



NEWS RELEASE

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ELEC CALLS FOR MORE TRANSPARENCY AND FAIRER, MORE EFFECTIVE ENFORCEMENT

The New Jersey Election Law Enforcement Commission (ELEC) today issued its Annual Report to the Legislature and, in a unanimous, bi-partisan vote, has called for increased pre-election transparency by independent expenditure committees as one of three legislative recommendations.

Other ELEC Commission recommendations include seeking an expansion from two to four years of the statute of limitations for issuing complaints and requesting an exemption from “Daniel’s Law” due to a direct statutory conflict that impairs the agency’s legislative transparency mandate.

“Since its creation in 1973, ELEC has made recommendations to the Legislature about issues within its jurisdiction,” Joe Donohue, Acting Executive Director. He added, “Commission members and staff are in strong agreement that these changes will expand disclosure by independent spending groups, remove a statutory conflict that undermines the agency’s primary mission of disclosure, and enable ELEC to enforce the Campaign Act throughout the entirety of an election.”

Thomas H. Prol, Chair of ELEC, stated, “The Commission is dedicated to fulfilling the legislative mandate of the Elections Transparency Act and overseeing and protecting the integrity of Garden State elections. We are pleased to offer this Annual Report with recommendations for improvements for the Governor’s and Legislature’s consideration.”

Recommendation 1: Increased Disclosure by Independent Spending Groups

The Elections Transparency Act (P.L. 2023, c.30) created “independent expenditure committees” that are required to disclose significant donors - those providing more than \$7,500 in an election - along with all independent expenditures. The new law also replaced a 48-hour rapid reporting obligation in the days right before the election with a bifurcated 72/24- hour rapid reporting obligation.

All reporting entities, including other independent spenders organized differently, are required to report last-minute contributions and expenditures under the new requirements except for the newly created independent

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expenditure committees. As a result, transactions for the exempted committees between the 11-day preelection report and the election are not required to be disclosed until the 20-day postelection report.

The 2023 election involved eight independent expenditure committees that were exempt from 72/24-hr disclosure. An ELEC analysis found 61 percent of their combined campaign finance activity was disclosed before the election, a total of \$10.4 million. More than \$6.7 million, or 39 percent, was reported after the election. Only one committee among the group voluntarily submitted such reports disclosed 99 percent of its activity before the election.

“Ending this exemption will provide consistent rules for all participants in elections, while leading to more transparency, which supports the main legislative intent of the act,” said Donohue.

In addition to a 72/24-hr rapid reporting provision for independent expenditure committees, ELEC also recommends that independent expenditure committees file post-election quarterly reports until they close out their accounts.

Recommendation 2: Extend Statute of Limitations from Two to Four Years

The Elections Transparency Act reduced ELEC’s statute of limitations from 10 years to two years.

Donohue said the Commission isn’t seeking to restore the 10-year statute of limitations or even a five-year statute used by similar agencies such as the Federal Election Commission or the state of Washington.

It simply wants to expand the statute of limitations so it will match the length of most elections as well as its existing four-year requirement for record retention by the regulated community.

The Commission also believes that when potential violations occur, the statute of limitations should begin to run on the date of the election, not at the occurrence of the violation, as the law currently states.

“A two-year statute of limitations may inhibit ELEC’s ability to address certain violations,” Donohue said. “Expanding the statute to four years would enable ELEC to effectively address transactions throughout the entirety of a campaign.”

Recommendation 3: Resolve Conflict Between ELEC Law and Daniel’s Law

While the Commission respects the laudable goals of protection of public officials in Daniel’s Law, complying with certain aspects of Daniel’s Law impairs ELEC’s ability to efficiently fulfill the legislative mandate of transparency under the Campaign Act regarding disclosure of election-related financing. Moreover, ELEC is not in a position to engage the legal requirements in the law retroactively and seeks the State Legislature’s assistance in addressing those concerns.

The Commission and staff members further believe it would be impossible to fully comply even if the two statutes were not fundamentally at odds.