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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

In an interesting twist, this year's gubernatorial primary election involves one major party candidate who is participating in the public financing program and the other who is not.

This column, therefore, will discuss the guidelines pertaining to participating candidates vs. those pertaining to non-participating candidates.

First, candidates receiving public money are limited to spending \$25,000 from their personal funds to benefit their candidacy. This amount includes any direct contribution from their personal account.

Second, candidates are allowed to borrow up to \$50,000 in the aggregate to aid their campaign. However, any such loan or loans must be repaid within 20 days prior to the primary election.

Once the loan is repaid the campaign must certify as such to the Commission.

Third, candidates receiving public funds are subject to an expenditure limit. In total, participating candidates are limited to spending \$5.6 million in aid of their candidacy.

Not subject to the contribution limit, though, are expenses for compliance, travel expenses, reasonable costs for food and beverages, and election night expenses.

Finally, up to \$3,800 from a candidate's personal funds may be submitted for match. Any amount above that contributed or spent from personal funds is not eligible for match nor may be used to qualify a candidate for the matching program.

The rules pertaining to non-participating candidates are somewhat similar and somewhat different.

While a non-participating candidate for governor is subject to the \$3,800 limit on contributions to his or her campaign committee, he or she is not held to an expenditure limit. This is because of the U.S. Supreme Court decision in Buckley v. Valeo.

Moreover, a non-participating candidate is not limited in terms of how much he or she can spend out of their personal funds nor is there a limit on bank loans.

Finally, a candidate opting out of the Gubernatorial Public Financing Program but who has raised enough money to otherwise qualify for the program, may participate in a series of interactive public financing debates.

However, if participating in the debates, the non-participating candidate is subject to certain restrictions on expenditures.

For example, he or she must document the fact that \$380,000 has been raised and spent on behalf of the campaign.

And finally, the repayment of a loan can not be used to meet the threshold amount.

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Executive Director's Thoughts Jeff Brindle

Reprinted from newjerseynewsroom.com

The Attorney General's recent indictment of Birdsall Services Group has put a huge spotlight on New Jersey's Pay-to-Play Law.

On March 26, Attorney General Jeff Chiesa alleged that the Eatontown-based engineering firm not only skirted pay-to-play restrictions, but also took part in a six-year money laundering scheme.

Overlooked in the news coverage is a central issue involving the Pay-to-Play Law: it is way too complicated.

Benjamin Franklin said: "Laws too gentle are seldom obeyed; too severe, seldom executed."

Put another way: Laws with loopholes are often ignored; too convoluted, difficult to enforce.

New Jersey's Pay-to-Play statutes pose both problems.

Perhaps the biggest loophole is the "Fair and Open" provision that applies to local officials but not state officials.

"Fair and Open" allows municipal and county governments to forego pay-to-play rules by simply advertising bids. It doesn't require that local officials pick the lowest bid.

Making matters worse, the Pay-to-Play Law allows for municipalities and counties to pass their own ordinances "as long as they are consistent with the theme of pay-to-play."

While local laws almost always can be more restrictive than state law, this broad language implies that local pay-to-play laws can be less restrictive as well.

Finally, besides State law and almost 60 local ordinances, several gubernatorial executive orders have been issued dealing with contracting at the State level. The level of complexity is mind-boggling.

About the only thing the law is clear on is that any contractor receiving over \$50,000 in public contracts statewide is required to report contracts and

contributions by March 30 of each year with the New Jersey Election Law Enforcement Commission (ELEC).

There are three state entities that share responsibility for enforcing pay-to-play: The Department of the Treasury; the Department of Community Affairs; and ELEC.

ELEC's primary responsibility is disclosure. On April 8, the Commission will disclose hundreds of annual reports filed by contractors for 2012 while also releasing its latest analysis of the impact of the law based on those reports.

But, the agency has been doing more than that. For the past three years it has been urging the Legislature to reform the law.

While the Pay-to-Play Law has worked to reduce money going directly to candidates and party entities, because of its complexity it has often led to the circumvention of not only the law itself but of general contribution limits.

When this happens, transparency suffers.

To strengthen, standardize, and simplify the law, the Commission has proposed that one law apply across the board to state, county and local officials.

