



ELEC-TRONIC

An Election Law Enforcement Commission Newsletter

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"Furthering the Interest of an Informed Citizenry"

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Website:

www.elec.state.nj.us

Comments from the Chairman Ronald DeFilippis

With March 30 falling on a Sunday, public contractors will be filing annual disclosure statements with the Commission on Monday, March 31st.

The Pay-to-Play law requires public contractors that have received an aggregate total of \$50,000 or more in public contracts to disclose their activity to ELEC.

Requirements of disclosure include the name and mailing address of the public contractor and the public entities from which the business received money in the previous calendar year.

For each public or governmental entity from which the business received payment, the following information is required to be disclosed:

1. The name of the public entity;
2. The amount of money received from the public entity;
3. The date of each contract and information to identify the specific contract with the governmental entity; and
4. A description of the goods, services, or equipment provided or property sold to the public entity.

In addition to the above information, the public contractor is also required to disclose contributions made during the previous calendar year.

The information required to be reported on contributions is as follows:

1. The candidate committee or joint candidates committee receiving a contribution;
2. The address of the committee;
3. The date and amount of the contribution.

Moreover, the same information must be supplied relative to contributions made to political party committees, legislative leadership committees, political committees, and PACs.

Public contractors are also required to disclose the amount contributed during the calendar year to the candidate and committees mentioned above.

In the case of a business that has received \$50,000 or more in the aggregate in public contracts but has not made any contributions, that business, by law, is still required to file a form signifying that no contributions were made.

The annual disclosure statement is filed electronically with the Commission and is made available to the public to view on the Commission's website within days.

Executive Director's Thoughts Jeff Brindle

MCCUTCHEON CASE COULD HAVE BIG IMPACT ON NATIONAL PARTIES

Reprinted from Politickernj.com

Anytime now, the U.S. Supreme Court will render a decision in *McCutcheon v. FEC*. And while reformists may not like it, the high court is likely to allow national parties to raise far more money. That could strengthen them, and help reverse the flow of money from parties to independent groups.

The Federal Election Campaign Act (FECA) imposes overall limits on the amount an individual contributor can donate to federal candidates and national parties.

Termed aggregate limits, individuals can give no more than \$123,000 to federal candidates and committees during a two-year period. There is a limitation of \$74,600 to PACs and parties and \$48,000 to all candidates.

By the way, New Jersey law has never forced contributors to state, county or local candidates or parties to operate under aggregate limits. And there haven't been any repercussions.

Plaintiffs Shaun McCutcheon and the Republican National Committee are challenging these limits that cap the amount of money a group or individual can contribute.

They are doing so on First Amendment grounds.

Reformist groups supporting aggregate limits maintain the challenge is the latest in a series of legal attacks against post Watergate restrictions on campaign finance. In this they are correct.

Aggregate limits, they say, curb corruption in politics. If you limit how much money is spread around by one source, you limit their influence.

There is a problem with this logic, however. It fails to recognize that money will find its way into the electoral process somehow.

The approach taken by reformers since the 1972 enactment of FECA has been one of reducing the amount of money spent on politics, mostly by candidates and political parties.

Whether through banning corporate and labor union contributions and spending, imposing aggregate limits, or banning soft money to political parties in the Bipartisan Campaign Reform Act (BCRA) of 2002, the strategy has been to restrict financial activity by candidates and parties.

So what has been the result of this approach? Simply to lead to money flowing to anonymous independent organizations.

For example, between the enactment of BCRA and 2008, two years before *Citizens United*, the growth in independent expenditures increased by more than 1000 percent. At the same time spending by parties stalled and for a time even declined.

Certainly *Citizens United* magnified this trend. However, BCRA was the real catalyst for dynamic growth in outside group spending.

Aside from over a billion dollars spent by independent groups in the presidential election of 2012, there was a tremendous increase in independent spending in New Jersey last year.

Over \$42 million was spent by outside groups to influence the gubernatorial and legislative elections, as well as ballot questions. Compare this to the \$14 million spent by the big six party entities.

Clearly, something must be done to offset the outsized influence of unregulated independent groups and in turn click the reset button and strengthen the political parties and candidates.

A step in the right direction would be for the US Supreme Court to lift the aggregate limits challenged in *McCutcheon v. FEC*. This would send a signal that it is important for the Federal and State governments to take measures that will strengthen the parties and their candidates.

While I do not have a crystal ball my guess is that the Court will find aggregate limits to be unconstitutional.

