



ELEC-TRONIC

An Election Law Enforcement Commission Newsletter

P.O. Box 185, Trenton, NJ 08625

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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

Complying with often bewildering campaign finance laws and accompanying regulations can be a daunting task.

Over time campaigns became more sophisticated. Spending increased and the campaign season grew longer.

As has been demonstrated in recent elections, including this one, an array of organizations, 527's, 501(c)'s and super PACs now dot the electoral horizon, even outdistancing political parties in supporting candidates.

These developments have changed campaigns. In so doing they have ushered in a period replete with reforms and court decisions.

So for many, navigating the myriad of laws and regulations can be taxing, to say the least.

In order to assist candidates, campaign lawyers and treasurers in understanding and complying with New Jersey's Campaign Contributions and Expenditures Reporting Act, the Election Law Enforcement Commission provides those with legal standing the opportunity to request an advisory opinion.

In other words, Candidate Smith wants to know if it is permissible to use campaign funds to attend an issues seminar. Or, the Committee for the "Best Government" is not sure if it must file as a political committee.

In both instances the candidate and committee would be encouraged to request an advisory opinion because it is reasonable to believe that the candidate or committee may be subject to a provision under the Campaign Act.

So, what is the process for requesting an advisory opinion?

First of all, a person or committee must have standing to make a request. That being the case, the request must be in writing and contain the following information:

1. The name, mailing address and daytime phone number of the entity on whose behalf the opinion is being made;
2. A description of the correct filing status of the entity (if any);
3. A statement of all pertinent facts and contemplated activities that are subject to the inquiry;
4. A statement involving the question of law arising under the Act,
5. A statement of the result the entity seeks;
6. Requisite signatures; and,
7. A statement of whether or not the entity seeking the advisory opinion consents to a 30-day period for the issuance of the opinion.

By law, unless an extension of time is consented to by the entity requesting the opinion, the Commission is required to issue its opinion within ten days of the receipt of the request.

A request is considered received when all of the above requirements are met.

For a more definitive explanation of how to request an advisory opinion and obtain a form, please see www.elec.state.nj.us. Also, see 19:25-18.1 et al.

Executive Director's Thoughts Jeff Brindle

BAYOU STATE LAWSUIT COULD BOOST NJ PARTIES

Reprinted from politickernj.com

A lawsuit filed by the Republican Party of Louisiana holds the potential for strengthening political parties in New Jersey.

Filed on August 3, 2015 with the District Court for the District of Columbia, the suit challenges the constitutionality of Federal Election Campaign Act (FECA) provisions that regulate federal campaign activity by state and local parties.

Under the law, state party committees and their local affiliates may set up federal accounts. These federal accounts are separate from regular party accounts and are used in connection with federal campaign activity.

Funds deposited in federal accounts are subject to FECA rules.

Federal campaign activity regulated under FECA involves get-out-the vote efforts, voter identification tracking, voter registration, and generic party building activity. It also entails advertising that supports or opposes candidates for national office.

By law, these federally-related efforts must be paid with funds out of the federal account or by an allocation between it and the non-federal account.

Administration costs, rent, and utilities are examples of costs that may be allocated.

The Plaintiffs argue that the provisions of FECA that regulate state and local federal activity violate their First Amendment rights of speech and association.

The Republican Party of Louisiana is seeking to establish an independent communications-only account that would pay for communications conducted on behalf of federal campaigns.

The plaintiffs are challenging FECA provisions that require activities like voter registration, voter identification, and get-out-the-vote efforts to be paid for with funds subject to the restrictions on federal activity by state and local parties.

The Republican Party of Louisiana wants to be free of contribution limits for these activities just like super PACs, which disclose their contributors, and other independent groups that are not subject to public scrutiny.

The plaintiffs are requesting a three-judge panel of the D.C. District Court to hear the challenge, which would allow the case to be heard by the U.S. Supreme Court on direct appeal.