The Commission has also proposed eliminating the "Fair and Open" loophole.

Further, to enhance disclosure, the Commission recommends lowering the \$50,000 disclosure threshold for reporting contracts and contributions to \$17,500.

Finally, the Commission proposed that the \$300 contribution limit on contractors under pay-to-play law except in fair and open communities be raised to \$1,000. This combination of reforms may well discourage contractors from attempting to skirt the law and at the same time promote transparency.

The recommendations, if enacted, would bring clarity and commonsense to a law that is a hallmark of confusion.

Pay-to-Play

Public contractors reported making \$7.6 million in political contributions in 2012, a 23 percent drop from the year before, according to Jeff Brindle, Executive Director of the New Jersey Election Law Enforcement Commission.

The reduction came just one year after there was a slight jump - \$210,173, or a 2 percent increase- from 2010 to 2011. That was the first increase since 2007. Preliminary figures last year indicated a 1 percent decrease.

TABLE 1
TOTAL CONTRIBUTIONS REPORTED ANNUALLY BY PUBLIC CONTRACTORS
FROM 2006 TO 2012

YEAR	AMOUNT	DOLLAR CHANGE	PERCENT CHANGE
2012	\$ 7,624,474	\$ (2,282,922)	-23%
2011	\$ 9,907,396	\$ 210,173	2%
2010	\$ 9,697,222	\$ (1,362,390)	-12%
2009	\$ 11,059,613	\$ (1,056,461)	-9%
2008	\$ 12,116,073	\$ (4,319,365)	-26%
2007	\$ 16,435,439	\$ 1,277,597	8%
2006	\$ 15,157,841		

Brindle cautioned that numbers for 2012 still are preliminary and could change. But the size of the decline is substantial.

"Over time, contractor contributions have been trending in one direction- down. The reduction in 2012 is the second largest year-to-year drop since ELEC began keeping records," said Brindle. He added that total contributions have fallen 50 percent since 2006.

One reason for the overall decline in contractor contributions is a sharp reduction in the amount of contributions given to political action committees (PACs). In 2011, contractors gave about \$1.7 million of their contributions to PACs. In 2012, they supplied an estimated \$1 million to PACs- a 41 percent drop.

"ELEC has long suspected that some contractors were using PACs with close ties to party officials to get around pay-to-play contribution limits. Last year, the practice drew widespread publicity, and that appears to have made contractors more reluctant to pursue this strategy," Brindle said.

Another reason contractor contributions are down is because some firms have simply stopped making political contributions out of fear that they might run afoul of pay-to-play rules, Brindle added. The lack of major statewide elections last year also may have led to less giving, he said.

While contributions were down, the total value of contracts rose by a small margin in 2012. Contractors reported \$5.7 billion in total public work, an increase of 7 percent.

TABLE 2
TOTAL VALUE OF CONTRACTS REPORTED ANNUALLY
BY BUSINESS ENTITIES SUBJECT TO STATE PAY-TO-PLAY LAW

YEAR	AMOUNT	DOLLAR CHANGE	PERCENT CHANGE
2012	\$ 5,753,529,201	\$ 377,270,584	7%
2011	\$ 5,376,258,617	\$ (454,077,618)	-8%
2010	\$ 5,830,336,235	\$ (231,693,040)	-4%
2009	\$ 6,062,029,274	\$ 1,059,572,599	21%
2008	\$ 5,002,456,676	\$ (684,259,921)	-12%
2007	\$ 5,686,716,597	\$ (4,710,051,928)	-45%
2006	\$ 10,396,768,525		

The top ten contractors ranked by their contribution totals gave a combined \$2.1 million in 2012. That represents nearly 27 percent of all contributions made last year.

However, it represented a 31 percent falloff from the \$2.7 million contributed by the top ten firms in 2011. In that year, the top ten contractors gave 29 percent of the total contributions.

