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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 Chairman Ronald DeFilippis

Maintaining records is an essential part of any campaign for public office.

But despite this fact, it is not uncommon for campaigns to fall short in this regard.

In the hustle and bustle of a campaign it's easy to overlook important record-keeping details.

So because record-keeping is such an important part of campaigns for public office, is required by law, and often overlooked, my column this month will be devoted to this issue.

Records are required to be kept by treasurers of candidate committees, legislative leadership committees, political party committees, PACs, and political committees.

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For this column, however, I will concentrate on the duties of candidate and joint candidate's committee treasurers and deputy treasurers.

Campaign treasurers are required to maintain a written record of all funds and contributions, including non-monetary contributions received by the committee.

Information required to be maintained includes the name and address of the contributor, the amount and date that the contribution was received, and the name of the account from which a check is drawn.

Moreover, if the contributor is an individual, a record of the occupation and name and mailing address of the employer is required to be kept.

Besides maintaining records of contributions, the treasurer is required to retain information regarding expenditures. Information to be retained includes the name and address of the recipient of the expenditure, the amount and date of the expenditure, and its purpose.

Further, the treasurer should keep copies of invoices, bills, and any documentation pertinent to the expenditure.

Treasurers should also be aware of record keeping requirements regarding credit card transactions.

Whenever a campaign authorizes the purchase of goods or services by using a credit card the following information is required to be kept:

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Comments from the Chairman Ronald DeFilippis

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1. The name of the owner of the card;
2. The lending institution issuing the card;
3. The name and address of the vendor from whom the purchase was made;
4. The date of the purchase;
5. The purpose of the purchase; and
6. The cost and description of the goods or services purchased.

In regards to the period of time that records are to be kept, the Commission's regulation reads:

All records required to be made pursuant to this subchapter shall be maintained for a period of not less than four years after the date of the election to which they are relevant, or a period of not less than four years after the transaction to which they relate occurred, whichever is longer.

In other words, records must be kept for four years following the date of the election. However, if a transaction related to the election occurs after the election is over, then records must be kept for four years following the date of that last transaction.

The importance of maintaining accurate and complete records cannot be overstated. In the heat of a campaign charges and counter charges often fly between opponents.

By maintaining thorough records, those charges can easily be refuted. Moreover, a complete set of records will help any campaign respond to allegations of Campaign Act violations and help to avoid the imposition of penalties.

Treasurers of campaign committees should consult the candidate committee manual, which is online at www.elec.state.nj.us, record keeping regulations at 19:25-7.1, or contact one of our Compliance Officers at 1-888-313-3532.

The Commission offers training seminars for treasurers, both online and in person.

Executive Director's Thoughts Jeff Brindle

It appears that the goals of the Pay-to-Play Law – the elimination of the appearance of impropriety and the reduction in contractor cash – are largely being met.

In 2010, public contractors reported donating \$9.4 million to candidates and committees, a 13 percent decrease from the previous year.

Since 2006, when the law went into effect, political contributions by vendors dropped by a whopping 38 percent.

But while proponents of Pay-to-Play can be rightfully pleased, there should be no resting on their laurels.

There is still room for improvement. And that improvement can come in the form of the law itself.

The Pay-to-Play Law is a tangled web of state statutes, executive orders, local ordinances, loopholes, contribution limits, disclosure requirements, and sometime incomprehensible legalese.

Pay-to-Play should meet its goals because it is an effective law enacted to serve the public interest, not because it cannot be understood.

The very history of the law is one of twists and turns, additions and subtractions.

Pay-to-Play was first enacted in 2004 to take effect on January 1, 2006. Initially, the law applied to all state, legislative, county, and municipal contracts.

The law, which limited contractor donations to \$300 for public contracts of \$17,500 or more, contained a significant loophole, however. As long as the bidding process was publicly advertised Pay-to-Play did not apply.

Former Governor James McGreevey, through Executive Order 134, partially remedied that problem. The loophole, known as "fair and open," was closed for all state contracts.

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Executive Director's Thoughts Jeff Brindle

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This change was made law in March 2005. The "fair and open" loophole, however, still applied to county and municipal contracting, and remains so today.

Ironically, changes to the law were taking place even before the law went into effect. But there would be more to come.