If the Supreme Court ultimately hears the case on appeal, there is more than a good chance it will find limitations on state and local party activity unconstitutional.

In other words, it will lift contribution limits on state and local party federal accounts.

While well-intentioned reformers will scoff at a ruling that deems FECA provisions unconstitutional, such a decision would represent a commonsense approach toward leveling the playing field between political parties and independent groups.

Why should state and local parties be handcuffed relative to efforts to support their federal candidates?

Why should they be treated differently from independent, outside groups, whose fundraising is not subject to contribution limits and who can spend wildly on candidates much of it in the dark?

Parties represent a broad coalition of people, are subject to federal and state statutes, are regulated in terms of their organizational structure, subject to contribution limits, and subject to strict disclosure requirements.

Certainly, a decision that would put them at par with independent groups in terms of state and local federal activity is warranted.

Such a decision would impact New Jersey parties as well. In recent years, party activity at the state and local level has been dwarfed by independent groups.

In the 2013 state elections, outside groups spent \$41 million to \$14 million by the parties.

Already in this year's Assembly contest, significant money is being spent by independent groups like General Majority PAC in the 1st and 2nd legislative districts. It is expected that independent spending will play an important part in the 38th district, and perhaps even in 11th and 16th.

In previous columns, proposals have been advanced for strengthening the political party system in New Jersey to offset the influence of independent groups.

They include: requiring independent groups to disclose their activities; capturing PACs under the pay-to-play law, while exempting parties from it; permitting political parties to contribute to gubernatorial candidates; and, increasing contribution limits for parties.

A decision by the Court that lifts restrictions on the use of state and local party federal accounts would be a step in the right direction in terms of rebuilding the parties.

PUBLIC HEARING

[Proposed Amendments Concerning Lobbying Reporting Obligation and Proposed New Rule, N.J.A.C. 19:25-26](#)

The New Jersey Election Law Enforcement Commission is proposing a new rule to set forth that "sufficient public interest" for a public hearing on Commission rulemaking is shown when at least 20 individuals submit written requests to hold a public hearing to present data, arguments or views that raise a substantial issue as to the impact of the proposal that has not been anticipated by the Commission. The Commission is also proposing amendments to its regulations to require governmental affairs agents and represented entities to file lobbying forms and reports electronically.

The proposed new rule and amendments were published in the [New Jersey Register](#) on October 19, 2015, and are currently available on the Commission's website at www.elec.nj.gov. Copies of the Commission's proposal may also be obtained by calling the Commission at (609) 292-8700.

The Commission will conduct a hearing to elicit public comment concerning the proposal on **Tuesday, December 15, 2015 at 11:00 A.M.** at:

Election Law Enforcement Commission
Edward J. Farrell Memorial Conference Room
28 West State Street, 12th Floor
Trenton, New Jersey

The Commission invites participation in this hearing and requests that any testimony be limited to no more than ten minutes. Persons wishing to testify at the December 15, 2015 hearing are requested to reserve time to speak by contacting Administrative Assistant Elbia L. Zeppetelli at (609) 292-8700 no later than **Thursday, December 10, 2015**.

Submit written comments by December 28, 2015 to:

Michelle R. Levy, Esq.
Associate Legal Director
Election Law Enforcement Commission
P. O. Box 185
Trenton, New Jersey 08625-0185

Written comments can also be emailed to elec.rulemaking@elec.nj.gov by December 28, 2015. Please put "Comment" in the subject line.

LEGISLATIVE 11-DAY GENERAL 2015

With both parties grappling over a handful of legislative districts as the state Assembly election nears its final weekend, independent spending by special interest groups is playing a major role in those targeted areas, according to a new analysis of disclosure reports by the Election Law Enforcement Commission (ELEC).