**TABLE 3
BUSINESS ENTITIES THAT REPORTED LARGEST CONTRIBUTION TOTALS IN 2012**

BUSINESS NAME	AMOUNT
Remington & Vernick Engineers, Inc.	\$ 457,050
T&M Associates	\$ 366,565
Pennoni Associates Inc.	\$ 234,945
CME Associates	\$ 206,820
ARH Associates	\$ 155,400
Anderson Jackson Metts	\$ 144,959
Richard A. Alaimo Associates	\$ 144,750
Maser Consulting P.A.	\$ 142,600
Parker McCay PA	\$ 125,300
Capehart Scatchard P.A.	\$ 117,985

Note: Rankings would be different if analysis combined contribution totals from multiple business entities with a single owner. Pay-to-play law treats each business entity separately.

Several freeholder candidates were among the biggest recipients of contractor contributions in 2012.

**TABLE 4
TOP TEN RECIPIENTS OF CONTRACTOR CONTRIBUTIONS IN 2012**

RECIPIENT	AMOUNT
Election Fund of Garganio and O'Brien '12	\$ 192,200
Damminger and Chila for Freeholder	\$ 183,500
Committee to ReElect Freeholders Bartlett and Little	\$ 145,075
Election Fund of Nash, Leonard and Gentek for Freeholder	\$ 133,000
Constructors for Good Government	\$ 125,285
Steve Sweeney for Senate	\$ 109,550
GOPAC	\$ 105,350
Rios for Freeholder	\$ 94,750
Polos For Freeholder	\$ 94,200
Hoagland for Surrogate	\$ 93,100

While the total value of contracts was up in 2012, the number of contracts was down.

**TABLE 5
TOTAL NUMBER OF CONTRACTS REPORTED ANNUALLY BY BUSINESS ENTITIES
UNDER STATE PAY-TO-PLAY LAW**

YEAR	NUMBER	DOLLAR CHANGE	PERCENT CHANGE
2012	20,032	\$ (3,520)	-15%
2011	23,552	\$ 4,931	26%
2010	18,621	\$ (2,800)	-13%
2009	21,421	\$ (1,390)	-6%
2008	22,811	\$ 222	1%
2007	22,589	\$ (2,346)	-9%
2006	24,935		

The number of business entities filing reports is down based on preliminary numbers. Final numbers for the preceding three years hovered around 2,100.

**TABLE 6
TOTAL NUMBER OF BUSINESS ENTITIES REPORTING ANNUALLY
UNDER STATE PAY-TO-PLAY LAW**

2012	1,954	\$ (193)	-9%
2011	2,147	\$ (9)	0%
2010	2,156	\$ 78	4%
2009	2,078	\$ 217	12%
2008	1,861	\$ (149)	-7%
2007	2,010	\$ (320)	-14%
2006	2,330		

The preliminary numbers in this report reflect information available to the Commission through April 2, 2013. Some contractors are likely to submit reports or amendments after that date that could change the totals. Numbers earlier than 2012 more fully reflect these revisions and could differ from those reported in prior releases. All reports from 2012 and earlier years are available at ELEC's website at www.elec.state.nj.us.

Under pay-to-play laws, all businesses that have received \$50,000 or more in total public contracts must report their contracts and contributions to ELEC each spring.

Those with State contracts in excess of \$17,500 are prohibited from contributing more than \$300 to gubernatorial candidates, state political parties, legislative leadership committees, county political parties, and municipal political party committees. Firms that exceed this limit must refund the excess contributions within a necessary time period or relinquish their contracts for four years.

Similar limits apply to municipal or county contractors unless local officials adopt a "fair and open" bidding process intended to encourage competition. Where "fair and open" rules are adopted, normal contribution limits, which are much higher, apply to contractors.

State contribution limits range from \$2,600 per election from individuals or corporations to candidate committees to \$37,000 annually to county party committees. During the seven-year period, the average contribution from contractors has fallen from \$1,225 to \$1,092- a decline of 11 percent.

As one of its legislative priorities, the bi-partisan Commission has recommended adopting a single statewide pay-to-play law that would end separate local and county pay-to-play laws as well as the "fair and open" loophole. The Commission also is urging the Legislature to reduce the current threshold for disclosure from \$50,000 to \$17,500.

"These changes would help improve enforcement while broadening disclosure," Brindle said.

The ten firms that reported the largest contract totals for 2012 are listed below.

