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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

Independent, Anti-Corruption Partner

My first column of the New Year will be about the Commission, its history, its future.

I am doing this because ELEC is mainly viewed as a disclosure agency, which of course it is. But it's actually much more! ELEC is comprised of a unique blend of disclosure, prosecutorial, quasi-judicial, and legislative responsibilities.

In 1973, then Governor William T. Cahill signed into law the New Jersey Campaign Contributions and Expenditures Reporting Act. As part of this law the Commission was established.

One year later, Governor Brendan T. Byrne, newly elected, signed a measure that created the Gubernatorial Public Financing Program, considered a model for other states to follow. The program enables qualified candidates of limited means to run for governor. In 2009, funds were distributed in both the primary and general elections for governor and lieutenant governor.

Both ELEC and the matching funds program were established in response to corruption in New Jersey and to an unfolding scandal in Washington, named Watergate.

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Lobbying and Annual Reports

By Joseph Donohue, Deputy Director

Since President Ulysses S. Grant once held court in the Willard Hotel lobby and even in earlier times, the practice of lobbying has been an integral part of democracy.

Advocacy is a Constitutionally protected right. The First Amendment of the Constitution states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

As government spending has grown in recent decades, and government decision-making has become more complex, it is not surprising that large groups of professional lobbyists have sprung up in the nation's capitol as well as in statehouse corridors.

As a result, lobbying firms have faced increasing disclosure requirements so the public is better aware of their influence.

Each February in New Jersey, registered lobbyists, who now number about 1,000, must file an annual report with ELEC. These reports list their clients, fees, expenses, gifts they hand out, appointments they hold on public agencies and other information.

The New Jersey Election Law Enforcement Commission collects these reports and makes them available to the public along with additional reports filed each quarter that disclose the issues each lobbying firm is actively pursuing. The 2009 annual reports are expected to become available to the public March 10.

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Comments from the Chair Jerry Fitzgerald English

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In creating a single agency to oversee campaign financial activity by candidates ranging from fire district commissioner to governor, the Legislature provided it with an independent, quasi-judicial, quasi legislative status.

This autonomy, important to electoral integrity, was accomplished in two ways. Firstly, the Legislature guaranteed the autonomy of the Commission by making it independent of any department, board, or office by giving the Commission authority over personnel and budgetary matters, and enforcement, etc.

Secondly, the Commission is made up of four Commissioners, of which no more than two members can be appointed from the same political party. In addition, Commissioners are prohibited from engaging in any political activity and are subject to a strict code of ethics.

The intention is that Commissioners and staff, like members of the judiciary, would be free of influence by any political party or public official.

The structure has worked well; so well that numerous additional responsibilities have been added since the Commission's inaugural year in 1973.

For example, early on it began to share responsibility for regulating lobbyists with the Attorney General. Later, in 1992, it assumed full responsibility for overseeing lobbying, as registration, activity reporting, and financial disclosure was consolidated under ELEC.

Other reforms in 1993 introduced contribution limits, established legislative leadership committees, and authorized the regulation of political action committees.

But that was not all. A little over ten years later, in 2004, a campaign finance and ethics package contained 17 reforms which added to ELEC's responsibilities.

And, subsequently, the Legislature enacted additional lobbying reforms, pay-to-play legislation, and two pilot clean elections programs for legislative districts.

Interestingly, both the 1993 reforms and the later reforms were enacted in response to real and perceived public corruption, pointing once again to the Commission's anti-corruption role.

The Election Law Enforcement Commission continues to enjoy an excellent reputation within and without New Jersey.

Certainly disclosure, as evidenced by the recent introduction of the local contributor database, which allows for greater monitoring of pay-to-play, is a major focus of the Commission.

It is a major factor in ELEC's effort to bring about a more informed public.

But its efforts in enforcement should not be overlooked. Aggressive enforcement not only helps to enhance disclosure but is an important part of the overall effort to root out public corruption by increasing transparency throughout the governmental process.

In both areas ELEC will move aggressively in the year to come.

Public Hearings

The New Jersey Election Law Enforcement Commission will hold two public hearings early in the new year.

Pursuant to the Sunset Law, the Commission's regulations will expire and need to be readopted. The Commission will conduct a hearing on the Sunset proposals on February 16, 2010, at 11:15 a.m.

At its meeting on April 20, 2010, the Commission will hold a public hearing concerning the Gubernatorial Public Financing Program.

Contact Administrator Elbia Zeppetelli at (609) 292-8700 to reserve time to speak at either public hearing.

For the Sunset regulations, reserve time to speak by early February. Written comments should be submitted to Associate Legal Director Michelle R. Levy, Esq., by February 19, 2010 for the Sunset regulations.

