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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

On November 18, thirteen days after the general election, the Commission approved \$97,896 in public funds for the unsuccessful Democratic candidate for governor, Barbara Buono.

You may be wondering- how can candidate Buono still receive public matching funds after the election is over?

It happens because the law permits participating candidates to continue raising money for six months following the general election.

So far, Buono has received a total of \$1,790,160 in public funds for the general election. Candidates participating in the Gubernatorial Public Financing Program in the general election are eligible to receive a total \$8.2 million in public funds.

Governor Christie received the maximum \$8.2 million in public funds.

Money raised after the election continues to be subject to contribution limits and is contingent upon adherence to certain provisions.

First, contributions received may not exceed \$3,800 and cannot have come from a previous contributor whose contributions in the aggregate would be more than \$3,800.

Second, all contributions received can only be expended in order to retire all debts and to pay expenses incurred during the general election campaign.

In addition, every payment for general election debts after the date of the general election can only be made for those purposes allowed under the Public Financing law.

Such purposes include, but are not limited to, purchase of TV and radio advertising, direct mail, telephone, and legal and accounting expenses.

Following the general election all contributions submitted for match are subjected to the same scrutiny by the Commission's Public Financing staff as during the course of the election.

It is just as important after the election as before the election to make sure that all matching funds are in compliance with the guidelines in the law so as to assure that the public's money is spent wisely.

Public funds received by participating candidates may be retained by them for six months after the general election.

Any remaining public funds after all debts are paid shall be repaid to the State not later than six months after the date of the election.

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Further, all non-public funds remaining must be paid to the State not later than six months after the general election, except that candidates are not required to repay any amount in private funds that exceed the total amount in public funds received by the candidate.

This year the Public Financing Program was more important than ever. Without public funding the candidates voices would have been totally drowned out by the deluge of independent spending that occurred during the legislative and gubernatorial campaigns.

Once again the staff did a fine job in making sure that not only all guidelines were complied with but that the money was distributed in an efficient manner.

Executive Director's Thoughts Jeff Brindle

Reprinted from Politickernj.com

When the playbook for this year's election for governor and legislature is evaluated, it will reveal an outsized role played by outside, independent groups.

At latest count, more than \$35 million has been spent by independent groups attempting to influence the election.

This activity is bipartisan with Democratic and Republican groups spending on the gubernatorial contest as well as the legislative one, especially in so called targeted districts. More than three years ago, the Election Law Enforcement Commission began tracking the trend in the growth of independent groups at the national level and in various state elections.

In 2009, New Jersey gubernatorial and legislative elections attracted \$14 million in independent dollars.

This figure, in addition to the trend line indicated nationally and in various state contests, led to the prediction that \$25 million would be spent by outside groups in this year's election. As the election unfolded the prediction was upped to between \$30 and \$35 million.

The actual total is higher!

Most observers point to the U.S. Supreme Court decision in Citizens United as the catalyst for the growth in outside group activity. It permits corporations and unions to participate in federal contests as long as the activity is independent.

While not denying that Citizens United helped this trend along, it has been my position that the growth in outside group involvement began in earnest following the enactment of McCain/Feingold in 2002.

This reform restricted political party fundraising, encouraging instead the flow of money to be redirected to outside groups and away from the parties.

In fact between 2002 and 2008, prior to Citizens United, independent spending soared by over 1000 percent.

The issue of responsibility aside, the fact is independent spending has sucker punched New Jersey. From statistics gathered thus far, involvement by independent groups in this year's legislative and gubernatorial elections is unprecedented.

But what is more striking is its impact on the state's political party system. In fact these anonymous groups have assumed the role of surrogate parties, assuming many of the functions traditionally the domain of the political parties.

The two state political parties and the legislative leadership committees have spent about \$6 million, or five percent of total spending.

But here is the kicker. Independent group spending thus far is more than \$35 million- nearly six times more than the so-called "Big Six" political party committees!

The influence that these groups potentially have over the conduct and outcome of legislative and gubernatorial elections is of great concern.

