

Jerry Fitzgerald English, Chair

Peter J. Tober, Vice Chair

Albert Burstein, Commissioner

Amos C. Saunders, Commissioner

James P. Wyse, Legal Counsel

ELEC-Tronic

AN ELECTION LAW ENFORCEMENT COMMISSION NEWSLETTER

"Furthering the Interests of an Informed Citizenry"

Election Law Enforcement Commission, P.O. Box 185, Trenton, NJ 08625

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Executive Director's Thoughts Jeffrey M. Brindle

Beginning with this issue the Election Law Enforcement Commission (ELEC) will publish a monthly newsletter.

ELEC-Tronic will be circulated electronically to those who subscribe and receive notice of Commission activities via e-mail.

ELEC-Tronic will also be placed on the Commission's website, enabling ready access by the public.

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Comments from the Chair Jerry Fitzgerald English

At our meeting on July 21, 2009, the Commission will select the organizations that will sponsor the general election debates for governor and lieutenant governor.

These debates are required of candidates who qualify and participate in the Gubernatorial Public Financing Program.

Interestingly, participation in the debates is open to those candidates who do not choose to receive public money but who otherwise would qualify for the program.

To qualify for public financing and participation in the debates, candidates must raise and spend \$340,000 by September 1st. In order to receive public funds candidates must pledge to participate in the debates.

While non-participating candidates are not required to participate in the ELEC debates, those candidates who have raised and spent \$340,000 from contributors or from their own funds, may opt to participate in the debates.

The Gubernatorial Public Financing Program has existed since the general election of 1977. In 1981 the primary was added as well. The debate requirement was adopted in 1989.

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On July 21, 2009, the Commission will select the organizations that will sponsor the general election debates for governor and lieutenant governor.

Comments from the Chair Jerry Fitzgerald English

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Gubernatorial public financing in New Jersey has been a model for the nation. A total of 65 candidates have participated since 1977 and it has been the public that has benefited.

The goals of the program are two-fold: to eliminate from the process both the reality or appearance of undue influence and to allow qualified candidates of limited means to run for governor.

To this end, the program matches each private dollar raised with two public dollars. The program contains primary and general election expenditure limits and public funds caps, each adjusted for inflation every four years.

The debates are an integral part of this dynamic and successful program. The Commission selected New Jersey Network (NJN), and the League of Women Voters of New Jersey Education Fund with WPVI-TV (Philadelphia) and WABC-TV (New York) to sponsor the recent primary debates.

These debates involved two participating Republican candidates, Steven Lonegan and Christopher Christie, both of whom were helped by the debates in getting their messages out to Republican primary voters.

There was no Democratic debate because Governor Jon S. Corzine was not opposed by any Democratic candidate qualifying for public funds.

The July 21st meeting promises to be an important and exciting meeting. Selecting sponsors that will air debates that will reach all citizens of New Jersey through a variety of mass media is of high priority for the Commission.

And beyond that, promoting these debates, which are open to qualifying majority party and independents alike, is of paramount importance, especially so because of the importance of the election for governor.

The general election debates will be held between September 22nd and October 23, 2009.

Public Funds Disbursed

A total of \$5.3 million in public funds was disbursed to gubernatorial contestants in the recent primary election.

Republican candidates Christopher Christie and Steven Lonegan submitted a total of \$3.1 million in private donations that were matched on a 2:1 basis.

Christie received the maximum in public funding, capping out at \$3.1 million. Lonegan received \$2.2 million in public funds.

No candidates in the Democratic primary participated this year.

The goals of the Gubernatorial Public Financing Program, which is considered a model among States, are two-fold: to eliminate undue influence from the process and to permit candidates of limited means to run for governor.

The program has served New Jersey since 1977.

Gubernatorial Public Financing Program

In order to participate in the Gubernatorial Public Financing Program, candidates must apply on or before September 1st.

Candidates must raise and spend \$340,000 in private contributions to qualify for the partial public financing program.

While the first \$109,000 is not matched with public dollars, all additional money is matched on a 2:1 basis (two public dollars to each dollar raised).

There is a public fund cap per candidate of \$7.3 million, subjecting participating candidates to an expenditure limit of \$10.9 million.

Matching fund application dates are June 9th and June 23rd; July 7th and July 21st; and August 4th and August 18th. Thereafter through Election Day, submissions can be made on every Tuesday.

All participating gubernatorial candidates must take part in two debates. Lieutenant governor candidates must participate in one publicly-sponsored debate.

Candidates for governor are given the opportunity to submit a 500-word statement about their candidacy to be included on the general election ballot. Ballot statements must be submitted by August 17th.