**TABLE 7
TEN BUSINESS ENTITIES THAT REPORTED LARGEST CONTRACT TOTALS IN 2012**

BUSINESS NAME	AMOUNT
Horizon Healthcare of New Jersey, Inc.	\$2,198,502,323
Amerigroup New Jersey, Inc.	\$ 574,232,547
Verizon New Jersey Inc.	\$ 138,989,630
South State, Inc.	\$ 132,077,785
Colonial Bank FSB	\$ 126,894,900
Kearny Federal Savings Bank	\$ 126,303,110
Tilcon New York, Inc.	\$ 111,869,006
Conti Enterprises, Inc	\$ 76,100,127
George Harms Construction Co., Inc.	\$ 74,367,999
Union Paving & Construction Co., Inc.	\$ 69,178,659

Like previous years, state government was the largest source of contracts in 2012. Municipalities, independent authorities, counties, school boards, fire districts, and the Legislature followed in descending order.

**TABLE 8
CONTRACTS BY PUBLIC ENTITY TYPE IN 2012**

PUBLIC ENTITY TYPE	AMOUNT	PERCENT	NUMBER
State	\$ 3,646,188,874	63%	1,085
Municipality	\$ 711,308,831	12%	10,216
Independent Authority	\$ 660,689,851	11%	2,349
County	\$ 420,671,164	7%	1,850
School Board	\$ 309,703,099	5%	3,788
Fire District	\$ 4,943,562	<1%	694
Legislature	\$ 11,932	<1%	17
No Information	\$ 11,887	<1%	33
	\$ 5,753,529,201	100%	20,032

“Big-Six” 1st Quarter

The state’s “Big Six” political committees- the two major parties and four legislative leadership PACs- have socked away nearly \$2.6 million so far with big elections looming this fall, according to an analysis by the New Jersey Election Law Enforcement Commission.

During the three months that ended March 31, the six committees raised a combined \$1.5 million and spent just under \$600,000.

**TABLE 1
FUNDRAISING BY “BIG SIX” COMMITTEES
JANUARY 1 THROUGH MARCH 31, 2013**

REPUBLICANS	RAISED	SPENT	CASH-ON-HAND	NET WORTH*
New Jersey Republican State Committee	\$ 395,778	\$ 214,354	\$ 429,003	\$ 359,291
Senate Republican Majority	\$ 208,092	\$ 36,189	\$ 675,901	\$ 675,901
Assembly Republican Victory	\$ 207,053	\$ 46,037	\$ 366,936	\$ 366,936
Sub-Total-Republicans	\$ 810,923	\$ 296,580	\$1,471,840	\$1,402,128
DEMOCRATS				
New Jersey Democratic State Committee	\$ 104,400	\$ 105,733	\$ 80,461	\$ 57,221
Senate Democratic Majority	\$ 256,850	\$ 75,375	\$ 478,347	\$ 458,347
Democratic Assembly Campaign Committee	\$ 291,860	\$ 106,068	\$ 534,154	\$ 503,715
Sub-Total-Democrats	\$ 653,110	\$ 287,176	\$1,092,962	\$1,019,283
Total-Both Parties	\$1,464,033	\$ 583,756	\$2,564,802	\$2,421,411

*Net worth is cash-on-hand adjusted for debts owed to or by the committee.

Jeff Brindle, ELEC’s Executive Director, said the \$2.6 million in combined cash reserves is nearly \$64,000 more than the parties had amassed during the first three months of the 2011 legislative elections. It is almost \$900,000 more than the six committees had in the bank at this time last year, when there were just three special legislative elections.

On the other hand, it is the smallest reserve at this point of any gubernatorial election year since at least 2001, he added. The governor’s seat and all 120 legislative seats are facing reelection this year.

“Especially when compared to the earlier part of the last decade, the coffers of the state’s top party fundraising committees are way down,” said Brindle.

“This is due to several trends, including the advent of tight contribution limits for public contractors in the middle of the last decade, the 2008 recession, and a recent surge in spending by independent groups that may be draining funds away from party committees,” he added.