Five days after the initial law and amendments went into effect, the law was amended again. Chapter 271 allows municipalities, counties, boards of education and fire districts to establish their own ordinances, separate, apart, and not preemptable by state law.

Further, this amendment required disclosure of donations by contractors to the respective governmental units issuing said contract. It also mandated annual disclosure to the Election Law Enforcement Commission (ELEC) when a contractor receives \$50,000 or more in public work Statewide.

Subsequently, Chapter 271 was amended to remove non-profits from the provisions of the law.

Yet, more changes were still to come.

On November 15, 2008, former Governor Jon Corzine issued two Executive Orders, Numbers 117 and 118.

Executive Order 117 defines business entity to now include officers, partners, members and persons controlling 10 percent or more of stock, and spouses and civil union partners.

The order further extended limitations on contributions that were applicable to state contracts only. The limit now entails contributions to candidates for governor, the governor, to political parties, legislative leadership committees, and county and municipal party committees.

Executive Order 118 applied the same restrictions to redevelopers, insuring that those entities receiving public grants and involved with eminent domain would be covered.

Finally, in January 2010, Governor Chris Christie issued Executive Order 7, which extended Pay-to-Play restrictions to labor unions.

This Executive Order was vacated by the New Jersey Supreme Court, which stated that the authority to include labor unions required legislation.

The Pay-to-Play Law is certainly working in so far as it is reducing chances for corruption and the amount of money in the electoral process.

But is the price of that success bought on the back of a law so confusing that many people simply throw up their hands and say, "I just won't give."

I suggest that there is a better way. ELEC has set forth several common sense proposals that would simplify the law and bring about even greater disclosure.

First, the Commission proposes that there be one state law that applies universally across the board. Second, it proposes that the "fair and open" loophole be eliminated for all levels of government. Third, ELEC proposes that contractors disclose contributions on contracts of \$17,500 or more and not after receiving \$50,000 worth of public work statewide. Fourth, that a somewhat higher contribution limit between \$300 and \$1,000 be established. And fifth, that guidelines for establishing PACs be made more stringent.

These proposals, if enacted, would end confusion surrounding the law, end the onerous loophole that allows vendors to circumvent the law, enhance disclosure, stop contractors from circumventing the law by easily creating PACs, and allow candidates to raise enough money to communicate their message to the voters.

It is hoped that the Legislature will consider these reforms to make a well-intended law less confusing, and even more effective.

Jerry Fitzgerald English Tribute

Former ELEC Chair Jerry Fitzgerald English, the agency's second longest-serving chairperson (revised 9/28/17), was recognized by the Commission at its May 17 meeting for her fairness and integrity.



Left to right: Vice Chairman Walter F. Timpone, Commissioner Lawrence Weiss, former Chair Jerry Fitzgerald English, Chairman Ronald DeFilippis, Commissioner Amos C. Saunders, and Executive Director Jeffrey M. Brindle.

Commissioner Amos Saunders expressed the Commission's thanks for her seven years of service.



He said English presided over major changes at ELEC that expanded both its responsibilities and prestige. These included a major expansion of lobbying laws; the addition of pay-to-play disclosure responsibilities; the Clean Elections Program for legislative candidates; and the Gubernatorial Public Financing Program.

Chairman Ronald DeFilippis read a proclamation declaring that English served with "dignity and integrity" as the Commission's chair, and "demonstrated unwavering support for the ideals of the Commission."

Vice Chairman Walter Timpone read a proclamation from Governor Chris Christie that praised English for her service, fairness, integrity and contributions to the State. Executive Director Jeff Brindle read a joint Legislative resolution echoing these praises and extended personal thanks

for her strong support of ELEC's staff and attention to detail.

Noting that he has known English since the 1970s, Commissioner Lawrence Weiss said New Jersey benefited greatly from her long record of public service in the State Senate, the Governor's Office, the Port Authority of New York and New Jersey, the Department of Environmental Protection, and the Commission.

English said the experience at the Commission was a great learning experience and said she will miss both Commission and staff members. But she said she also feels comforted that she is leaving the Commission with its well-regarded reputation firmly intact.

County Party Committees

1st Quarterly Reports - Analysis

With legislative campaigns looming this fall, county party committees jointly have \$1 million in reserve after raising nearly \$1.1 million during the first three months of 2011.

