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ELEC-Tronic

AN ELECTION LAW ENFORCEMENT COMMISSION NEWSLETTER
 "Furthering the Interests of an Informed Citizenry"

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Comments from the Chair Jerry Fitzgerald English

The Commission will hold a public hearing on the Gubernatorial Public Financing Program at its April 20th meeting.

The hearing, to start at 11:15 am, will allow the members of the Commission to listen to the views of gubernatorial candidates, staff, and members of the public.

[Gubernatorial Public Hearing April 20th 11:15 AM](#)

Following each gubernatorial election cycle, the Commission holds this special public hearing. It is during these hearings that Commissioners and staff members receive feedback on the administration of the program and suggestions for improvement.

New Jersey's Gubernatorial Public Financing Program has been cited as a national model. One reason for this is the stability of the program. The basic tenets have remained intact since its inception. A second explanation is that through the years practical changes have been made to the program. Changes, such as requiring qualified candidates to participate in two debates, and now adding a third to include candidates for Lieutenant Governor, have strengthened public financing.

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The gubernatorial program was established in the aftermath of Watergate. In 1977, New Jersey became the first state to conduct a gubernatorial general election with public funds. Four years later, it was expanded to include the primary election.

What has made the program successful is that it allows for campaigns to be supported by a mix of private and public dollars. This aspect permits candidates to adequately communicate their message to the voters, and eliminates undue influence from the process.

Moreover, it permits qualified candidates of limited personal wealth to run for the State's highest office.

The program matches two public dollars for every one dollar raised privately. By statute, thresholds and limits change by a campaign inflation index every four years. The Legislature enacted this law in 1989 to account for inflation and to keep the program current.

In order for a candidate to have qualified for matching funds in 2009, he or she had to raise \$340,000 in private funds. Once qualified, a candidate could receive a maximum of \$3.1 million in public funds in the primary and \$7.3 million in the general election.

Participating candidates were subject to a limit on contributions of \$3,400 (as were non-participating candidates) and expenditure limits of \$5 million and \$10.9 million in the primary and general elections, respectively.

Participating candidates in this primary and general election received approximately \$14.2 million, bringing the total public funds disbursed since the inception of the program to about \$106 million.

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Comments from the Chair

Jerry Fitzgerald English

Gubernatorial Public Hearing

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PRIMARY		
CANDIDATE NAME	PRIVATE FUNDS RECEIVED	PUBLIC FUNDS RECEIVED
Christopher J. Christie	\$2,259,699.10	\$3,100,000.00
Jon S. Corzine	\$4,539,066.04	0
Steven M. Lonegan	\$1,551,770.62	\$2,709,978.46

GENERAL		
CANDIDATE NAME	PRIVATE FUNDS RECEIVED	PUBLIC FUNDS RECEIVED
Christopher J. Christie	\$4,573,548.16	\$7,300,000.00
Jon S. Corzine	\$27,133,874.36	0
Christopher J Daggett	\$662,666.52	\$1,086,732.04

Something new was added to the gubernatorial contest this time around as well. For the first time, due to a constitutional amendment, gubernatorial candidates selected and ran with candidates for Lieutenant Governor.

Thus, not only were two ELEC sanctioned debates held by gubernatorial candidates but a third involving the Lieutenant Governor candidates was heard also.

As shown in the recent general election, the ELEC administered Gubernatorial Public Financing Program made the election competitive. In terms of democracy and the electoral process there is no more important function than this—a competitive election whereby any qualified candidate has an opportunity to get his or her message out to the public.

That's why the public hearing is so important. The Commission very much wants to hear from candidates, their staff, and the public.

While we are proud of our Special Programs staff, its professionalism and its effectiveness in administering the program, as Commissioners, we are always eager to hear suggestions as to how the program can be improved even further.

This public hearing is being conducted as part of the Commission's review and analysis of the program and it is important that individuals who have experienced the program as well as members of the public provide commentary containing recommendations for statutory and regulatory change.

Executive Director's Thoughts

Jeff Brindle

Pay-to-Play

Information involving pay-to-play activity in 2009 has been made available to the public.

In doing so the Commission provided information on contributions and contracts disclosed by businesses that received work from public entities.

In providing this information to the public the Commission did something different this time. Staff provided an analysis of the most recent activity.

This analysis was akin to the snap-shot analyses involving the gubernatorial election, the big-six committees, the county party committees, the assembly election, local election activity, and annual lobbyist financial activity.