Justice Kennedy normally serves as the swing vote. On campaign finance issues, *Austin v. Michigan Chamber of Commerce*, 1990; *Colorado Republican Federal Campaign Committee v. FEC*, 1996; and *Citizens United* to mention a few, he has found for the First Amendment.

This is a serious time in terms of campaign finance. All sides are concerned with establishing laws that build trust and confidence in the political and electoral processes.

For my mind a system strong on disclosure, strong on political parties, and one which allows candidates to better engage with voters is the way to go.

WHITE PAPER NO. 24
INDEPENDENTS' DAY: SEEKING DISCLOSURE
IN A NEW ERA OF UNLIMITED SPECIAL
INTEREST SPENDING

By Joe Donohue, Deputy Director

Independent special interest groups, many of which operate with little or no public disclosure of their activities, have spent an estimated \$63 million on gubernatorial and legislative elections in New Jersey since 1977, according to a new analysis by the New Jersey Election Law Enforcement Commission (ELEC).

More than \$55 million- 87 percent- has been spent just in the past five years. The 2013 gubernatorial and legislative elections attracted a record \$39 million in so-called "outside" spending- campaign funds spent independently of parties or candidates by groups or individuals with special interest agendas.

Table 1
Estimated Independent Spending in Gubernatorial or Legislative Races in New Jersey

Year	Total
1977	\$ 10,700
1981*	\$ 14,600
1985	\$ -
1989	\$ 287,000
1993	\$ 326,000
1999	\$ 113,255
2001	\$ 6,783,119
2003	\$ 4,857
2005	\$ 411,224
2007	\$ 165,000
2009	\$14,096,167
2011	\$ 1,835,500
2012	\$ 299,049
2013	\$38,945,432
TOTAL	\$63,291,903

*Largest of several small expenditures

"In federal, state and even local races, independent spending has emerged as a dominant force in political campaigns," said Joseph Donohue, Deputy Executive Director and the study's author. "It's a new ballgame both nationally and in New Jersey."

The analysis is contained in "White Paper No. 24-Independents' Day- Seeking Disclosure in a New Era of Unlimited Special Interest Spending." For a copy of the report, go to ELEC's website at www.elec.state.nj.us.

Some may think independent spending mushroomed only after the landmark *Citizens United v. FEC* ruling by the U.S. Supreme Court (2010), which allowed corporations and unions to spend unlimited sums independently. It actually has grown steadily since the 1970s.

After the U.S. Supreme Court in *Buckley v. Valeo* (1976) struck down a \$1,000 contribution limit on independent spending, nearly \$16 million- about \$45 million in current dollars- was spent on the 1980 presidential campaign by groups not subject to the then-existing ban on corporate or union independent spending.

By the 2012 presidential race, non-party independent spending had soared to \$1 billion.

Independent campaign outlays surged as court rulings gradually eased restrictions on independent spending and issue advertisements became popular in the 1990s. They also surged after the Bipartisan Campaign Reform Act (aka McCain Feingold) banned unlimited soft money contributions to the national parties, forcing special interests to do more spending on their own. The spending intensified after *Citizens United*.

In New Jersey, the 1977 governor's race attracted \$10,700 in independent spending. By 2013, spending reached an estimated \$20 million on the governor's race alone.

There are pros and cons to independent spending, which is mostly done by Super PACs, and non-profit groups organized under sections 501 and 527 of the IRS code.

Independent groups increase the amount of free speech in campaigns, and can help candidates remain competitive in campaigns like the 2012 Republican presidential primary.

"The downsides are that they are responsible for some of the nastiest political advertisements in history. And they are less accountable. They often operate with far less scrutiny than parties, candidates and regular political action committees (PACs) because many of these groups are exempt from disclosure requirements," Donohue said.

For instance, in the 2013 campaign, nearly \$15 million more than the entire spending on the 1985 governor's race- occurred without any disclosure of contributions. The amount was about 38 percent of the total independent spending in 2013.

In April 2010, ELEC, in a bipartisan vote, urged the Legislature to require independent groups to abide by the same disclosure requirements followed by candidates, parties and regular PACs.

Currently, state law provides little pre-election disclosure by independent groups. Independent spenders only are required to disclose their expenditures to ELEC if they run campaign ads that explicitly call for a candidate's election or defeat.

Under ELEC's proposal, variations of which have been introduced in the Legislature, groups that engage in this type of "express advocacy" also would be required to disclose their contributions before the election.