Reports show Democrats outraised Republicans during the quarter, but GOP committees reported a higher net worth, meaning cash-on-hand adjusted for debts owed to or by the committee. Some spending totals are higher than fundraising totals because committees have dipped into reserves, or taken out short-term loans.

Compared to four years ago, which was the last time all 120 legislative seats were up for reelection, overall fundraising by county party committees was down. The drop was larger for Democratic committees than Republicans. One caveat about the numbers: 2007 figures reflect the activity of all 42 county parties. Current ELEC figures include financial activity from 38.

Statewide, one Democratic county party committee- Passaic- had a net worth of more than \$100,000 as of March 31, 2011. Five Democratic committees- Burlington, Gloucester, Hudson, Mercer, and Monmouth- were in the red if outstanding debts are subtracted from cash-on-hand.

One Republican county party committee- Burlington- had a net worth of more than \$100,000. One committee- Sussex- reported a negative number.

The analysis was based on reports filed with ELEC by 5 p.m. on April 29, 2011. The numbers are based on reports that have yet to be verified by ELEC and should be considered preliminary. Interested parties are encouraged to review individual reports at ELEC's website (www.elec.state.nj.us).

Legislative Primary

29-Day Pre-Primary Reports - Analysis

Legislative candidates have amassed more than \$12 million in campaign reserves as the two major parties vie for control of the 120-seat Legislature for the first time in four years, according to the latest reports filed with the New Jersey Election Law Enforcement Commission.

Reports submitted 29 days before the June 7 primary show that Democrats, who control both legislative houses, have \$8.2 million in reserve while Republicans have \$4 million set aside. Despite some contested primaries, much of that funding is likely to be carried over into the fall general elections.

The reports also show that while fundraising is up slightly for both parties, the rate of growth has been dampened by pay-to-play laws and other factors, such as the weak economy.

Fundraising between January and early May, which is the period during which challengers joined incumbents in seeking campaign dollars, was just 2 percent higher than the same period in 2007. That was the last year in which the Senate and Assembly ran together.

Democrats raised \$3.7 million during the period while Republicans raised \$1.9 million.

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Legislative Primary

29-Day Pre-Primary Reports- Analysis

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**Table 1:
Fundraising by Legislative Candidates
January through May**

PARTY	JANUARY – MAY 2011	%
Democrats	\$ 3,686,991	3%
Republicans	\$ 1,867,076	2%
Both Parties	\$ 5,554,067	2%
	JANUARY – MAY 2007	
Democrats	\$ 3,590,811	13%
Republicans	\$ 1,835,447	-32%
Both Parties	\$ 5,426,258	-8%
	JANUARY – MAY 2003	
Democrats	\$ 3,184,158	91%
Republicans	\$ 2,700,980	5%
Both Parties	\$ 5,885,138	38%
	JANUARY – MAY 2001	
Democrats	\$ 1,669,290	
Republicans	\$ 2,582,517	
Both Parties	\$ 4,251,807	

A similar pattern is seen with totals that include fundraising by incumbents since the last elections.

**Table 2
Fundraising by Legislative Candidates
During Four Years between Elections**

PARTY	2011	%
Democrats	\$ 19,099,091	12%
Republicans	\$ 9,614,590	28%
Both Parties	\$ 28,713,681	17%
	2007	
Democrats	\$ 17,047,528	61%
Republicans	\$ 7,518,806	-16%
Both Parties	\$ 24,566,334	26%
	2003	
Democrats	\$ 10,608,960	78%
Republicans	\$ 8,965,799	-9%
Both Parties	\$ 19,574,759	24%
	2001	
Democrats	\$ 5,963,588	
Republicans	\$ 9,852,241	
Both Parties	\$ 15,815,829	

For the period since January, candidates spent nearly twice as much as they did ten years ago. The total reflects the fact that Democrats have spent nearly three times as much while Republican spending was down slightly.