It's all part of the effort to bring greater transparency to bear on the electoral and governmental processes, an effort which is at the heart of the unveiling of the local contributor database initiative.

Under pay-to-play, for profit businesses that are negotiating for, or are in the process of performing public contracts, are subject to restrictions.

For example, businesses are prohibited from making certain contributions prior to the awarding of a contract and during the term of the contract.

Any such activity may disqualify the business from receiving the contract or cause the entity to forfeit the contract.

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Executive Director's Thoughts

Jeff Brindle

Pay-to-Play

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The pay-to-play restrictions apply to contracts at the State, legislative, county, and municipal levels of government.

The contractual aspects of pay-to-play are generally regulated by government procurement law and are enforced by the Department of the Treasury and the various local units of government.

On the other hand, the disclosure aspects of pay-to-play fall under ELEC's jurisdiction. ELEC does have enforcement powers involving contribution activity at the local level, and can refer alleged infractions of the law at the State level to the Department of the Treasury, but for the most part is responsible for the disclosure component of the law.

The pay-to-play disclosure law requires that prior to entering a contract of more than \$17,500 that is not publicly advertised, a for-profit business entity must disclose to the governmental unit contributions made during the past year.

Further, any for-profit business that has received \$50,000 or more in government contracts in a calendar year must file an annual statement with the Commission disclosing the contracts and all contributions.

These statements, as noted, were due by March 30th and serve as the basis for the information that was provided on April 6.

The pay-to-play information and analysis, together with the campaign financial information contained in ELEC's database, including the local contributor database, which now has been expanded to include school board information, goes far toward bringing greater openness to the process.

Brenda Brickhouse "Profile"

Data Entry Supervisor

Brenda Brickhouse admits she's a patient person. "Very patient," she said.

After spending many years herself dutifully entering data from tens of thousands of contribution reports into ELEC's computer, Brickhouse now supervises ELEC's 10-person data entry staff.

Brickhouse and her team are ELEC's unsung heroes. Their jobs demand weeks of detailed work. But without their efforts, most of the agency's massive database of campaign donations wouldn't exist.

"A lot does ride on the data entry section," Brickhouse acknowledges. "However, the ability to keep pace requires up-to-date computer equipment."

Last year, for instance, the group had to type in data (that was not electronically filed) not only from all 80 Assembly campaigns but also verified contributor information from gubernatorial campaign reports that were filed electronically. And, for the first time, they entered millions of dollars in donations to local elections.

They not only must copy the data from paper reports. But they also have to check to make sure it is accurate. Two staff members have the sole task of comparing the giant list of digital donation records with the stacks and stacks of candidate reports.

One of the most frustrating jobs, Brickhouse said, is trying to keep track of donor occupations. For instance, she said the same contributor might say he is an engineer on one check, a lawyer on another and then not list anything at all on a third donation check. The data entry staff has to try to figure out the right description.

Lawyers are probably the most frequent listing, she said. Some entries can be amusing. While most full-time housewives enter "homemaker" in the occupation field, one entered "the wife."

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Brenda Brickhouse "Profile"

[Data Entry Supervisor](#)

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Brickhouse, a lifetime Mercer County resident, has held her current job "officially" since four years ago and "unofficially" since 1996. She began with ELEC as a data entry technician in 1983 after brief stints with the Departments of Environmental Protection and Treasury.

Brickhouse said she wasn't exactly sure what ELEC did when she first joined the staff 27 years ago and had no real interest in political news. But after entering data from the reports of many of the state's leading candidates, she definitely pays closer attention now. "You put the faces with the names and it makes you more interested with what's going on," she said.

Married with two sons and a daughter, Brickhouse recently celebrated her 25th wedding anniversary. She also has one grandson.

In her free time, Brickhouse enjoys playing computer games, sometimes engaging her daughter in "Twistaword" and other times unwinding with games like "Zuma."

She also is an avid reader of "anything that sounds interesting." One particular favorite—authoress V.C. Andrews.

An active member in her church, Brickhouse serves on the Usher board, a member of the marriage ministry, scholarship ministry, and the leader of the Kingdom Ministry.

Brickhouse spent two years at Mercer County Community College primarily studying computer science courses.

Assembly Judiciary Committee Hearing - Testimony Given February 18, 2010

[By Jeff Brindle, Executive Director](#)

Thank you for inviting me to participate today.

My remarks will be limited to the "New Jersey Campaign Contributions and Expenditures Reporting Act" (Campaign Act) and briefly to pay-to-play.