**TABLE 2
CASH-ON-HAND TOTALS AS OF MARCH 31**

YEAR	DEMOCRATS	REPUBLICANS	BOTH PARTIES	ELECTIONS
2001	\$ 9,170,415	\$ 2,675,747	\$ 11,846,162	Gubernatorial and legislative elections
2005	\$ 3,345,734	\$ 813,434	\$ 4,159,168	Gubernatorial and legislative elections
2009	\$ 2,132,247	\$ 711,912	\$ 2,844,159	Gubernatorial and legislative elections
2010	\$ 728,926	\$ 745,346	\$ 1,474,272	
2011	\$ 770,544	\$ 1,730,382	\$ 2,500,926	Legislative elections only
2012	\$ 727,028	\$ 957,497	\$ 1,684,525	
2013	\$ 1,092,962	\$ 1,471,840	\$ 2,564,802	Gubernatorial and legislative elections

In another trend that began after the election of Republican Chris Christie as governor in 2009, Democratic fundraising, spending and cash reserves are down compared to four years ago, while Republican totals are up.

**TABLE 3
CAMPAIGN FINANCE ACTIVITIES FOR "BIG SIX" COMMITTEES
FIRST QUARTER 2009 VERSUS 2013**

REPUBLICANS	RAISED	SPENT	CASH-ON-HAND	NET WORTH*
2009	\$ 263,973	\$ 173,231	\$ 711,912	\$ 573,147
2013	\$ 810,923	\$ 296,580	\$ 1,471,840	\$ 1,402,128
Difference-Dollars	\$ 546,950	\$ 123,349	\$ 759,928	\$828,981
Difference-%	207%	71%	107%	145%
DEMOCRATS				
2009	\$ 1,477,424	\$ 581,692	\$ 2,132,247	\$ 2,076,030
2013	\$ 653,110	\$ 287,176	\$ 1,092,962	\$ 1,019,283
Difference-Dollars	\$ (824,314)	\$ (294,516)	\$ (1,039,285)	\$ (1,056,747)
Difference-%	-56%	-51%	-49%	-51%
BOTH PARTIES				
2009	\$ 1,741,397	\$ 754,923	\$ 2,844,159	\$ 2,649,177
2013	\$ 1,464,033	\$ 583,756	\$ 2,564,802	\$ 2,421,411
Difference-Dollars	\$ (277,364)	\$ (171,167)	\$ (279,357)	\$ (227,766)
Difference-%	-16%	-23%	-10%	-9%

*Net worth is cash-on-hand adjusted for debts owed to or by the committee.

State Parties and Legislative Leadership Committees are required to report their financial activity to the Commission on a quarterly basis. The reports are available on ELEC's website at www.elec.state.nj.us. ELEC also can be accessed on Facebook (www.facebook.com/NJElectionLaw) and Twitter (www.twitter.com/elecnj).

Christopher Guear “Profile”

Associate Review Officer

By Joe Donohue

After nine years as an ELEC investigator, Christopher Guear figures about 70 percent of candidate violations are due to inattentiveness, and 30 percent are deliberate.

“I think most of it is probably just carelessness,” said Guear, who is an associate review officer within the Review and Investigation section.

Regardless of why violations happen, it is the job of Guear and other investigators to help identify violations, and to compel candidates, treasurers and lobbyists to fix them.

Guear believes most people want to comply with the law even if they sometimes need a little extra incentive.

“We try to keep the campaigns, candidates and lobbyists honest,” Guear said. “I like to think that they do get the message. I don’t get a lot of repeat offenders.”

Guear said some people initially get the wrong impression when they ask where he works.

“When I tell people what I do, that I’m an investigator, most automatically say, ‘Oh, so you are a cop,’” he said.

Raised in Mercer County and still a resident, Guear first came to ELEC as a public finance analyst in 1993.

He later became a compliance officer before joining the investigative team in 2004. During his time in that position, he helped develop a system used to code the occupations of contributors.

Guear received his bachelor of arts degree in political science from Elizabethtown College and earned a masters degree in public administration at Pennsylvania State University- Harrisburg.

He has two children- nine-year-old Matthew and seven-year-old Nicole. He has been married to his wife, Jo Ann, for eleven years.

Guear’s father, Tom, raised him as a Philadelphia sports fan. He enthusiastically follows the Flyers, Phillies and Eagles.

He also reads historical books. He is currently reading “Boardwalk Empire” and books on the Cold War.