In addition, groups that run more vaguely worded issue-oriented advertisements that obviously are intended to support or attack candidates also would be required to disclose their contributions and expenditures before the election.

"Disclosure was strongly endorsed by the U.S. Supreme Court in *Citizens United*," Donohue said.

Said the court in its 2010 ruling: "The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

Donohue added that "broad disclosure by political spenders is hardly a radical notion. Ballot question committees, which essentially are the original Super PACs since they have been able to raise unlimited amounts of money since 1978, have always disclosed their contributions and expenses."

"ELEC is asking only that independent groups follow the same rules as candidates, parties and PACs," he said.

**Table 2
Current Versus Proposed Disclosure Requirements
for Independent Spending Groups**

CURRENT	PROPOSED
Independent Spenders that Spend More than \$1,400 Must Disclose <u>Expenditures</u> Before the Election If They Explicitly Urge a Candidate's Election or Defeat	Independent Spenders that Spend More than \$1,400 Must Disclose <u>Contributions</u> and <u>Expenditures</u> Before the Election If They Explicitly Urge a Candidate's Election or Defeat
Independent Spenders Who Run Issue-Oriented Communications, also called Electioneering Ads, About Candidates Do Not Have to Disclose Before the Election*	Independent Spenders Who Run Issue-Oriented Communications About Candidates Would Have to Disclose Before the Election their Contributions and Expenditures for Ads that Run After January 1. Applies to Communications by Network Or Cable Television, Radio, Internet, Direct Mail, Other Printed Literature, Telephone and Billboards.
No Contribution Disclosure by Independent Spenders Unless They Register as a Political Committee or Continuing Political Committee.	Contributions of \$5,000 or More Must be Disclosed by Independent Spenders

*Some disclosure has been done through grassroots lobbying reports filed in February after the election.

SENATE COMMITTEE MOVES BILL TO IMPLEMENT ELEC RECOMMENDATION

In a unanimous bipartisan vote on March 24, the Senate State Government, Wagering, Tourism and Historic Preservation Committee approved a bill (SCS S-3122) that would end a long-standing requirement that candidates file all campaign finance reports with county clerk offices as well as with ELEC.

ELEC has called for ending this requirement for several years since the agency for more than a decade has displayed all reports on its website. The rule made more sense in the pre-Internet era.

The bill does require that all county clerk offices provide a link to ELEC's website on county websites. The main sponsors of the bill are Sens. Nicholas Scutari (D-22) and Samuel Thompson (R-12).

LOBBYING ANNUAL REPORTS 2013

(Revised March 31, 2014)

Total lobbying expenditures in New Jersey rose to \$4.3 million in 2013, a 7.4 percent increase compared to the previous year, according to an analysis of annual lobbying reports released by the New Jersey Election Law Enforcement Commission.

Table 1
Total Spending by Lobbyists in New Jersey
2009-2013

YEAR	EXPENDITURES	CHANGE-\$	CHANGE-%
2013*	\$ 62,304,752	\$ 4,266,952	7.4%
2012	\$ 58,037,800	\$(16,111,884)	-21.7%
2011	\$ 74,149,684	\$ 8,253,562	12.5%
2010	\$ 65,896,122	\$ 8,331,079	14.5%
2009	\$ 57,565,043	\$ 1,903,766	3.4%

*Preliminary

Jeff Brindle, ELEC's Executive Director, said several controversial bills were considered last year by the Legislature that may have caused an uptick in spending.

"The primary purpose of lobbying is to represent the views of the wide range of interest groups that have a stake in our democracy," said Brindle. "Lobbying helps crystallize issues for our elected officials and the public, and helps decision-makers weigh the pros and cons of legislative action or inaction."

Major issues last year included a proposal to put a minimum wage increase on the fall ballot, a proposed new tax on hospitals, a bill requiring instant background checks for gun purchases and expansion of the state's Medicaid program to cover more uninsured residents.

Brindle said the health care issues may help explain why hospitals spent the most among special interest lobbyists in 2013 at \$4.6 million, according to an ELEC analysis. Their spending jumped nearly 25 percent from \$3.6 million in 2012.

The New Jersey Education Association (NJEA), a union that represents 195,501 active and retired school employees, spent \$3.3 million last year, the most among specific organizations. NJEA was the top lobbyist three of the past five years.