The Campaign Act, as you know, is under ELEC's jurisdiction. The Act regulates financial activity involving elections for local and state offices, not federal.

In the area of pay-to-play, the Commission's jurisdiction extends primarily to disclosure. The Department of the Treasury has responsibility for the contracting provisions of the law. Let me also mention that the Commission has no jurisdiction over the ban on giving by regulated industries or casinos.

The United States Supreme Court in Citizens United addressed issues involving federal campaign law. Four of these stand out.

First, the longstanding ban on corporate and union spending sustained in the 1990 decision Austin v. Michigan Chamber of Commerce was found unconstitutional.

Second, while the ban on independent expenditures by these entities was overturned, the court did not touch the prohibition on direct monetary contributions by corporations and unions.

The court left the ban in place.

Third, the blackout period contained in Section 203 of the Bipartisan Campaign Reform Act, or McCain/Feingold, was determined to be an abridgement of free speech.

The court said that electioneering communications could not be restricted.

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Assembly Judiciary Committee Hearing - Testimony Given February 18, 2010

By Jeff Brindle, Executive Director

Continued from page 4.

Fourth, and importantly, the justices strongly favored disclosure, upholding requirements that sources of spending be identified.

By its decision the court made the need for strong disclosure laws more important than ever.

The question is: What impact does the decision have on the "Campaign Contributions and Expenditures Reporting Act?"

After a review by our Legal staff, and a discussion with the members of the Commission, I do not believe that the decision has any impact on the Campaign Act as it is currently written. It may certainly impact laws in the 24 states that ban or restrict spending by corporations and unions but our law does not appear to be in jeopardy.

Of course, any law can be challenged. But in New Jersey, the Campaign Contributions and Expenditures Reporting Act appears to be consistent with the federal ruling.

Our law emphasizes disclosure. It doesn't ban corporate or union giving, either in terms of direct monetary spending or independent expenditures.

And, unlike with federal law, there is no blackout period before state elections.

Because New Jersey law contains a strong disclosure law, reasonable contribution limits, and a nationally respected Gubernatorial Public Financing Program, our statutes are well positioned to withstand any challenge, though I don't think one will be forthcoming.

Now, a brief comment about pay-to-play.

We do not anticipate that Citizens United will impact pay-to-play restrictions because they do not come under campaign finance rules. Pay-to-play falls under public contracting regulations.

Federal and state courts have upheld the authority of the federal, state, and local governments to limit contributions by those seeking or performing government contracts.

The New Jersey Supreme Court upheld our State's pay-to-play law recently by affirming an appellate court decision.

In any event, there appears to be no threat to the disclosure aspects of the law.

To conclude, we see no vulnerability either to the Campaign Act or to the pay-to-play laws from Citizens United.

In fact the decision may give us the opportunity to tighten our disclosure laws.

The decision states "The court has explained that disclosure is a less restrictive alternative to more comprehensive regulations of speech For these reasons, we reject Citizens United's contention that the disclosure requirements must be limited to speech that is the functional equivalent to express advocacy."

Based upon this endorsement of disclosure, State officials may now want to explore mandating state reporting by so-called "527 Issue Advocacy groups" organized by special interests.

The state does currently regulate independent spending on political advertising that directly advocates the election or defeat of a candidate.

However, state laws do not apply to advertising done by well-heeled 527 groups.

These are tax-exempt political organizations that can spend unlimited sums on advertising during campaigns as long as they do not openly call for the election or defeat of a candidate.

For instance, a group might pay for an ad that says: "Tell Assemblyman Jones to stop raising taxes." Or maybe this: "Thanks Assemblyman Jones for your support for health care workers."

This is the type of political advertising undertaken mainly by 527 groups.

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Assembly Judiciary Committee Hearing - Testimony Given February 18, 2010

By [Jeff Brindle, Executive Director](#)

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These groups do file reports with the Internal Revenue Service. But many citizens are unaware of that fact. Plus, the site is not easy to use. One way to improve disclosure would be to require these groups to file contribution reports directly with the Election Law Enforcement Commission when they run issue ads related to local or state elections in New Jersey.

This does not seem overly onerous, and the tradeoff could be a more enlightened electorate. In fact, the move seems reasonable given the Supreme Court's recent ruling.

I have long felt that the public has been missing important information relative to who is funding and backing issue advertising.

Based on the fact that the court rejected the contention that disclosure must be limited to speech that is the functional equivalent of express advocacy, it seems to me that the State may want to move in the direction of requiring disclosure of issue ads.