Executive Director's Thoughts Jeff Brindle

Changing Nature of Lobbying

How have economic conditions affected lobbying in New Jersey? Shortly we'll find out.

Annual financial reports are due February 16th, with their release planned for March 10th.

How much money was spent on direct lobbying of public officials last year will be disclosed as will expenditures on grassroots lobbying.

Once again, we will learn which are the top lobbying firms.

What won't be shown, though, is whether or not lobbying has changed in the State.

Has lobbying followed the federal path, growing from a relatively small group of individuals and associations to, as Gary J. Andrews suggests, a "full-blown industry, complete with its own trade, professional, and membership groups?"

Andrews authored Lobbying Reconsidered.

Before World War II about 500 lobbyists operated in Washington D.C. By 1980 the number increased to 1700. Jump to 2006 wherein Jeffrey H. Birnbaum, Washington Times reporter, notes that there were 30,000 registered lobbyists.

He estimates that \$3.3 billion was spent on federal lobbying in 2008.

At the national level lobbying itself has been transformed. Increased numbers of corporate and labor-related lobbyists have set up shop in D.C. As the government grows bigger and more complex, growth in lobbying exploded, becoming more specialized.

The advocacy industry is comprised of firms and organizations with government affairs arrangements. Lawyers are now involved directly or indirectly with lobbying.

New technology has led lobbyists away from traditional approaches toward influencing public policy. Now alternative strategies, such as grassroots lobbying and issue advertising, are increasingly employed.

Having witnessed the success of mass movements, starting with the civil rights and feminist movements of

the 1960's and early 1970's, firms now offer an array of services, including public relations, grassroots mobilization, polling, and media consulting.

Lobbying has grown up at the federal level, with firms and in-house lobbyists engaging in more sophisticated approaches toward influencing public policy.

But what of New Jersey? Has lobbying changed?

For one thing, maybe not as dramatically, but the number of lobbyists as well as represented entities has increased.

Since 1989 the number of registered lobbyists has increased from 622 to over 1,000. Significantly, the number of represented entities has increased from 663 to around 2,000.

More and more entities are engaging the services of lobbying firms or retaining in-house lobbyists.

Even more dramatically, spending on lobbying exploded from \$8.6 million in 1989 to \$55.7 million in 2008.

One explanation for why the circle of lobbyists expanded is that in 2004 legislation was enacted to include state contracts and permits, in addition to legislation and regulation.

Another explanation is the growth in State government over the years, particularly as it applies to the increase in represented entities and to the growth in spending.

In Fiscal Year 1989, the State's budget stood at \$11.8 billion. By Fiscal Year 2010, it had grown to \$28.6 billion. Along with this increase came a growth in programs that would depend on public dollars. From this derived the need for corporations, unions, and interest groups to engage more aggressively in lobbying.

Lobbying itself has changed in New Jersey. Traditional lobbying, or having access to public officials, is still important. But lobbying firms have become more specialized, offering more diversified services. The new technology has not been ignored, with firms offering research, utilizing lawyers, employing strategies such as grassroots lobbying, and even engaging in issue advocacy during political campaigns.

Thus, lobbying, once the domain of individual lobbyists or small firms, is growing up in New Jersey.

Lobbying and Annual Reports

By Joseph Donohue, Deputy Director

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Although lobbyists are not required to report all their sources of income, the amount spent on lobbying has climbed sharply in New Jersey in recent years.

In 1993, reportable lobbying costs totaled \$12.7 million. By last year, the total had reached \$55.7 million- a 338 percent increase. By comparison, the Consumer Price Index rose 71 percentage points during the same 15-year period.

A large run-up that occurred in 2006 was largely attributable to a new law that required lobbyists to disclose more sources of income. Prior to that year, lobbyists mainly had to report fees related to the lobbying of the Legislature.

Under the new law, lobbyists now must report fees earned from a broader range of lobbying activities, including efforts to secure state permits, and win contracts. Lobbyists also must now divulge fees gained from "grassroots" lobbying in which firms try to mobilize public sentiment for or against an issue.

Due in part to these new disclosure requirements, cable companies and telecommunications firms in 2006 reported spending a record amount- \$9 million- lobbying over a bill intended to increase competition for local television services.

While the amount spent on lobbying has grown, the rate of growth has slowed considerably since 2006, perhaps due to the economy. During the past 15 years, lobbying costs dropped in just two years- 2000 and 2007. In both years, the nation was heading toward a recession.

To view summary information from previous annual lobbying reports filed with ELEC, go to www.elec.state.nj.us/publicinformation.htm.