Table 2
Top 10 Special Interest Groups by
Total Spending in 2013

GROUP	2013 SPENDING
New Jersey Education Association	\$3,316,893
Americans for Prosperity	\$ 951,233
Honeywell International Inc.	\$ 822,575
AARP NJ	\$ 717,148
Verizon NJ	\$ 674,269
Public Service Enterprise Group	\$ 635,589
Prudential Financial Inc.	\$ 629,208
New Jersey Hospital Association	\$ 628,337
Hackensack University Medical Center	\$ 508,500
NJ State League of Municipalities	\$ 489,416

Spending on communications in 2013 rose 207 percent to \$6.8 million after a steep drop a year earlier.

Table 3
Spending on Lobbying Communications
2009-2013

YEAR	AMOUNT	CHANGE-\$	CHANGE-%
2013	\$ 6,777,633	\$ 4,570,017	207%
2012	\$ 2,207,616	\$ (12,979,720)	-85%
2011	\$15,187,336	\$ 4,844,019	47%
2010	\$10,343,317	\$ 4,215,953	69%
2009	\$ 6,127,364	\$ 2,156,848	54%

"The growing use of mass communication by lobbyists is a sign of a changing industry. Traditional one-on-one lobbying still is very important. But interest groups increasingly are turning to issue advocacy as a way to promote their interests," Brindle said. Lobbyists spent more than twice as much on communications- \$40.6 million- between 2009 and 2013 as they did the previous five years (\$17.2 million), he noted.

NJEA led the top five communications spenders.

Table 4
Spending on Lobbying Communications
in 2013

GROUP	AMOUNT
New Jersey Education Association	\$ 3,017,112
Americans for Prosperity	\$ 951,233
AARP NJ	\$ 396,412
NJ State AFL-CIO	\$ 281,702
Humane Society of the United States	\$ 186,600

The amount spent by lobbyists on “benefit passing”- gifts like meals, trips or other things of value- fell to a record low of \$4,168. The figure has steadily dwindled since peaking at \$163,375 in 1992.

Table 5
Total Spending on Benefit Passing Unadjusted for Reimbursements

YEAR	TOTAL SPENT ON BENEFIT PASSING	CHANGE IN %
2013	\$ 4,168	-26%
2012	\$ 5,652	-1%
2011	\$ 5,687	-24%
2010	\$ 7,476	-22%
2009	\$ 9,642	-57%

For the eleventh straight year, Princeton Public Affairs Group Inc. reported the highest receipts among multi-client firms.

Table 6
Top Ten Multi-Client Firms Ranked by 2013 Fees

FIRM	2013 RECEIPTS
Princeton Public Affairs Group Inc	\$ 9,447,602
Public Strategies Impact LLC	\$ 6,333,715
MBI Gluckshaw	\$ 4,386,517
Kaufman Zita Group LLC	\$ 2,205,376
Gibbons PC	\$ 1,977,798
MWW Group	\$ 1,651,245
Cammarano Layton and Bombardieri Partners LLC	\$ 1,650,895
Optimus Partners LLC	\$ 1,512,550
Riker Danzig Scherer Hyland & Perretti LLP	\$ 1,282,345
Capital Impact Group	\$ 1,011,924

Summary data provided above should be considered preliminary and incomplete.

This analysis reflects reports received as of 5 p.m. on March 25, 2013. Summary information about lobbyist activities in 2013 can be obtained at the following website: http://www.elec.state.nj.us/public-information/gaa_annual.htm. Copies of annual reports also are available on ELEC’s website.

ELEC WEBSITE CITED AS ONE OF THE NATION’S BEST

By Joe Donohue, Deputy Director

ELEC has been included among a handful of state campaign finance agencies nationally that offers a “modern, easy-to-use public tool” through its internet website, according to a new report by California Forward.

The main mission of California Forward is to “work with Californians to help create a ‘smart’ government.” As part of that effort, it examined what six others states were doing via their websites to provide convenient access to campaign finance, lobbying and related information. The other states are Illinois, Connecticut, Michigan, Washington and Colorado.

The group prepared a 17-page report entitled “Rebooting Campaign Finance Disclosure in California.” A copy can be obtained here: <http://www.cafwd.org/pages/rebooting-campaign-finance-disclosure>.

The report notes that ELEC “maintains a robust, searchable database that also makes a prominent offer to download data in bulk going back as far as the early 1980s for some offices.”

It further adds: “The New Jersey tool also allows for broad searches by employer or profession. So if a resident was curious to see, for example, contributions made by individuals in the real estate field to all candidates for municipal office in a given year, that data can be easily gathered and exported.”

The authors also praise ELEC for being one of the few states to provide access to contribution information reported by local officials. One of the main early goals of Executive Director Jeff Brindle was to make this information readily available. ELEC began providing it in November 2009.