**Table 3
Spending by Legislative Candidates
January through May**

PARTY	JANUARY – MAY 2011	%
Democrats	\$ 2,875,534	45%
Republicans	\$ 1,008,625	-20%
Both Parties	\$ 3,884,159	20%
	JANUARY – MAY 2007	
Democrats	\$ 1,985,702	34%
Republicans	\$ 1,258,060	-6%
Both Parties	\$ 3,243,763	15%
	JANUARY – MAY 2003	
Democrats	\$ 1,478,118	83%
Republicans	\$ 1,342,526	7%
Both Parties	\$ 2,820,644	37%
	JANUARY – MAY 2001	
Democrats	\$ 805,734	
Republicans	\$ 1,252,625	
Both Parties	\$ 2,058,360	

Spending also was up since the last combined Senate/Assembly election was held four years ago. Both Democratic and Republican spending was up compared to four years ago. Democratic spending was far higher than in 2001; Republican spending is down slightly compared to ten years ago.

**Table 4
Spending by Legislative Candidates
Since Previous Senate Elections**

PARTY	2011	%
Democrats	\$ 11,078,244	19%
Republicans	\$ 5,614,214	15%
Both Parties	\$ 16,692,458	18%
	2007	
Democrats	\$ 9,318,370	103%
Republicans	\$ 4,868,470	6%
Both Parties	\$ 14,186,840	55%
	2003	
Democrats	\$ 4,579,918	35%
Republicans	\$ 4,582,512	-20%
Both Parties	\$ 9,162,430	0%
	2001	
Democrats	\$ 3,391,072	
Republicans	\$ 5,739,779	
Both Parties	\$ 9,130,851	

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Legislative Primary

29-Day Pre-Primary Reports - Analysis

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Cash-on-hand totals are up for both parties versus 2007. Republican reserves increased by a larger margin since four years ago, though they remain below 2001 reserves. Democratic reserves have barely budged since 2007, but they are nearly three times larger than a decade ago.

Table 5
Cash-on-Hand
Legislative Candidates

PARTY	2011	%
Democrats	\$ 8,247,345	2%
Republicans	\$ 3,965,403	17%
Both Parties	\$ 12,212,748	7%
	2007	
Democrats	\$ 8,075,514	29%
Republicans	\$ 3,376,161	-26%
Both Parties	\$ 11,451,675	5%
	2003	
Democrats	\$ 6,281,194	117%
Republicans	\$ 4,578,526	-5%
Both Parties	\$ 10,859,720	41%
	2001	
Democrats	\$ 2,898,177	
Republicans	\$ 4,795,363	
Both Parties	\$ 7,693,540	

Reports filed by legislative candidates are available online on ELEC's website at www.elec.state.nj.us.

A downloadable summary of data from those reports is available in both spreadsheet and PDF formats at <http://www.elec.state.nj.us/publicinformation/statistics.htm>.

Personal Financial Disclosure Reports (PFDs) Analysis

More than 90 percent of all candidates seeking legislative seats in the June 7 primary have filed their personal financial disclosure reports (PFDs), according to an analysis by the New Jersey Election Law Enforcement Commission.

Incumbents had a higher compliance rate than challengers, the analysis shows. Of the 108 incumbents, 97 percent had filed the forms as of 5 p.m. on May 8, the cutoff date for the analysis. Among all 158 challengers, 87 percent were in compliance through that date.

Table 1
Number of Legislative Primary Candidates
Who Filed Personal Financial Disclosure Forms with
ELEC

TYPE	TOTAL FILING	TOTAL CANDIDATES	COMPLIANCE RATE
Incumbents	105	108	97%
Challengers	137	158	87%
Total Candidates	242	266	91%

In both legislative houses, incumbents had a compliance rate of 97 percent. Challengers for State Assembly seats had the lowest rate- 85 percent.

Table 2
Compliance Rates among Various Candidate
Groups

TYPE	COMPLIANCE RATE
Senate Incumbents	97%
Assembly Incumbents	97%
All Senate Candidates	93%
Senate Challengers	92%
All Candidates	91%
All Assembly Candidates	90%
Assembly Challengers	85%

Compliance was virtually the same by party, with 91 percent compliance among Democrats and 92 percent among Republicans.

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Personal Financial Disclosure Reports (PFDs) Analysis

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All 120 seats in the New Jersey Legislature are up for reelection this year, with more than 265 candidates vying in the primary. The primary election is June 7.

New Jersey law requires candidates for Governor, State Senate, and Assembly to file the seven-page personal financial disclosure forms during the year of their candidacy.