And finally, consideration should be given to tightening further the pay-to-play law by making it clear that public contractors are limited in terms of what they can spend independently to what they can contribute directly.

In general, regulation of pay-to-play prohibitions on business entity contributions is a matter of government procurement law.

As mentioned earlier, the Commission has no jurisdiction over the procurement process through which a government entity awards a contract to a contractor. The Commission's jurisdiction involves disclosure once an entity has entered into a contract.

However, it may be sound policy for the Legislature to look into tightening pay-to-play by clarifying that the restrictions on contributions apply to

independent expenditures as well as direct monetary contributions.

Again, we do not believe that this decision bears any threat to our existing campaign law nor to pay-to-play.

With that I want to thank you again for this opportunity to speak with you.

Annual Lobbying Report 2009

While overall spending on lobbying remained relatively flat in 2009, benefits provided by lobbyists to state officials continued to decline sharply.

Total spending was up 1 percent to \$56.4 million, a new high for New Jersey. Yet, it was the fourth straight year that spending hovered around \$55 million. Total expenditures last jumped dramatically between 2005 and 2006 after a new law required lobbyists to disclose far more of their activities.

The following chart shows the trend in recent years:

YEAR	TOTAL SPENDING ON LOBBYING	CHANGE IN %
2009	\$56,390,613	1.3%
2008	\$55,661,277	1.4%
2007	\$54,891,382	-0.8%
2006	\$55,321,166	91.3%
2005	\$28,922,559	14.4%

There were other signs the economic doldrums are taking a toll. The average number of lobbyists fell 4 percent from 1,043 to 1,001.

Moreover, the number of clients last year sank 5.1 percent from 1,918 to 1,820. It was the second straight year that the number has declined. Between 2007 and 2009, total clients dropped by 181, the largest number since a 171 client drop-off in 1988. Figures dating back to 1982 show the industry has never reported a two-year period during which the number of clients has fallen.

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Annual Lobbying Report 2009

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The decline was attributed to the economic downturn that has had an impact on the New Jersey lobbying industry.

At least one other State hit hard by the recession recently reported a significant decline in lobbying expenditures, Michigan, which reported a 6.8 percent drop to \$31.8 million.

Nationally, the economic slump wasn't enough to depress lobbying expenditures last year. With contentious issues such as the economic stimulus package, health care reform and cap and trade legislation being debated in the nation's capital, the Center for Responsive Politics recently disclosed that federal lobbying expenditures rose 5.1 percent in 2009 to \$3.7 billion.

Annual reports for 2009 also showed benefit passing by lobbyists, expenses like meals or trips, dropped to a low of \$9,728 - a 56 percent reduction. It is the lowest total since ELEC began keeping records in 1982. State officials also reimbursed lobbyists for \$2,307 of those 87 benefits.

Since peaking in 1992 at \$163,375, the one-time tradition of lobbyist benefit passing has all but vanished due to a stricter gift ban enacted in 2004, annual disclosure by ELEC, and a steady stream of news accounts that has raised public awareness about the issue.

In a release, credit was given to public officials who today are very sensitive to concerns among the citizenry toward their accepting gifts. Avoiding even the appearance of being influenced is important.

Benefits now consist primarily of meals. In the past, they could be as elaborate as overseas trips or as trivial as souvenir compact disks.

The following chart reveals the decline:

YEAR	TOTAL SPENDING ON BENEFIT PASSING	CHANGE IN %
2009	\$9,729	-56%
2008	\$22,360	-29%
2007	\$31,630	-30%
2006	\$45,508	4%
2005	\$43,627	-31%

While overall lobbying expenditures were up minimally, most spending categories were down. As usual, in-house salaries remain the biggest expense, accounting for \$32.8 million, or 58 percent of all outlays. The category fell 1 percent. On a percentage basis, benefits dropped the most at 56 percent.

Communications expenses showed the largest increase. They were up 53 percent to \$6,102,466. Only in 2006, when a legislative clash between the cable and telecommunications industry pushed ads expenses to \$6.6 million, was spending higher.

EXPENSE CATEGORY	2008	2009	CHANGE IN %
In-house salaries	\$33,094,609	\$32,796,825	-1
Compensation to outside agents	\$13,520,651	\$12,665,954	-7
Communications	\$3,970,516	\$6,102,466	53
Support personnel	\$3,093,668	\$2,881,747	-7
Travel and lodging	\$721,790	\$664,446	-8

The recent increase in communications expenses reflects the changing nature of the lobbying business. It has become more multi-dimensional since the State's original lobbying law was enacted in 1964. This is partly as a result of the growth in government.