**TABLE 1
SPENDING BY INDEPENDENT COMMITTEES AND
LEGISLATIVE CANDIDATES THROUGH OCTOBER 23, 2015**

GROUP	PRIMARY	GENERAL	COMBINED
General Majority PAC	None	\$ 3,882,672	\$ 3,882,672
Garden State Forward*	None	\$ 3,798,674	\$ 3,798,674
Carpenters Fund for Growth and Progress**	\$ 768,796	\$ 491,127	\$ 1,259,923
National Association of Realtors Fund	\$ 116,765	\$ 268,295	\$ 385,060
NJ Coalition of Real Estate	\$ 39,958	\$ 79,423	\$ 119,381
New Jerseyans for a Better Tomorrow***	None	\$ 25,000	\$ 25,000
NJ League of Conservation Voters for a Clean Environment	None	\$ 3,000	\$ 3,000
TOTALS			
Independent Committees	\$ 925,519	\$ 8,548,191	\$ 9,473,710
Legislative Candidates	\$12,527,364	\$12,038,113	\$24,565,477
TOTAL-ALL	\$13,452,883	\$20,586,304	\$34,039,187

*Includes \$3,500,000 in contributions to General Majority PAC.

**Includes \$400,000 contribution to General Majority PAC.

***Contribution to General Majority PAC.

Reports filed with ELEC show that special interest groups already have spent \$8.5 million on the general election for a total of \$9.5 million, including the primary. That compares to an estimated \$14.8 million spent by independent committees during the entire 2013 legislative elections, which included a campaign for governor and state Senate members on the ballot.

Except for one candidate running for a state Senate seat in Legislative District 5, only Assembly members are up for reelection this year. Legislative candidates so far have spent just over \$12 million on the general election.

Of the total spending of \$20.6 million, independent committees represent 42 percent- the largest share ever for a statewide election. In 2013, independent spending represented less than 19 percent of total spending.

“Dollar-wise, independent spending was higher in 2013. But on a percentage basis, it is having a bigger impact on this year’s elections,” said Jeff Brindle, ELEC’s Executive Director.

The top ten most expensive districts so far have attracted \$8.7 million from legislative candidates. Most of the \$8.5 million in independent spending also appears to be targeted at swing districts though reports filed by those groups link only about \$4 million to specific districts. Independent spending on general expenses such as polling, consulting and administration are not broken out by legislative district.

“The \$12.6 million spent so far in the top ten districts represents 61 percent of the \$20.6 million expended on the general election to date,” said Brindle. He explained that swing districts attract the most campaign money because they are locations where officials from one or both parties think they have a change of ousting an incumbent.

“Elections in most of the 40 legislative districts are not highly competitive because redistricting gives one party or the other an edge in voter registration. In the 2013 election, 97 percent of incumbent Assembly members won,” Brindle said. “It is hard to defeat an incumbent. Swing districts represent the best chance.”

**TABLE 2
TOP TEN DISTRICTS BY TOTAL SPENDING
THROUGH OCTOBER 23, 2015**

DISTRICT	LEGISLATIVE CANDIDATES	INDEPENDENT COMMITTEES	TOTAL
2	\$2,138,144	\$1,507,453	\$ 3,645,597
1	\$1,161,382	\$1,456,300	\$ 2,617,682
38	\$1,444,399	\$ 373,741	\$ 1,818,140
11	\$ 974,765		\$ 974,765
14	\$ 537,605	\$ 298,674	\$ 836,279
16	\$ 484,013	\$ 250,400	\$ 734,413
7	\$ 658,188	\$ 63,718	\$ 721,906
6	\$ 561,025	\$ 10,635	\$ 571,660
21	\$ 361,727	\$ 9,054	\$ 370,781
27	\$ 345,030		\$ 345,030
TOTALS	\$8,666,279	\$3,969,975	\$12,636,254

The biggest independent spender this year has been highly active in so-called “battleground” districts. The group is named General Majority PAC, which is working to elect Democrats.

It has already spent nearly \$4 million, including \$3.3 million focused directly in three perennial battlegrounds- Legislative Districts 2 (Atlantic County), 1 (Cape May County and parts of Atlantic and Cumberland Counties), and 38 (parts of Bergen and Passaic).

