



ELEC-TRONIC

An Election Law Enforcement Commission Newsletter

P.O. Box 185, Trenton, NJ 08625

(609) 292-8700 - Toll Free Within NJ 1-888-313-ELEC (3532)

"Furthering the Interest of an Informed Citizenry"

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Website:

www.elec.state.nj.us

Comments from the Chairman Ronald DeFilippis

With the election a day away, it is time to discuss the process involved with post election candidate filing and termination of reporting.

Candidates and joint candidate reports are due on November 24th, the 20th day following the date of the election, which this year is November 4th.

The 20-day post election report includes all contributions received between the 13th day prior to the election and up to and through the 17th day following Election Day.

All expenditures made during this time frame must be reported as well.

It is preferred that candidates wrap up their activities and close out their accounts upon the 20-day reporting period.

However, there are exceptions to this general rule of thumb. In certain instances, candidates will keep their accounts open until the first quarterly report filing deadline.

These exceptions are:

1. When a candidate maintains his or her committee for the sole purpose of receiving contributions to retire obligations incurred during the course of the campaign;
2. When a candidate keeps the account open to raise money and make expenditures to offset the costs of a recount undertaken in the context of the election in which the candidate competed; and,
3. When the candidate is an officeholder and has no intention of seeking reelection and is maintaining the committee for paying officeholder expenses.

When a candidate determines to close the account and submit a final report, the campaign treasurer and the candidate must certify to the following:

1. That there is no remaining balance in the depository having been maintained by the candidate or joint candidates committee;
2. That if there was a remaining balance, the balance and assets have been transferred to an account established for a future election;
3. That there are no outstanding obligations;
4. That if there were outstanding obligations, the liability has been assumed by a candidate committee established by that candidate for a future election; and,
5. That the candidate committee or joint candidates committee has been dissolved and has finalized its business for the past election.

In the event that the candidate committee has an outstanding obligation that does not exceed \$1,000 or ten percent of expenditures, whichever is less, the campaign may conclude its operations.

Moreover, the candidate and campaign treasurer should provide written evidence that an existing obligation has been discharged or forgiven.

Finally, if after filing a final report, the campaign receives a contribution, makes an expenditure, or assumes an obligation, a candidate or joint candidates committee must establish a committee and resume filing with the Commission.

Finalizing candidate reports is an important function of any campaign. For further information, candidates and treasurers can contact the Commission at 1-888-313-3532 (ELEC) or visit our website at www.elec.state.nj.us.

Executive Director's Thoughts Jeff Brindle

Pending Federal Case May Have Implications for NJ Contractor Restrictions

Reprinted from politickernj.com

The potential that judges may overturn a federal ban on contractor donations brings greater urgency to reforming New Jersey's Pay-to-Play law.

A 74-year old federal Pay-to-Play law has been challenged by a university professor and two individual contractors for the U.S. Agency for International Development.

Oral arguments were heard on September 30, before the U.S. Court of Appeals for the District of Columbia.

An 11-judge panel listened to arguments in *Wagner v. Federal Election Commission* (FEC).

The plaintiffs claim the law violates First and Fifth Amendment rights of free speech and equal protection, respectively.

FEC lawyers defending the law maintain that it focuses on corruption in the procurement process only and upholds the goal of ensuring that federal contracts are based on merit.

Federal Pay-to-Play law imposes an outright ban on contributions both from individuals and corporations.

Moreover, federal law is very sweeping in that it applies not only to candidates but to political action committees (PACs) and to political parties.

The breadth of the law appears to be of concern to some on the panel, in particular as to how the law applies to political parties.

Judge Thomas Griffith questioned why the law includes political parties in that they are not involved in awarding contracts.

Given this and other skeptical questioning, it seems the full member court may find the law unconstitutional. If

not, the U.S. Supreme Court, in the wake of several rulings that have scaled back federal campaign finance restrictions, most recently Citizens United and McCutcheon, might intervene.

If the law were to be overturned, it would have ramifications for state Pay-to-Play laws, perhaps even New Jersey's law.

There is a difference between the State's law and the federal statute. New Jersey does not ban contributions from contractors, though its contribution threshold of no more than \$300 is very low, and it does not ban contractor contributions to PACs. It does seriously restrict contractor contributions to political party committees.

In any event, and not just to forestall any constitutional challenge, the state's law needs to be overhauled.

Though well intended, it has had unintended consequences. Because it is so complex, it has forced public contractors to go in one of three directions: to stop giving altogether; seek ways to legally circumvent the law; or, as in the case of Birdsall Services Group, to allegedly break the law by using straw donors (in 2013, the Attorney General's office announced that the company pleaded guilty and paid \$3.6 million in fines).

None of these options are good for the electoral system. Donations to candidates and parties, the most transparent of entities, have declined precipitously.

