This proposed rule sets forth standards for establishing a "900 line telephone service," and for recordkeeping and reporting of contributions and expenditures related to its operation.

As envisioned by the Commission, a "900 line telephone service" entails a system that permits a contributor to call a designated "900 phone number," hear a message, and receive a phone bill that includes a charge for access to that message. The provider of the service collects proceeds from paid phone bills, retains a portion of those proceeds for the service, and ultimately passes the remainder of those proceeds to the candidate or other filing entity (that is, political committee or continuing political committee) that has established the service as a means of receiving political contributions. The Commission notes that an individual may also establish such a political fundraising enterprise, and therefore may acquire reporting obligations pursuant to N.J.S.A. 19:44A-11.

Under this proposed new rule, the candidate or filing entity may not receive from any contributor any contribution, or aggregate contributions, in excess of \$20.00 for an election or, in the case of a continuing political committee, in excess of \$20.00 for a calendar year. The Commission views the operation of a "900 line telephone service" as a fundraising method analogous to conducting a "public solicitation," as that term is defined in N.J.S.A. 19:44A-3(j). A "public solicitation" is defined as one which solicits "on the spot" contributions not exceeding \$20.00 per person. An example would be "passing the hat" at a public function where recordkeeping of individual contributions might be impractical, or impossible.

In recognition of the reporting difficulty of deeming a contribution by "900 line telephone service" as being made on the date of the phone call, subsection (d) provides that reporting requirements for any contribution attach on the date the proceeds generated by the phone call are passed to the candidate or reporting entity from the telecommunication service provider. Subsection (e) provides that the contribution amount that is subject to reporting is the amount paid by the contributor, and therefore any portion of a contribution withheld for service costs may not be netted out or deducted by the recipient candidate or filing entity.

Other requirements are that the fees withheld by the telecommunication service provider be reported as expenditures of the candidate or filing entity (subsection (f)), that an executed contract as well as an authorization permitting access to records be filed (subsection (g)), and that the candidates or filing entity obtain and keep records for four years including the telephone numbers from which contributions were made (subsection (h)). The name and address of each contributor will not be reported, but the Commission anticipates that the records of telephone numbers from which contributions were received will enable the candidate or filing entity to observe the \$20.00 ceiling, and to refuse any contribution, or aggregate contributions, in excess of that ceiling.

Social Impact

The proposed rule permits candidates and other filing entities to utilize "900 line telephone service" technology for fundraising purposes. The Commission believes that technological developments that promote con-

tributor participation in elections should be encouraged. Since the New Jersey Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq., as originally enacted in 1973 contained provisions for "public solicitations" for the apparent purpose of encouraging solicitation of smaller contributions, this proposal furthers that legislative intent.

Economic Impact

The Commission does not anticipate any significant economic impact on candidates or other filing entities. The proposed rule relaxes the more onerous recordkeeping and reporting requirements that exist for contributions received through fundraising methods that do not qualify as "public solicitations." For example, N.J.S.A. 19:44A-16 requires that a candidate make a record of each contribution received regardless of amount, which record must include the name and address of the contributor, the date of receipt, and the amount.

Regulatory Flexibility Statement

The proposed new rule does not impose any recordkeeping, reporting, or other compliance requirements on small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed rule affects candidates and other filing entities.

Full text of the proposed new rule follows:

19:25-11.12 Contributions by 900 line telephone service

(a) A 900 line telephone service means any telecommunication service established or controlled by a candidate, political committee, continuing political committee, or individual for the purpose of receiving contributions, and for which the provider of the telecommunication service is authorized to act as the billing agent for the candidate, political committee, continuing political committee, or individual.

(b) A campaign treasurer of a candidate or political committee, or an individual, shall not receive from any contributor through the use of the candidate's, political committee's or individual's 900 line telephone service a contribution, or aggregate contributions, in excess of \$20.00 per election.

(c) An organizational treasurer of a continuing political committee shall not receive from a contributor through the use of its 900 line telephone service a contribution, or aggregate contributions, in excess of \$20.00 per calendar year.

(d) A contribution received through the use of a 900 line telephone service shall be subject to reporting by the recipient candidate, political committee, continuing political committee, or individual on the date that the proceeds of the 900 line telephone service contributions are received from the telecommunication service provider.

(e) The reportable amount of any contribution solicited by means of a 900 line telephone service is the total amount paid to the telecommunication service provider by the contributor.

(f) Any cost associated with the operation of a 900 line telephone service or any portion of a contribution withheld or retained by the telecommunication service provider of the 900 line telephone service is reportable as an operating expense of the reporting entity.

(g) Prior to receiving any contributions by use of a 900 line telephone service the candidate, political committee, continuing political committee, or individual shall file the following with the Commission:

1. A copy of a written, executed contract for 900 line telephone service from the telecommunication service provider; and

2. A signed authorization permitting the Commission to obtain from the telecommunication service provider copies of all records or documents pertinent to the establishment and operation of the 900 line telephone service.

(h) A campaign treasurer of a candidate or political committee, an individual, or an organizational treasurer of a continuing political committee shall obtain records from the telecommunication service provider that include the telephone numbers from which contributions were made, and those records shall be maintained for a period of not less than four years after receipt of such contributions.