Executive Director's Thoughts Jeffrey M. Brindle

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The goal of the newsletter is to acquaint the State's residents with important information in the areas of campaign finance, gubernatorial public financing, lobbying, and pay-to-play.

Besides discussing issues involving these topics, the newsletter will inform citizens about the role played by the Commission in the State's electoral process and to its activities in this regard.

From regulatory activities, advisory opinions, and enforcement activities to efforts involving compliance, ELEC-Tronic will advise citizens of actions taken and upcoming issues to be addressed.

The newsletter will provide information about pending legislative reform measures. Moreover, it will even contain information about important federal activity, including court decisions.

In a word, ELEC-Tronic represents one part of what will become an ongoing effort to enhance the public's awareness of the Commission and how it can further the interests of an informed and enlightened citizenry.

Since Watergate, there has been a steady erosion of trust in government and an accompanying cynicism among the people. And, that's a shame! Because despite it all, the vast majority of men and women serving in various public capacities throughout New Jersey are honest, dedicated, and hardworking individuals.

By shedding light on campaign financing, lobbying, and pay-to-play, ELEC-Tronic can help citizens understand these processes as well as help to enhance trust in worthy public servants.

ELEC Directors

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 Linda White Director of Lobbying
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 e-mail.*

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The Commission's Corner

This Section is set aside for writings by Commissioners and staff. We begin with biographies of the Members of the Commission.

Jerry Fitzgerald English, Chair

Jerry Fitzgerald English, former Commissioner of the Department of Environmental Protection and Legislative Counsel to Governor Brendan T. Byrne, was appointed to the Commission in January, 2004. Mrs. English was named Chair in July of that year and reappointed to a second term by Acting Governor Richard J. Codey in 2005.

Long involved in service to the people of New Jersey, Mrs. English is a past Commissioner of the Port Authority of New York and New Jersey and a former State Senator.

Chair English, in addition to being a member of the New Jersey, American, and International Bar Associations, was a founding member of the Women's Political Caucus, a former member of the Democratic National Committee, and an honorary trustee of the Passaic River Coalition.

Currently a partner in the law firm of Lindabury, McCormick, Estabrook, & Cooper, P.C., Mrs. English is: a former member of the Board of Directors of the Regional Plan Association, Co-chair of the American Bar Association Litigation Subcommittee on Eminent Domain, on the Board of Visitors for the School of Science and Liberal Arts at New Jersey Institute of Technology (NJIT), a member of the Leadership Council of Harvard Law School, and a trustee of the New Jersey Federal Bar Association.

Mrs. English is an attorney specializing in environmental law. She has been an expert witness for the New Jersey courts for private clients in environmental cases and has published extensively in a variety of journals regarding environmental issues of great importance. Mrs. English currently is on the editorial board of the [New Jersey Law Journal](#). She serves as a Master in The Justice Stewart G. Pollock Environmental Inn of Court.

A former candidate for the U.S. House of Representatives, Chair English shares her knowledge of government and environmental problem solving with students at NJIT as an adjunct instructor.

Mrs. English holds a B.A. in International Relations from Stanford University and a J.D. from Boston College Law School combined with studies at Harvard University Law School. Her husband, Dr. Alan English, and she reside in Summit, New Jersey.

Peter J. Tober, Vice Chair

Peter J. Tober, initially appointed to the Commission in January, 2002, and reappointed in 2004, served as Senior Assistant Counsel to former Governor Christine Todd Whitman and former Governor Donald T. DiFrancesco. He was elected Vice Chair in October, 2004.

An advisor to the former governors on election, ethics, banking, and insurance issues, Vice Chair Tober served as the liaison to the New Jersey State Senate.

Vice Chair Tober is a graduate of Cornell University, where he majored in economics and government, and of Hofstra University School of Law, where he was Associate Editor of the [Hofstra Law Review](#) and a Moot Court Judge.

Admitted to the Bar in New Jersey and New York, Vice Chair Tober began working for Wilentz, Goldman and Spitzer, P.C. in 1992.

An associate on the complex commercial litigation team, he served as lead counsel on jury and non-jury trials and specialized in partnership disputes, restrictive covenants, antitrust, and intellectual property law.

Vice Chair Tober is now affiliated with Shain, Schaffer and Rafanello in Bernardsville.

His wife, Kathleen and he reside in Bridgewater, New Jersey. The couple have one child.

Albert Burstein, Commissioner

Albert Burstein, a former Majority Leader of the New Jersey General Assembly, was appointed to the Commission in June, 2004.

A member of the American, New Jersey, and Bergen County Bar Associations, Commissioner Burstein is a partner in the Hackensack law firm of Herten, Burstein, Sheridan, Cevasco, Bottinelli, Litt, & Harz, L.L.C.