Lobbying Reforms of 2004

Prior to the reforms of 2004, New Jersey lobbyists were not restricted in terms of benefits that could be passed along to legislators and executive branch officials.

Fairly, or unfairly, this situation gave rise to the impression that public officials could be influenced by a meal, tickets to the theatre, or a trip to the Bahamas to attend a conference.

As a result, the Legislature, in the wake of press reports and the expressed concern of the general public, passed reform legislation that significantly limited benefits that lobbyists could pass to legislators, their staff, or Executive Branch employees.

These reforms had an immediate impact. And it can be seen in the dramatic decline in gifts to the State's elected and appointed officials between the peak year 2001 and 2008.

For example, in 2001, benefit passing reached \$115,442 whereas in 2008 only \$22,360 in gifts was reported by lobbyists. This amounts to an 81 percent reduction in benefit passing.

Indeed, the law has restrained gift giving. Executive Branch employees, due to the law as well as the State Ethics Commission (SEC) guidelines, face a near-total ban. Legislators, their family and staff are limited to \$250 annually, except in very limited circumstances involving out-of-state travel.

According to the rules, the restrictions apply to any compensation, reward, gift, honorarium, or other thing of value. As a result, not only are fewer gifts accepted but public officials are often reimbursing any benefits given.

Last year, 144 gifts were reported and only three exceeded the \$250 limit for legislators. And in those cases, approval was given by the respective leaders in the Legislature for trips out-of-state of an educational nature.

Clearly, the reforms of 2004 are working to bring about a greater faith in the processes of government in New Jersey, both legislatively as well as within the Executive Branch.

ELEC's Challenge

Recent years have seen the media grow and diversify.

Cable news outlets and internet sites challenge traditional broadcast networks. Specialized print, on-line publications and blogs offer alternatives to established print media.

For many under 30 a significant portion of their political news comes from comedy shows.

What does this mean for those interested in public affairs or for those involved in the workings of government?

For one thing, a whole new world of information has been opened up. For another, it means more time spent keeping up with the latest news.

And interest groups and lobbyists, the focus of this issue, can explore a whole new universe of opportunities to sell their message or jump start an advocacy campaign.

In this, New Jersey has not lagged behind. Some impressive internet sites have been established that provide up-to-the-minute information about government and politics.

These sites include PolitickerNJ.com, NewJerseynewsroom.com, BlueJersey.com and InTheLobby.net. Social networks are increasingly proving useful as well.

This fact has not been lost on interest groups. These sites contain Service Employees International Union (SEIU) sponsored issue ads on behalf of School Cafeteria Workers. There is also the "Meet Paul" blog ads by Garden State Equality and the "Right to Repair" ones underwritten by an alliance of business groups and AAA.

The extent and diversification of news and information is a positive development. So too are the opportunities available to groups and individuals to lobby the Legislature and executive branch on issues important to their constituents.

On the other hand, it presents challenges to the likes of the Election Law Enforcement Commission.

Just as important as it is for groups to be able to protect and promote their interests, is the opportunity for the general public to know who is funding these efforts, to what extent, and at what cost.

An informed public is tantamount to the common good.

This will be one of ELEC's challenges in the future; to monitor and have disclosed grassroots and other new and innovative means of lobbying, born of new media opportunities and new technology.

2010 Meeting Schedule

The New Jersey Election Law Enforcement Commission has announced its meeting schedule for 2010. Unless otherwise indicated in the future, meetings will be held at the Commission's offices at 28 West State Street, 12th Floor, in Trenton.

January	19, 10:00 a.m.
February	16, 10:00 a.m.
March	23, 10:00 a.m.
April	20, 11:00 a.m.
May	18, 11:00 a.m.
June	15, 11:00 a.m.
July	20, 11:00 a.m.
August	17, 11:00 a.m.
September	21, 11:00 a.m.
October	19, 11:00 a.m.
November	16, 11:00 a.m.
December	21, 11:00 a.m.

ELEC Directors

Jeffrey M. Brindle.....Executive Director
Joseph W. Donohue....Deputy Director
Carol L. HoekjeLegal Director
Evelyn Ford.....Compliance Director
Carol Neiman.....Director of Information Technology
Amy F. Davis.....Director of Special Programs
Linda White.....Director of Lobbying
Leonard Gicas.....Director of Review & Investigation
Todd J. Wojcik.....Director of Campaign Financing
Steven M. DodsonDirector of Finance & Administration

DATES TO REMEMBER

2010 REPORTING DATES	
SCHOOL BOARD ELECTION	
	DATE: APRIL 20, 2010
29-day pre-election	March 22, 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

ANNUAL LOBBYING FILING	
February 16, 2010	
PAY-TO-PLAY FILING	
March 30, 2010	

*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.