**TABLE 3
SPENDING BY GENERAL MAJORITY
PAC IN TARGETED DISTRICTS***

DISTRICT	AMOUNT
2	\$ 1,507,453
1	\$ 1,456,300
38	\$ 373,741
TOTAL	\$ 3,337,494

*Based on latest independent expenditure reports.

General Majority PAC, formerly known as Fund for Jobs Growth and Security, spent \$8 million on legislative elections in 2013, mostly in the same three districts.

The \$12 million spent so far by candidates vying for 80 Assembly seats is about \$2 million less than estimated spending by Assembly candidates in 2013, and \$1.4 million less than in 2011.

**TABLE 4
SPENDING BY STATE ASSEMBLY CANDIDATES
THROUGH 11 DAYS BEFORE ELECTION
VERSUS TWO PREVIOUS ELECTIONS**

YEAR	AMOUNT*	DIFFERENCE-\$	DIFFERENCE-%
2015	\$12,038,113		
2013	\$14,058,886	\$(2,020,773)	-17%
2011	\$13,409,324	\$(1,371,211)	-11%

*Includes estimates for Assembly members who jointly filed disclosure reports with Senate candidates

Democrats hold a 47-to-32 margin in the Assembly with one vacancy in the heavily Democratic 5th District (parts of Camden and Gloucester) that they are expected to maintain. Democratic candidates continue to raise and spend more money than Republicans or independents, and also have larger cash reserves. Most spending by independent groups also benefits Democrats.

**TABLE 5
BREAKDOWN OF LEGISLATIVE SPENDING
BY PARTY THROUGH OCTOBER 23, 2015**

PARTY	RAISED	SPENT	CASH-ON-HAND
Democrats	\$12,331,893	\$ 8,856,665	\$3,473,346
Independents	\$ 1,973	\$ 1,658	\$ 315
Republicans	\$ 5,225,901	\$ 3,179,789	\$2,064,324
ALL PARTIES	\$17,559,767	\$12,038,113	\$5,537,984

Incumbents enjoyed a big edge over challengers since they are sitting on 12 times more cash reserves heading into the final days of the November 3 election.

**TABLE 6
BREAKDOWN OF SPENDING BY INCUMBENTS
AND CHALLENGERS THROUGH OCTOBER 23, 2015**

PARTY	RAISED	SPENT	CASH-ON-HAND
Incumbents	\$13,961,610	\$ 8,864,195	\$5,100,631
Challengers	\$ 3,598,157	\$ 3,173,918	\$ 437,353
ALL CANDIDATES	\$17,559,767	\$12,038,113	\$5,537,984

The numbers in this report should be considered preliminary. The analysis is based on legislative fundraising reports received by noon on October 27, 2015.

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 www.elec.state.nj.us/publicinformation/statistics.htm.

“BIG SIX” 3TH QUARTER 2015

Fundraising by the “Big Six” fundraising committees has fallen more than 50 percent since the last time the state Assembly was running alone on the ballot in 1999, according to a new analysis by the New Jersey Election Law Enforcement Commission (ELEC).

The analysis shows that even without adjusting for inflation, the combined totals for the two state parties and four legislative leadership this year are well below 1999 totals.

When the numbers are adjusted to current dollars, the falloff is even sharper. Fundraising is down 52 percent, spending is down 47 percent and cash-on-hand is off by 59 percent.

**TABLE 1
COMBINED CAMPAIGN FINANCE ACTIVITY BY “BIG SIX”
THROUGH END OF THIRD QUARTER- 1999 VERSUS 2015**

	RAISED	SPENT	CASH-ON-HAND	NET WORTH*
1999 Totals- No Inflation Adjustment	\$5,667,777	\$4,758,764	\$3,360,571	\$3,274,462
1999 Totals- Inflation Adjusted	\$8,107,575	\$6,803,331	\$4,807,190	\$4,684,014
2015 Totals	\$3,896,539	\$3,579,018	\$1,984,629	\$1,346,849
2015 Versus 1999 Inflation Adjusted	-52%	-47%	-59%	-71%

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

“These numbers show that the decline in Big-Six fundraising this year is due to more than just the fact that only one house is up for grabs in this year’s election,” said Jeff Brindle, ELEC’s Executive Director.