While in the Assembly, Commissioner Burstein was the Chairman of the Assembly Education Committee from 1974-75 and again from 1980-81. He also served on numerous other committees and commissions, including: the Election Law Revision Committee, the Capital Budgeting and Planning Commission, and the Public Employees Relations Study Commission. The Commissioner is noted for sponsoring Title 19A, a total revision of the State's election laws, and the Gubernatorial Public Financing Law of 1974.

A former Chairman of the State Commission of Investigation Review Committee, Commissioner Burstein is: former Chairman of the New Jersey Law Revision Commission, former Chairman of the Bergen County IIB South District Ethics Committee, and former member of the [New Jersey Law Journal](#) editorial board.

Commissioner Burstein is a graduate of Columbia College and Columbia University Law School. In addition to practicing law, he continues to be involved in many civic and charitable causes. In past years, he was President of the Occupational Center of Hudson County and a Trustee of the Jewish Hospital and Rehabilitation Center of Jersey City.

Married to Ruth Burstein, the couple reside in Tenafly and have three children and three grandchildren.

Amos Saunders, Commissioner

Amos C. Saunders, a retired Superior Court Judge from Passaic County, was appointed to the Commission in June, 2008. Named to the bench in 1977 by Governor Brendan T. Byrne, he was the county's only Chancery Division judge on general equity matters. He handled some of the most difficult cases in Passaic history including: right-to-die cases, injunctive relief litigation, corporate dissolutions, and difficult will and probate cases.

A member of the New Jersey and Passaic County Bar Associations, Commissioner Saunders is of counsel to the Clifton law firm of Carlet, Garrison, Klein and Zaretsky. He is admitted to practice before the United States Supreme Court.

Judge Saunders has served as a Municipal Court Judge in Totowa, a Totowa Municipal Attorney, and an Administrative Law Judge for the Waterfront Commission of New York Harbor.

Long involved in volunteer activities, Commissioner Saunders has served as the chairman of the Fairlawn March of Dimes and as a trustee of the Totowa Volunteer Ambulance Corps. for more than 40 years.

Judge Saunders, one of the nation's premier experts on boxing law, is well known for presiding over several cases with such luminaries as Don King, Mike Tyson, Lennox Lewis, and Evander Holyfield appearing in his courtroom. He was named by [International Boxing Digest](#) as one of the most powerful people in the sport.

Formerly a faculty member of the National Judicial College, which is highly recognized for training judges and other court personnel, Commissioner Saunders received a B.A. from Hampden-Sydney College and a J.D. from the Columbia University School of Law.

Married, Commissioner Saunders and his wife, Janet, reside in Totowa. The couple have three children.

James P. Wyse, Legal Counsel

James P. Wyse was selected to be the Commission's Legal Counsel in 1994, and began serving in that capacity in January, 1995.

Mr. Wyse is an attorney with the firm of Herold and Haines, P.A. in Warren, New Jersey. He specializes in the areas of corporate and commercial law, real estate, environmental law, and estate planning.

Mr. Wyse, admitted to practice in New Jersey and before the United States Court of Appeals for the Third Circuit, has argued cases in that Court and before the New Jersey Supreme Court.

As Counsel for a number of national, State, and local land trust organizations, Mr. Wyse has developed special expertise regarding conservation and agricultural easements and innovative land preservation techniques.

Mr. Wyse received a B.A. degree from Bucknell University and J.D. degree with honors from the Rutgers University School of Law.

Treasurer Training

One of the many compliance services offered by the Commission to participants in New Jersey's electoral process is treasurer training.

Treasurers of campaign committees, State, county and municipal party committees, and legislative leadership committees can avail themselves of special training that will better enable them to comply with the State's campaign finance rules.

Treasurer training can be accomplished in a number of different ways, including seminar training and online training.

By law, training is mandatory for treasurers of gubernatorial, State Senate, and Assembly campaigns. It is also required of treasurers of legislative leadership committees and State party committees.

While training is optional for treasurers of local campaign committees, county and municipal party committees, and continuing political committees (PACs), it is highly recommended.

Given the complexity of the campaign finance and pay-to-play laws, it is in the best interest of treasurers, candidates, and the public for all treasurers of campaign-related committees to be fully familiar with the requirements of the disclosure law.

Treasurer training is easy, painless, and readily available. As noted above, training can take place from the comfort of one's home, through accessing the Commission's Website, or in-person through seminar training provided by the Commission's highly qualified staff.

Once the online or in-person training is concluded, the trainee is provided with a training identification number and certification.

For more information on ELEC's Treasurer Training Program, contact the Compliance Division staff at (609) 292-8700 or toll free within New Jersey at 1 (888) 313-ELEC (3532).

Supreme Court Hearing

In January 2008, the Commission issued an advisory opinion involving former State Senator Wayne Bryant.