But just as important is the impact these groups are having over political parties, which by law are highly regulated and thus more accountable to the public than outside groups.

Whether the public is enamored with political parties or not, political parties have been and should be the staple of our political system.

They represent broad coalitions of people rather than special interests. They contest elections, organize government, and provide voters with a guide to how to vote.

As noted above, they are more accountable to the public, subject to contribution limits and disclosure, serve as the people's conduit to government, are more regulated, and much more transparent.

So what can be done to remedy the situation?

At the federal level the solution is to strengthen the parties by reforming McCain/Feingold by eliminating or at least easing, the ban on soft money. At the same time, party officials should face stiffer penalties if they engage in corrupt behavior to obtain large contributions.

Also the parties should be allowed to resume their traditional function of coordinating activity with their candidates. Finally, aggregate contribution limits on party entities should be ended.

By redirecting the flow of money to the parties and away from independent groups the imbalance that now exists would be reset.

In turn this would begin to impact independent group activity at the state level as well.

In terms of New Jersey, a good starting place would be for the Legislature to pass legislation based upon ELEC's proposal to require registration and disclosure of contributions and expenditures by these groups, even if they do not expressly support or oppose a candidate.

There is no question of the constitutionality of such an approach because Citizens United came out strongly for disclosure.

Finally, the Legislature might form a commission along the lines of the Rosenthal Commission in 1993 to determine ways to strengthen the parties and simultaneously offset the influence of independent groups. To do nothing in the face of a barrage of unfettered spending by outside groups will eventually undermine the very campaign finance system that has served New Jersey so well.

2014 Commission Meeting Schedule

The New Jersey Election Law Enforcement Commission has announced its meeting schedule for 2014. Unless otherwise indicated in the future, meetings will be held at the Commission's offices at 28 West State Street, 12th Floor, in Trenton. It is anticipated that meetings will begin at 11:00 a.m., unless otherwise indicated.

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

Conference

Jeff Brindle, Executive Director of the NJ Election Law Enforcement Commission (ELEC), was a guest panelist for The Association of Environmental Authorities on November 20, 2013. He addressed a well-attended seminar during their annual meeting at the Trump Taj Mahal and spoke generally about **"reforming the pay-to-play law."**

Steven McManus

Assistant Legal Director

By Joe Donohue, Deputy Director

Few students sing for their degree.

One who did is Steven McManus, an Assistant Legal Director at the New Jersey Election Law Enforcement Commission (ELEC).

In May 2011, standing on stage at a packed Verizon Hall in Philadelphia's Kimmel Center, he belted out the National Anthem prior to the graduation ceremonies for Drexel University Law School's third class.

It was only a few months after Grammy winner Christina Aguilera flubbed a line of the hallowed national song at Super Bowl 45. And his family was in the audience.

"I was literally shaking," said McManus.

He managed to shake off the nerves and sang the song without a hitch. By the time he accepted his degree, he was totally calm.

The ability to correctly remember the lyrics of the National Anthem with thousands of people staring at you- a display of grace under fire and attention to detail- is a good trait given McManus's job at ELEC.

As part of the agency's legal team, McManus prepares complaints against candidates and fundraising committees that violate New Jersey's campaign finance laws. It is a job that requires accuracy and professional calm since some candidates and treasurers don't always react well to the possibility of being slapped with a fine.

Since joining the staff in July, McManus said he has been impressed by the agency's thoroughness and fairness.

"I think we are very fair here. The penalties aren't outrageous," he said.

Violators shouldn't be surprised, however, that the agency holds them accountable. "By the time they get to the legal department, they have received plenty of notices."

McManus wanted to be a lawyer "ever since I was in middle school and saw the OJ Simpson trial. I was glued to the TV."

Prior to earning his law degree at Drexel University, McManus graduated from Rutgers University with a bachelor's degree in political science and a minor in psychology.

He came to ELEC after clerking about two years for Mercer County Assignment Judge Mary Jacobson and Presiding Chancery Judge Paul Innes. During that time, he also worked for the Office of Foreclosure in the Administrative Office of the Courts.