“This takes Illinois’ tool a step farther by including county and municipal level transactions. The tool easily allows for users to view public contracts, and to see the contributions made by the individuals and organizations receiving those contracts,” says the California Forward report.

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	
April 2, 2014	10:00 a.m.
April 22, 2014	10:00 a.m.
September 11, 2014	10:00 a.m.
September 30, 2014	10:00 a.m.
TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS	
June 26, 2014	10:00 a.m.
September 23, 2014	10:00 a.m.
December 10, 2014	10:00 a.m.
R-1 ELECTRONIC FILING SOFTWARE (REFS) TRAINING	
April 3, 2014	10:00 a.m.
April 23, 2014	10:00 a.m.
July 23, 2014	10:00 a.m.
September 9, 2014	10:00 a.m.
October 1, 2014	10:00 a.m.

LOBBYING REPORTING DATES

	INCLUSION DATES	ELEC DUE DATE
Lobbying Quarterly Filing		
1 st Quarter	1/1/14 – 3/31/14	4/10/14
2 nd Quarter	4/1/14 – 6/30/14	7/10/14
3 rd Quarter	7/1/14 – 9/30/14	10/10/14
4 th Quarter	10/1/14 – 12/31/14	1/12/15

REPORTING DATES

	INCLUSION DATES	REPORT DUE DATES
Fire Commissioner - 2/15/2014		
29-day pre-election	Inception of campaign* - 1/14/14	1/17/2014
11-day pre-election	1/15/14 - 2/1/14	2/4/2014
20-day post-election	2/2/14 - 3/4/14	3/7/2014
48 Hour Notice Reports Start on 2/2/2014 through 2/15/2014		
School Board Election - 4/23/2014		
29-day pre-election	Inception of campaign* - 3/22/14	3/25/2014
11-day pre-election	3/23/14 - 4/9/14	4/14/2014
20-day post-election	4/10/14 - 5/10/14	5/13/2014
48 Hour Notice Reports Start on 4/10/2014 through 4/23/2014		
May Municipal Election - 5/13/2014		
29-day pre-election	Inception of campaign* - 4/11/14	4/14/2014
11-day pre-election	4/12/14 - 4/29/14	5/2/2014
**20-day post-election	4/30/14 - 5/30/14	6/2/2014
48 Hour Notice Reports Start on 4/30/2014 through 5/13/2014		
Runoff Election (June)** - 6/10/2014		
29-day pre-election	No Report Required for this Period	
11-day pre-election	4/30/14 - 5/27/14	5/30/2014
20-day post-election	5/28/14-6/27/14	6/30/2014
48 Hour Notice Reports Start on 5/28/14 through 6/10/14		
Primary Election - 6/3/2014		
29-day pre-election	Inception of campaign* - 5/2/14	5/5/2014
11-day pre-election	5/3/14 - 5/20/14	5/23/2014
20-day post-election	5/21/14 - 6/20/14	6/23/2014
48 Hour Notice Reports Start on 5/21/14 through 6/3/14		
90 Day Start Date: 3/5/14		
General Election - 11/4/2014		
29-day pre-election	6/21/14 - 10/3/14	10/6/2014
11-day pre-election	10/4/14 - 10/21/14	10/24/2014
20-day post-election	10/22/14 - 11/21/14	11/24/2014
48 Hour Notice Reports Start on 10/22/14 through 11/4/14		
Runoff Election** - 12/2/2014		
29-day pre-election	No Report Required for this Period	
11-day pre-election	10/22/14 - 11/18/14	11/21/2014
20-day post-election	11/19/14 - 12/19/14	12/22/2014
48 Hour Notice Reports Start on 11/19/14 through 12/2/14		
PACs, PCFRs & Campaign Quarterly Filers		
1 st Quarter	1/1/14 - 3/31/14	4/15/2014
2 nd Quarter***	4/1/14 - 6/30/14	7/15/2014
3 rd Quarter	7/1/14 - 9/30/14	10/15/2014
4 th Quarter	10/1/14 - 12/31/14	1/15/2015

* Inception Date of Campaign (first time filers) or from January 1, 2014 (Quarterly filers).

** A candidate committee or joint candidates committee that is filing in a 2014 Runoff election is not required to file a 20-day post-election report for the corresponding prior election (May Municipal or General).

*** A second quarter report is needed by Independent General Election candidates if they started their campaign before May 6, 2014.