Training Seminars

The seminars listed below will be held at the Offices of the Commission, located at 28 West State St., Trenton, NJ. Please visit ELEC’s website at <http://www.elec.state.nj.us> for more information on training seminar registration.

TREASURER TRAINING FOR CANDIDATES AND JOINT CANDIDATES COMMITTEES	
September 10, 2013	10:00 a.m.
September 25, 2013	10:00 a.m.
September 30, 2013	10:00 a.m.
TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS	
June 20, 2013	10:00 a.m.
September 16, 2013	10:00 a.m.
December 11, 2013	10:00 a.m.
R-1 ELECTRONIC FILING SOFTWARE (REFS) TRAINING	
July 24, 2013	10:00 a.m.
September 11, 2013	10:00 a.m.
September 19, 2013	10:00 a.m.
October 2, 2013	10:00 a.m.

Lobbying Reporting Dates

LOBBYING QUARTERLY FILING	INCLUSION DATES	ELEC DUE DATE
2 nd Quarter	4/1/13 – 6/30/13	7/10/13
3 rd Quarter	7/1/13 – 9/30/13	10/10/13
4 th Quarter	10/1/13 – 12/31/13	1/10/14

Reporting Dates

INCLUSION DATES		REPORT DUE DATE
School Board Election - 4/16/2013		
29-day pre-election	Inception of campaign* - 3/15/13	3/18/2013
11-day pre-election	3/16/13 - 4/2/13	4/5/2013
20-day post-election	4/3/13 - 5/3/13	5/6/2013
48 Hour Notice Reports Start on 4/3/2013 through 4/16/2013		
School Board Candidates running in November should follow the General Election Schedule.		
Municipal Election - 5/14/2013		
29-day pre-election	Inception of campaign* - 4/12/13	4/15/2013
11-day pre-election	4/13/13 - 4/30/13	5/3/2013
**20-day post-election	5/1/13 - 5/31/13	6/3/2013
48 Hour Notice Reports Start on 5/1/2013 through 5/14/2013		
90 Day Start Date: 2/13/2013		
Runoff Election** - 6/11/2013		
29-day pre-election	No Report Required for this Period	
11-day pre-election	4/24/13 - 5/28/13	5/31/2013
20-day post-election	5/29/13-6/28/13	7/1/2013
48 Hour Notice Reports Start on 5/29/13 through 6/11/13		
Primary Election*** - 6/4/2013		
29-day pre-election	Inception of campaign* - 5/3/13	5/6/2013
11-day pre-election	5/4/13 - 5/21/13	5/24/2013
20-day post-election	5/22/13 - 6/21/13	6/24/2013
48 Hour Notice Reports Start on 5/22/13 through 6/4/13		
90 Day Start Date: 3/6/13		
General Election*** - 11/5/2013		
29-day pre-election	6/22/13 - 10/4/13	10/7/2013
11-day pre-election	10/5/13 - 10/22/13	10/25/2013
20-day post-election	10/23/13 - 11/22/13	11/25/2013
48 Hour Notice Reports Start on 10/23/13 through 11/5/13		
90 Day Start Date: 8/7/13		
Runoff Election** - 12/3/2013		
29-day pre-election	No Report Required for this Period	
11-day pre-election	10/23/13 - 11/19/13	11/22/2013
20-day post-election	11/20/13 - 12/20/13	12/23/2013
48 Hour Notice Reports Start on 11/20/13 through 12/3/13		
PACs, PCFRs & Campaign Quarterly Filers		
1 st Quarter	1/1/13 - 3/31/13	4/15/2013
2 nd Quarter	4/1/13 - 6/30/13	7/15/2013
3 rd Quarter	7/1/13 - 9/30/13	10/15/2013
4 th Quarter	10/1/13 - 12/31/13	1/15/2014

* Inception Date of Campaign (first time filers) or from January 1, 2013 (Quarterly filers).

** A candidate committee or joint candidates committee that is filing in a 2013 Runoff election is not required to file a 20-day post-election report for the corresponding prior election (May Municipal or General).

*** Form PFD-1 is due on April 11, 2013 for Primary Election Candidates and June 14, 2013 for Independent General Election Candidates.

**** A second quarter report is needed by Independent General Election candidates if they started their campaign before May 7, 2013