After working closely with judges, he said he wouldn't mind being one someday in the future even though he saw first-hand the difficulties that they face each day.

As an undergraduate student, one of McManus's assignments was an independent study on political scandals. So when he learned of an opening at ELEC, he was eager to apply. "I'm very interested in politics. This was just perfect."

In his spare time, McManus puts his singing voice to good use. He writes songs, plays the guitar and draws compliments for his karaoke.

He appeared in several plays in high school and, in college, played the character of Ren McCormack in a production of "Footloose."

He quickly learned, however, that securing a paid acting career isn't easy. "I really didn't want the life of an actor," he said.

McManus also enjoys the shore, skiing and video games such as Final Fantasy VII and Mario 3D Land.

A life-long Mercer County resident, McManus said his father Adrian is a retired correctional officer. His mother Kathy is a retired secretary who previously worked in the Treasury Department office building across the street from ELEC. He has four sisters, four nieces and a nephew.

Independent Spending

With the Tuesday's election looming large, independent spending already is more than twice its previous all-time high while key legislative swing districts are drawing millions of last-minute dollars from those groups as well as the two main parties, according to the latest reports filed with the Election Law Enforcement Commission (ELEC).

"Independent special interest groups have spent more than \$35.4 million already on gubernatorial and legislative elections plus another \$2.3 million to promote or oppose public ballot questions," said Jeff Brindle, ELEC's Executive Director. "This mind-boggling total of nearly \$38 million, unprecedented in state history, is more than twice the previous record \$14.9 million spent independently on elections in 2009."

"It's a whole new world in New Jersey politics," Brindle said.

So-called "outside" spending, which by law cannot be coordinated with candidates or parties, comprises nearly 35 percent of all election spending this year, compared to 16 percent in 2009, Brindle added.

Table 1
Overall Campaign Spending
11 Days before Election*

Type	Spending-2013	Percent	Spending-2009	Percent
Gubernatorial	\$ 21,368,164	20%	\$ 56,099,909	61%
Legislative	\$ 48,621,699	46%	\$ 20,620,589	23%
Independent Special Interest Groups	\$ 37,793,275	35%	\$ 14,924,270	16%
Total	\$ 107,783,138	100%	\$ 91,644,768	100%

*(Includes primary and general election, as well as ballot question expenditures)

Among the ten state elections that have drawn the heaviest independent spending since 2006, New Jersey currently ranks sixth, according to information available from the National Institute on Money in State Politics. "We already are in the top ten state races of all time, and the election still isn't over," said Brindle. California ranks number one after independent groups spent nearly \$86 million there in 2010.

Brindle said about three-quarters of all spending by the two major parties is taking place in the top ten legislative districts where a shift in seats could change control of the Legislature.

He noted that the totals listed below do not include millions of dollars more being spent by independent groups in many of the same districts but, due to disclosure limitations and time constraints, could not be immediately broken out by district.

Table 2
Top Ten Legislative Districts Ranked by
Spending through October 25, 2013

District	Raised	Spent
3	\$ 3,681,775	\$ 3,140,854
38	\$ 3,040,339	\$ 2,783,847
14	\$ 2,656,583	\$ 2,479,159
2	\$ 2,581,122	\$ 2,222,765
1	\$ 2,177,812	\$ 1,995,198
18	\$ 2,083,582	\$ 1,892,657
21	\$ 2,083,186	\$ 1,714,423
7	\$ 1,885,445	\$ 1,352,311
36	\$ 1,508,680	\$ 960,655
27	\$ 1,688,679	\$ 817,107
Total Top Ten	\$23,387,203	\$19,358,975
All Districts	\$37,162,760	\$26,468,457
Percent	63%	73%

Currently, Democrats control 48 of the 80 Assembly seats, and 24 of the 40 Senate seats. All 120 legislative seats are up for reelection this year. The office of governor also is in contention.