The disclosure forms require candidates to identify sources of earned income, such as salaries or bonuses, and unearned income, such as rents and dividends. Disclosure is required if the source of income exceeds \$1,000 in any one category. The statements list only sources of income, not dollar amounts. Candidates also report sources of income received by spouses and children of candidates.

Candidates also must disclose gifts valued at more than \$250, and whether they own any property in a city where casino gambling is authorized.

Not surprisingly, most candidates- 90 percent-checked the salary box. Forty-five percent of the candidates checked "other income including interest," the second most frequent category.

By contrast, only 2 percent checked either royalties or honorariums, the categories selected the fewest times.

Table 3
Categories Checked Most Often By Candidates

CATEGORIES	NUMBER	CATEGORIES CHECKED AS A PERCENTAGE OF ALL FILERS
Salary	219	90%
Other	109	45%
Dividends	85	35%
Rent	75	31%
Reimbursement	47	19%
Commissions	31	13%
Bonuses	29	12%
Fees	31	13%
Profits	28	12%
Gifts	9	4%
Own Property Where Casinos Are Allowed	7	3%
Royalties	5	2%
Honorariums	6	2%

Copies of the financial disclosure reports are available upon request by contacting the Commission at 609-292-8700.

The bipartisan Commission has urged the Legislature to move to May 15 the deadline for the filing of personal financial disclosure reports. Currently, candidates are supposed to file these forms within 10 days after they file their nomination petitions, which can be somewhat chaotic both for the candidates and the agency.

May 15 is the same date that incumbent legislators must file separate disclosure forms with the Office of Legislative Services. By using the same deadline for both reports, the filing process will be more orderly while still providing disclosure well before the election.

The Commission also requested legislative approval to post personal financial disclosure reports on its website. Under current law, copies of the reports are available only upon request and then only in paper form.

Lovinsky Joseph "Profile" Assistant Report Examiner

Before becoming an ELEC employee five years ago, Lovinsky Joseph received a lesson in why it is important for candidates to comply with election law.

After graduating from Columbia University with a bachelor's degree in political science and history, he worked on the campaign of a New York City council candidate to get a real-world glimpse of politics.

Overall, he found the campaign work interesting. He helped man phone banks to try to build voter support for his candidate. In the process, he received a first-hand view from the trenches of democracy.

The problem came when he and several other volunteers received checks for their service. The checks bounced.

The candidate later settled up with his former volunteers and even paid their bank fees. But the experience left an indelible impression on Joseph, who now works to ensure that candidates follow the rules.

As an assistant report examiner, Joseph spends much of his time doing a page-by-page review of many of the thousands of campaign finance reports submitted annually by mayors, freeholders, legislators and other candidates.

He makes sure numbers add up and tries to ensure that the reports contain all relevant information. When they don't, he often ends up contacting the candidates and asking them to submit revised reports.

"Most of what we find is the result of human error," said Joseph. "We would rather have compliance than the unpleasantness of having to file a complaint against a candidate."

As a member of the ELEC's Review and Investigation Section, he also assists with cases where abuses are more serious.

Another one of his duties is to compile the minutes of Commission meetings. Former Chair Jerry Fitzgerald English often referred to him affectionately as "The Scribe."

In addition to his responsibilities at ELEC, Joseph soon hopes to begin work on a master's degree in public administration at Rutgers University.

Joseph, the son of Haitian immigrants, moved to New Jersey when he was 5 years old. His first name came from his grandfather on his mother's side, and was influenced by the fact that many Polish conscripts who traveled to Haiti in the service of Napoleon Bonaparte's army stayed behind. Some of their names caught on in the island nation.

Joseph, who is single, has never owned a car because he has always resided in cities. "Most of the places I've lived, it has been more of a liability to have a car, especially with parking," he said.

While he has always been an urban dweller, Joseph developed a fondness for the outdoors after spending six weeks in Switzerland as an exchange student.

He has hiked most trails in New Jersey and is especially partial to the Batsto Village area and Island Beach State Park.

He also has ventured to such natural destinations as the Catskill and Adirondack Mountains in New York, Glacier National Park in Montana, the Olympic National Park in Washington and the Florida Keys. His next trip- Sequoia National Park in California. Eventually, he would like to complete the full 2,181-mile Appalachian Trail.

Joseph, who also traveled once to Haiti, speaks French and Creole Haitian.