Bryant had asked the Commission to allow him to use campaign funds to offset the legal costs of defending against a criminal complaint.

The Commission advised the former State Senator that such use was not permissible.

According to Advisory Opinion No. 01-2008, use of campaign funds to defend against a criminal indictment does not fall under the "ordinary and necessary expense" provision of the Campaign Act.

The matter was subsequently appealed to the Appellate Division of the Superior Court, where ELEC's decision was upheld.

The issue was then taken up on appeal by the New Jersey State Supreme Court and a decision may be rendered sometime in the fall.

ELEC's Budget

ELEC's FY-2010 budget has been set at \$4.355 million, an amount that is two percent less than its FY-2009 adjusted budget of \$4.439 million.

The \$4.355 operating budget does not include monies to fund candidates for governor participating in the Gubernatorial Public Financing Program. Nor does it include funding to administer the program.

To do that, the Commission received a special appropriation of \$7.88 million. Out of that total, \$6.8 million is earmarked for candidates and \$1.08 million for administration.

Administrative costs include \$600,000 to reimburse county clerks for printing and mailing the ballot statements of gubernatorial candidates and \$480,000 for salaries and other costs of administration, such as post election audits.

In addition, language is included in the budget law that guarantees additional funds for candidates, if necessary.

Finally, monies left over following the completion of the program are returned to the State Treasury, something that regularly happens because of the Commission's historic frugality in running the program.

Dates to Remember

GENERAL ELECTION		
Who Files	What Report	When
Candidates, Political Committees, and Independent Expenditures	29-day pre	October 5 th
	11-day pre	October 23 rd
	20-day post	November 23 rd
QUARTERLY		
Who Files	What Report	When
Political Parties, Legislative Leadership, Committees, PACs/CPCs, and Future and Past Candidates	Second Quarter	July 15 th
	Third Quarter	October 15 th
48-HOUR NOTICES		
Who Files	What Report	When
Candidates, Political Committees, and Independent Expenditures	Contributions and/or Expenditures exceeding \$1,200	October 21 st through November 3 rd
48-HOUR NOTICES		
Who Files	What Report	When
Political Parties, Legislative Leadership Committees, and PACs/CPCs	Contributions and/or Expenditures exceeding \$1,200	From October 1 st through November 3 rd
LOBBYIST QUARTERLY		
Who Files	What Report	When
Governmental Affairs Agents (lobbyists)	Second Quarter Third Quarter	July 10 th October 13 th

Lieutenant Governor

On Election Day 2005, New Jersey voters passed a constitutional amendment that establishes the position of Lieutenant Governor.

Enabling legislation was recently enacted that effectuates the amendment.

Under the law, the Lieutenant Governor is selected by the gubernatorial candidate. For purposes of campaign finance regulation and public financing guidelines the two candidates are treated as one.

The candidacy of Lieutenant Governor is not separate from that of the gubernatorial candidate. The presidential/vice presidential arrangement serves as a good model.

All limits and thresholds apply as a team to the campaign and not to the candidates individually.

There is one way in which the candidates are treated separately, however. And, that has to do with debates.

The legislation requires gubernatorial candidates who participate in the Public Financing Program or who otherwise qualify, opt to forego public financing, but desire to debate, to participate in two ELEC sponsored debates.

Likewise, Lieutenant Governor candidates that meet the above criteria are required to participate in one required debate.

Debate sponsors will be selected by the Commission on July 21st.

Legislative Spending in the Primary

Primary fundraising statistics for this year's legislative candidates are now available.

Based on 20-day post reports filed by candidates for the General Assembly, overall receipts are down from four years ago, when just the Assembly was up for election. Overall spending, however, has increased.

In the 2009 primary, Assembly candidates raised \$12.8 million, almost a seven percent drop-off from 2005. In 2005, the candidates raised \$13.7 million.

Expenditures in 2009, however, increased by almost 11 percent, from \$9.6 million in 2005 to \$10.4 million in 2009.

Therefore, the net result is that in 2009, candidates have less money to roll over to the general election.

The fact that total receipts have declined marks a sharp departure from past years. Between years when the Assembly alone was up for election, fundraising has consistently increased.

The fundraising tallies in the 2009 primary, however, appear to substantiate the theory presented in Commission's White Paper Number 20, which suggested that the pay-to-play law was impacting fundraising.

The White Paper entitled, Legislative General Elections 2007: An Analysis of Trends in State Senate and Assembly Elections, noted that for the second general election in a row legislative receipts increased at a precipitously slower rate than in previous legislative cycles.

Of course, other factors may have come into play, such as the lack of competitive primaries, contributor exhaustion over last year's presidential race, or general economic conditions, but pay-to-play surely played a role.