At the same time, activity by PACs and by anonymous independent groups, neither of which is subject to New Jersey's Pay-to-Play law, has increased significantly. This has reduced disclosure.

Finally, abuses like Birdsall's further erode an already low level of public trust in the electoral process.

Pay-to-Play is a worthwhile law. The public ought to be able to connect the dots between contributions and public contracts.

To truly accomplish this goal, the law needs to be simplified so that everyone- the public, officials, the press, regulators, candidates and public contractors- can understand it, comply with it, and enforce it.

To make it more effective and perhaps even immunize it from constitutional challenge, New Jersey's law should be reformed in the following ways: by establishing one state law, ending the fair and open loophole, enhancing disclosure, raising the contribution limit, exempting political parties, and including restrictions on contractor contributions to PACs.

These reforms, along with more disclosure requirements for independent groups, would not only enhance transparency. They also would begin the process of transforming the electoral process from one increasingly dominated by "outside" groups to one which again is the domain of more accountable candidates and political parties.

For these reasons, and with the looming Wagner ruling, there is now plenty of incentive for the Legislature to amend the law.

Governor Signs Bill Ending Duplication

Governor Chris Christie has signed legislation (A-2851/S-390) that eliminates an outdated requirement that candidates file with county clerks a duplicate copy of their contribution and expenditure reports.

Enacted with bi-partisan support, the bill's main sponsors were Assembly members Craig Coughlin (D-19), Nancy Pinkin (D-18), John McKeon (D-27) and Shavonda Sumter (D-35), and state Senators Samuel Thompson (R-12) and Nicholas Scutari (D-22).

The duplicate filing is not necessary because ELEC has made available all candidate reports on its website since 1999. County clerks, most of whom supported the bill, will now have to place a link on their websites to ELEC's site.

ELEC still must revise its regulations to implement the law.

A public hearing will be held by the Commission during its regular meeting at 11 a.m. on February 17, 2015.

Demery J. Roberts “Profile” [Legal Director](#)

By Joe Donohue, Deputy Director

Demery Roberts, ELEC’s new Legal Director, said there is a special virtue in working for the state’s independent watchdog agencies.

“You can go ahead and do the right thing,” said Roberts, who investigated fraud, waste and abuse of state funds for the Office of State Comptroller and its predecessor, the now-defunct Office of the Inspector General before joining ELEC in June.

She added that another benefit of working for the three government agencies is that it offers a “chance to effectuate change on a large scale, and see the fruits of your work.”

An example is a July 2012 investigative report she spearheaded indicating that 202 attorneys, engineers and other professionals who provided services to 58 municipalities and school boards were earning credits for public pensions in violation of the law.

The report focused on an issue she is passionate about—abuse of the pension system. Gov. Chris Christie subsequently issued an August 2013 executive order forming an investigative unit to uncover pension and disability benefits fraud by public workers in New Jersey.

Her Comptroller’s Office team also recommended the state Division of Pensions use a checklist to help identify independent contractors who are ineligible for public pensions. The Division ultimately developed a checklist and continues to use it.

“I had the distinct privilege to work on that project with (former Comptroller) Matt Boxer,” Roberts said.

Before returning to state government in 2007— she briefly worked for the state Judiciary in the 1990s— Roberts worked for three private law firms. The work exposed her to a broad range of legal issues and gave her courtroom experience.

She didn’t find it as fulfilling as public service. “I didn’t enjoy the focus on billable hours,” in private practice, she acknowledged.

At ELEC, Roberts oversees a team of five lawyers and five investigators. The agency typically launches more than 40 new investigations annually, and prosecutes close to 100 violators. She is seeking to hone the team’s efforts by drawing on the litigation and investigative experience she acquired from her previous background.

The legal director also oversees the preparation of new regulations, prepares advisory opinions sought by candidates and committees, and, if necessary, readies cases for trial.

Inspired in part by her Aunt Joan, who also is a lawyer, Roberts received her law degree from Rutgers School of Law in Camden. She previously earned a BA in political science at the University of Delaware.

Born in Trenton, she is married to a husband of 22 years and has three boys ages 16, 14 and 11.

“I love to cook, walk and read,” said Roberts. Some of her family’s favorite dishes among her culinary repertoire include holiday stuffing that includes bacon, vodka sauce, salmon and chicken cutlets.

Her favorite book is “Outlander,” the basis for a popular fantasy series set in Scotland on the Starz network. She has read it “several” times.

Perhaps part of Roberts’s affinity for the book is the fact that she is part-Scottish. Her uncommon first name, which is pronounced like “emory,” was her grandmother’s middle name and is thought to be Gaelic in origin.

Big Six Third Quarter 2014

Fundraising by the so-called “Big Six” committees perked up during the last three months but the combined activity of the two state parties and four legislative leadership committees remained low compared to the previous eight years, according to an analysis by the New Jersey Election Law Enforcement Commission (ELEC).