In his reading, he prefers non-fiction books. "I usually find a good history or biography more interesting than most fiction," he said.

Business Entity Pay-To-Play Training Seminars

The New Jersey Election Law Enforcement Commission is pleased to announce that it will be holding training seminars as detailed below to assist business entities with the filing of annual disclosure reports pursuant to the State "pay-to-play" disclosure law (P.L.2005, c.271). Each seminar is expected to last for approximately 1-2 hours.

The seminars listed below will be held at the Offices of the Commission, located at 28 West State Street, Trenton, New Jersey.

June 24, 2011 at 10:00 a.m. - Full
August 5, 2011 at 10:00 a.m.
September 16, 2011 at 10:00 a.m.

Please provide the information requested in the entire reservation form and return to ELEC. You may mail the form back to ELEC, Special Programs Section, P.O. Box 185, Trenton, NJ 08625-0185 or you may fax the form to ELEC at (609) 292-4238. Since space is limited, you must reserve a seat in order to attend. For directions, contact the Special Programs staff. [Pay-to-Play Reservation Form](#).

If you are unable to attend, or need immediate assistance concerning business entity filing requirements, please call (609) 292-8700 or toll free in New Jersey at 1-888-313-ELEC and ask to speak with an Analyst in the Special Programs Section.

Treasurer Training for Candidates and Committees

[Treasurer Training Reservation Form](#) - RSVP by mailing the form back to ELEC, PO Box 185, Trenton, NJ 08625-0185. Or, you may fax the form to ELEC at (609) 633-9854.

Seminars are conducted at 10:00 a.m. at the Commission's offices at 28 West State Street, 8th floor, in Trenton, New Jersey.

[Treasurer Training Seminars for Candidates and Joint Candidates Committees](#)

September 12, 2011
September 27, 2011
October 3, 2011

[Treasurer Training Seminars for Political Party Committees and PACs](#)

June 30, 2011
September 21, 2011
December 14, 2011

R-1 Electronic Filing Software (REFS) Training

[REFS Training Reservation Form](#) - RSVP by mailing the form back to ELEC, PO Box 185, Trenton, NJ 08625-0185. Or, you may fax the form to ELEC at (609) 633-9854.

The seminars listed below will be held at the Election Law Enforcement Commission, 28 West State Street, 8th Floor, Trenton, New Jersey at 10:00 a.m.

July 27, 2011
September 14, 2011
September 26, 2011
October 4, 2011

DATES TO REMEMBER

Reporting Dates

	PERIOD COVERED	REPORT DUE DATE
RUNOFF ELECTION** - JUNE 14, 2011		
29-day pre-election	No Report Required for this Period	
11-day pre-election	4/27/11 - 5/31/11	6/3/2011
20-day post-election	6/1/11-7/1/11	7/5/2011
48 Hour Notice Reports Start on 6/1/11 through 6/14/11		
PRIMARY ELECTION*** - JUNE 7, 2011		
29-day pre-election	Inception of campaign* - 5/6/11	5/9/2011
11-day pre-election	5/7/11 - 5/24/11	5/27/2011
20-day post-election	5/25/11 - 6/24/11	6/27/2011
48 Hour Notice Reports Start on 5/25/11 through 6/7/11		
GENERAL ELECTION*** - NOVEMBER 8, 2011		
29-day pre-election	6/25/11 - 10/7/11	10/11/2011
11-day pre-election	10/8/11 - 10/25/11	10/28/2011
20-day post-election	10/26/11 - 11/25/11	11/28/2011
48 Hour Notice Reports Start on 10/26/11 through 11/8/11		
PACS & CAMPAIGN QUARTERLY FILERS		
2 nd Quarter	4/1/11 - 6/30/11	7/15/2011
3 rd Quarter	7/1/11 - 9/30/11	10/17/2011
4 th Quarter	10/1/11 - 12/31/11	1/17/2012

* Inception Date of Campaign (first time filers) or from January 1, 2011 (Quarterly filers).

** A candidate committee or joint candidates committee that is filing in the 2011 Runoff election is not required to file a 20-day postelection report for the 2011 Municipal election.

*** Form PFD-1 is due on April 21, 2011 for Primary Election Candidates and June 17, 2011 for Independent General Election Candidates.

[Late and non-filing of reports are subject to civil penalties determined by the Commissioners](#)