For instance, the New Jersey Register, a catalog of proposed regulations, was 280 pages in 1971. In 2008, it was 7,020 pages.

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Annual Lobbying Report 2009

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As a result, lobbying of the executive branch has expanded greatly and there also is a greater emphasis on “grass-roots” campaigns that seek to mobilize the public for or against an issue.

ELEC statistics now provide a better snapshot of these activities since a package of reforms enacted in 2004 required lobbyists to disclose fees and other information about these newer client services.

Last year’s communications spending was driven largely by grassroots lobbying by two groups that ran televised “issue” advertisements during the gubernatorial campaign. NJ Progress spent \$2.2 million, while Mid-Atlantic Leadership Fund spent \$1.6 million. The next largest communication expense was reported by the NJ Credit Union League, which spent \$267,016.

The following ten special interest groups reported the largest total spending last year:

GROUP	AMOUNT
NJ Progress	\$2,151,864
Mid-Atlantic Leadership Fund	\$1,634,091
Verizon NJ	\$999,476
AARP NJ	\$827,934
NJ Hospital Association	\$778,502
First Energy/ Jersey Central Power & Light	\$714,580
Public Service Enterprise Group	\$697,583
CSC Holdings Inc	\$638,134
NJ Builders Association	\$614,194
Atlantic City Electric	\$549,988

The top ten multi-client lobbying firms ranked by fees include the following firms:

FIRM	2009 FEES
Princeton Public Affairs Group Inc.	\$6,907,202
Public Strategies Impact LLC	\$5,842,319
Martin-Bontempo-Matacera-Bartlett-Gluckshaw	\$3,734,228

Gibbons PC	\$1,714,533
Kaufman Zita Group LLC	\$1,703,630
Riker Danzig Scherer Hyland & Perretti LLP	\$1,644,310
Capital Public Affairs Inc	\$1,620,322
Capital Impact Group	\$1,351,767
Issues Management LLC	\$1,289,561
Fox & Shuffler	\$1,126,500

In New Jersey, lobbyists who raise or spend more than \$2,500 are required to file a report on February 15th that reflects activity from the prior calendar year.

Full details about lobbyist activities in 2009 are available at the following: http://www.elec.state.nj.us/publicinformation/gaa_annual.htm.

Treasurer Training for Candidates and Committees

Treasurer Training Seminar for Candidates and Joint Candidates Committees

Wednesday, April 21

Tuesday, May 4

Monday, September 13

Wednesday, September 29

Treasurer Training Seminar for Political Party Committees and PACs

Thursday, June 24

Monday, September 27

Thursday, December 9

Budget Hearings – For Department of Law & Public Safety & ELEC

DATE	PLACE	TIME
*April 21, 2010 - Assembly	State House Annex, Trenton	2:00 pm
*May 4, 2010 - Senate	State House Annex, Trenton	10:00 am

* Please check the New Jersey Legislature website at www.njleg.state.nj.us/Default.asp frequently as these dates are subject to change.

DATES TO REMEMBER

2010 REPORTING DATES	
SCHOOL BOARD ELECTION	
	DATE: APRIL 20, 2010
11-day pre-election	April 9, 2010
20-day post-election	May 10, 2010
MUNICIPAL ELECTION	
	DATE: MAY 11, 2010
29-day pre-election	April 12, 2010
11-day pre-election	April 30, 2010
*20-day post-election	June 1, 2010
RUNOFF ELECTION	
	DATE: JUNE 15, 2010
29-day pre-election	*No report required
11-day pre-election	June 4, 2010
20-day post-election	July 6, 2010
PRIMARY ELECTION	
	DATE: JUNE 8, 2010
29-day pre-election	May 10, 2010
11-day pre-election	May 28, 2010
20-day post-election	June 28, 2010
GENERAL ELECTION	
	DATE: NOVEMBER 2, 2010
29-day pre-election	October 4, 2010
11-day pre-election	October 22, 2010
20-day post-election	November 22, 2010
PACs & CAMPAIGN QUARTERLY FILERS	
1 st Quarter	April 15, 2010
2 nd Quarter	July 15, 2010
3 rd Quarter	October 15, 2010
4 th Quarter	January 18, 2011

*A candidate committee or joint candidates committee that is filing in the 2010 Runoff election is not required to file a 20-day post-election report for the 2010 Municipal election.

Late and non-filing of reports are subject to civil penalties determined by the Commissioners

ELEC Directors

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