Among the special interest groups spending independently this year, a Super PAC operated by the New Jersey Education Association has emerged as the leading independent spender in this year's elections, spending an estimated \$11.9 million so far on gubernatorial and legislative elections. Super PACs are not subject to contribution limits under recent federal court cases that permit unlimited independent spending.

NJEA, which also has spent more than \$1.4 million through its regular political action committee that is subject to regular state contribution limits, has never before spent more than \$2.3 million on an election, according to ELEC research.

Table 3
Estimated Independent Spending by Special Interest Groups
in 2013 State Campaigns through October 30, 2013

Group	Spent	General/ Primary/Both?	Election
Garden State Forward (New Jersey Education Association)	\$11,925,758 ⁽¹⁾	Both	Gubernatorial and Legislative
Committee for Our Children's Future	\$ 7,800,000	P	Gubernatorial
Fund for Jobs, Growth and Security (also see ballot questions)	\$ 7,631,709	Both	Legislative
One New Jersey	\$ 2,800,000	P	Gubernatorial
Republican Governors Association	\$ 1,725,000	P	Gubernatorial
National Association of Realtors	\$ 1,106,144	Both	Gubernatorial and Legislative
NJ Workers' Voices (NJ AFL-CIO- also see ballot questions)	\$ 1,027,714	Both	Gubernatorial and Legislative
Republican State Leadership Committee	\$ 431,166	G	Legislative
Americans for Prosperity	\$ 400,000	G	Legislative
Latino Consumer Group Inc.	\$ 365,095	G	Gubernatorial
NJ For the People	\$ 115,000	G	Gubernatorial
Working Families Organization	\$ 49,186	G	Gubernatorial
NJ League of Conservation Voters for a Clean Environment	\$ 39,239	G	Legislative
Planned Parenthood Action Fund of NJ	\$ 35,545	G	Gubernatorial
Working Families Organization	\$ 24,465	G	Gubernatorial
New Jersey Family First	\$ 6,724	G	Legislative
Total-Gubernatorial and Legislative Elections	\$35,458,280		
STATEWIDE BALLOT QUESTIONS			
Coalition to Preserve Jobs and Our Constitution Inc.	\$ 955,984	G	Ballot Question
Fund for Jobs, Growth and Security	\$ 686,006	G	Ballot Question
Working Families United for NJ	\$ 432,234	G	Ballot Question
NJ Workers' Voices	\$ 136,876	G	Ballot Question
Working America	\$ 98,619	G	Ballot Question
NJ Keep It Green	\$ 25,276	G	Ballot Question
Total-Ballot Questions	\$ 2,334,995		
Total- Independent Spending	\$37,793,275		

(1) Figure compiled based on figures taken from 527 report filed with IRS, reported Garden State Forward contributions to Fund for Jobs, Growth and Security, and independent expenditure reports filed with ELEC.

Independent groups that support Democratic candidates are dominating Republican-leaning independent committees by roughly a two-to-one margin.

Table 4
Independent Expenditures by Party

Democratic	\$23,950,007
Republican	\$10,402,129
Bipartisan	\$ 1,106,144
Grand Total	\$35,458,280

In the governor's race, Republican incumbent Governor Chris Christie continues to lead Democratic challenger and State Senator Barbara Buono and independent candidates in fundraising. Both major party candidates have qualified for public funding.

Table 5
Campaign Finance Activity by
Gubernatorial Candidates through October 25, 2013

Candidate	Party	Raised	Spent	Cash-on-Hand
Chris Christie	R	\$13,205,486**	\$9,170,039	\$4,045,470
Barbara Buono	D	\$ 2,758,469***	\$2,481,337	\$ 276,845
Diane Sare	I	\$ 35,197	\$ 38,343	\$ 4,298
Kenneth Kaplan	I	\$ 2,105	\$ 117	\$ 1,988
William Araujo	I	\$ 1,042	\$ 850	\$ 193
Jeffrey Boss*	I	NA	NA	NA
Steven Welzer*	I	NA	NA	NA
Hank Schroeder*	I	NA	NA	NA
Totals		\$16,002,299	\$11,690,686	\$4,328,794

*Does not expect to raise or spend more than \$4,500.