Fundraising during the quarter by the Republican State Committee led the surge. The committee raised \$775,912 during the three months- twice more than the \$376,987 collected for the same period by the five other committees.

Despite the increase, combined “Big Six” fundraising, spending and net worth remained at their lowest point since at least 2007. Combined cash-on-hand was slightly higher than the 2012 total.

Jeff Brindle, ELEC’s Executive Director, said fundraising definitely is harder these days due to a variety of factors, including increased spending by independent groups, tight restrictions on contractor contributions, competition from PACs, and the economy.

“At the same time, everyone must keep in mind this is an off-election year. The pace of fundraising is likely to pick up steadily as we approach next year’s legislative elections,” he said.

**TABLE 1
CAMPAIGN FINANCE ACTIVITY BY “BIG SIX”
JANUARY 1 THROUGH SEPTEMBER 30, 2014**

BOTH PARTIES	RAISED	SPENT	CASH-ON-HAND	NET WORTH*	STATEWIDE ELECTIONS?
2007	\$9,322,604	\$6,713,165	\$7,368,421	\$7,095,891	YES
2008	\$4,457,887	\$3,508,376	\$1,519,083	\$1,134,427	NO
2009	\$6,309,496	\$5,098,191	\$3,073,241	\$2,746,784	YES
2010	\$3,160,458	\$2,859,927	\$1,664,237	\$1,457,787	NO
2011	\$6,913,921	\$5,025,694	\$3,428,259	\$3,123,885	YES
2012	\$4,083,910	\$3,971,806	\$1,331,432	\$1,192,473	NO
2013	\$7,203,008	\$5,917,331	\$2,970,203	\$2,884,025	YES
2014	\$2,444,799	\$1,887,661	\$1,388,946	\$ 765,268	NO

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

Looking at campaign finance activity for the first nine months of 2014, Republican committees as a group raised more funds, did more spending and reported larger reserves. Republicans also raised more and had larger cash-on-hand than they did four years earlier. Democratic totals all were below 2010 levels.

**TABLE 2
FUNDRAISING BY “BIG SIX” COMMITTEES
JANUARY 1 THROUGH SEPTEMBER 30, 2014**

REPUBLICANS	RAISED	SPENT**	CASH-ON-HAND	NET WORTH*
New Jersey Republican State Committee	\$1,119,694	\$ 847,574	\$ 684,482	\$ 126,783
Senate Republican Majority	\$ 145,880	\$ 62,553	\$ 139,562	\$ 139,562
Assembly Republican Victory	\$ 300,143	\$ 130,630	\$ 210,226	\$ 210,226
Sub Total-Republicans	\$1,565,717	\$1,040,757	\$1,034,270	\$ 473,571
Versus 2010 (Dollars)	\$ 97,688	\$ (297,098)	\$ 110,583	\$ (69,032)
Versus 2010 (Percent)	7%	-22%	12%	-8%
DEMOCRATS				
New Jersey Democratic State Committee	\$ 183,329	\$ 261,074	\$ 81,277	\$ 68,737
Senate Democratic Majority	\$ 197,300	\$ 230,043	\$ 40,103	\$ 20,103
Democratic Assembly Campaign Committee	\$ 498,453	\$ 355,787	\$ 233,296	\$ 202,857
Sub Total-Democrats	\$ 879,082	\$ 846,904	\$ 354,676	\$ 291,697
Versus 2010 (Dollars)	\$ (813,347)	\$ (675,168)	\$ (385,874)	\$ (331,790)
Versus 2010 (Percent)	-48%	-44%	-52%	-53%
Total-Both Parties				
Total-Both Parties	\$2,444,799	\$1,887,661	\$1,388,946	\$ 765,268
Versus 2010 (Dollars)	\$ (715,659)	\$ (972,266)	\$ (275,291)	\$ (692,519)
Versus 2010 (Percent)	-23%	-34%	-17%	-48%

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

**Some spending totals exceed fundraising because reserves were used to offset the extra spending.

To help bolster party fundraising, Brindle urged the Legislature to enact ELEC-recommended legislation that would require independent groups to follow the same disclosure rules as parties and candidates, simplify the state’s pay-to-play restrictions on contractors while allowing them to contribute slightly more, and apply inflation adjustments to contribution limits that apply to other donors.

“These bipartisan reforms may help restore balance to political fundraising in New Jersey by offsetting the growing clout of independent groups, which are far less accountable than the parties,” said Brindle.

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/elecny).

Training Seminars

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

PAY-TO-PLAY TRAINING SEMINARS	
November 14, 2014	10:00 a.m.
TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS	
December 10, 2014	10:00 a.m.

Lobbying Reporting Dates

Lobbying Quarterly Filing	INCLUSION DATES	ELEC DUE DATE
4 th Quarter	10/1/14 – 12/31/14	1/12/15

Reporting Dates

	INCLUSION DATES	REPORT DUE DATES
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.