**\$8.2 million from public funding.

***\$1.6 million from public funding.

While total cash on hand is higher than four years ago, fundraising and spending totals are much lower.

Table 6
Comparison of Campaign Finance Activity for Gubernatorial
General Election Candidates 11 Days before Election

Year	Raised	Spent	Cash-on-Hand
2013	\$16,002,299	\$11,690,686	\$4,328,794
2009	\$37,136,528	\$33,640,635	\$3,637,346
Difference	-57%	-65%	19%

Fundraising and spending on legislative races is higher compared to 2011, the last time both houses were up for reelection. But cash-on-hand is down.

Table 7
Amounts Reported by Legislative Candidates
through October 25, 2013

Year	Raised	Spent	Cash-on-Hand
2013	\$37,162,760	\$26,468,457	\$10,768,705
2011	\$36,403,004	\$24,828,692	\$11,783,623
Difference	2%	7%	-9%

With majorities in both houses, Democrats continue to outpace Republicans and independents in fundraising, spending and cash-on-hand.

Table 8
Party Breakdown of Legislative Campaign
Finance Activity through October 25, 2013

Party	Raised	Spent	Cash-on-Hand
Democrats	\$24,948,353	\$18,254,394	\$ 6,826,012
Independents	\$ 80,796	\$ 50,930	\$ 30,054
Republicans	\$12,133,611	\$ 8,163,133	\$ 3,912,639
All Parties	\$37,162,760	\$26,468,457	\$10,768,705

Following historical trends, incumbents enjoy a major advantage over challengers.

Table 9
Incumbents versus Challengers
through October 25, 2013

Group	Raised	Spent	Cash-on-Hand
Incumbents	\$29,770,609	\$20,079,407	\$ 9,855,573
Challengers	\$ 7,392,150	\$ 6,389,050	\$ 913,132
All Candidates	\$37,162,760	\$26,468,457	\$10,768,705

Candidates for 80 Assembly seats have outraised and outspent candidates for 40 Senate seats but Senate candidates report larger cash reserves with the campaign entering its final days.

Table 10
Fundraising By Legislative Houses through October 25, 2013

Legislative House	Raised	Spent	Cash-on-Hand
Senate Candidates	\$18,306,181	\$12,409,571	\$ 5,852,623
Assembly Candidates	\$18,856,579	\$14,058,886	\$ 4,916,082
Total	\$37,162,760	\$26,468,457	\$10,768,705

The numbers in this report should be considered preliminary. The analysis of gubernatorial and legislative campaign finance activity is based on 11-day pre-election fundraising reports received by 5 p.m. October 28, 2013. The analysis of spending by independent groups includes information from 48-hour notices through October 30.

Reports filed by legislative and gubernatorial candidates are available online on ELEC's website at www.elec.state.nj.us. A downloadable summary of data from legislative reports is available in both spreadsheet and PDF formats at www.elec.state.nj.us/publicinformation/statistics.htm.

Several, but not all, independent groups also file reports with ELEC. These reports can be searched at www.elec.state.nj.us/ELECReport/IndependentExpenditureSearch.aspx. Some also disclose their activities in reports made public by the Internal Revenue Service at www.irs.gov/Charities-&-Non-Profits/Political-Organizations.

ELEC also can be accessed on Facebook (www.facebook.com/NJElectionLaw) and Twitter (www.twitter.com/elecnj). Follow us on You-Tube.

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.

	TRAINING DATES	TIME
TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS	December 11, 2013	10:00 a.m.

Lobbying Reporting Dates

	INCLUSION DATES	ELEC DUE DATE
LOBBYING QUARTERLY FILING		
4 th Quarter	10/1/13 – 12/31/13	1/10/14

Reporting Dates

	INCLUSION DATES	REPORT DUE DATE
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		
4 th Quarter	10/1/13 - 12/31/13	1/15/2014

* 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).