“Tight contribution limits on state contractors adopted since 2005 are a major cause of the falloff. In addition, the McCain Feingold reforms in 2002 that ended unlimited “soft money” contributions to national parties, and subsequent federal court rulings, have prompted more special interest groups to spend their money independently of parties and candidates,” he said.

Brindle said ELEC has made several bipartisan recommendations that might counter these trends.

These include streamlining complex “pay-to-play” contribution restrictions into one law, allowing public contractors to make larger contributions particularly to parties, adjusting other contribution limits higher for inflation, and making independent special interest groups follow the same disclosure laws as parties and candidates.

“Many independent special interest groups disclose little or nothing about their fundraising activities. So the public would be better informed if the flow of contributions can be shifted back to the traditional party committees,” Brindle said. “Political parties and legislative leadership PACs are closely regulated, more accountable and follow all disclosure rules and contribution limits.”

Through September 30 of this year, the two state parties and four legislative leadership committees combined reported just under \$2 million in reserves. Cash reserves, as well as funds raised and spent, were markedly higher in all four previous elections. This year’s election is November 3.

All 80 Assembly seats are up for reelection this year. Also on the slate is one candidate running for a Senate seat in the 5th Legislative District in a special election. In other elections since 2007, Assembly candidates shared the slate with all state Senate candidates, gubernatorial candidates, or both.

**TABLE 2
CAMPAIGN FINANCE ACTIVITY BY “BIG SIX”
JANUARY 1 THROUGH SEPTEMBER 30, 2015**

BOTH PARTIES	RAISED	SPENT	CASH-ON-HAND	NET WORTH*	STATE ELECTIONS
2007	\$9,322,604	\$6,713,165	\$7,368,421	\$7,095,891	Senate and Assembly
2008	\$4,457,887	\$3,508,376	\$1,519,083	\$1,134,427	
2009	\$6,309,496	\$5,098,191	\$3,073,241	\$2,746,784	Governor and Assembly
2010	\$3,160,458	\$2,859,927	\$1,664,237	\$1,457,787	
2011	\$6,913,921	\$5,025,694	\$3,428,259	\$3,123,885	Senate and Assembly
2012	\$4,083,910	\$3,971,806	\$1,331,432	\$1,192,473	
2013	\$7,203,008	\$5,917,331	\$2,970,203	\$2,884,025	Governor and Both Houses
2014	\$2,444,799	\$1,887,661	\$1,388,946	\$ 765,268	
2015	\$3,896,539	\$3,579,018	\$1,984,629	\$1,346,849	Assembly

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

For the first nine months of the year, the three Republican committees raised more and had larger cash reserves than the three Democratic committees. Democratic committees have spent more this year.

**TABLE 3
FUNDRAISING BY "BIG SIX" COMMITTEES
JANUARY 1 THROUGH SEPTEMBER 30, 2015**

REPUBLICANS	RAISED	SPENT**	CASH-ON-HAND	NET WORTH*
New Jersey Republican State Committee	\$ 989,440	\$1,180,134	\$ 362,855	\$ (184,743)
Senate Republican Majority	\$ 273,524	\$ 94,350	\$ 397,263	\$ 397,263
Assembly Republican Victory	\$ 780,533	\$ 501,754	\$ 501,608	\$ 501,608
SUB TOTAL-REPUBLICANS	\$2,043,497	\$1,776,238	\$1,261,726	\$ 714,128
DEMOCRATS				
New Jersey Democratic State Committee	\$ 809,916	\$ 750,689	\$ 234,878	\$ 195,135
Senate Democratic Majority	\$ 165,998	\$ 220,432	\$ 125,341	\$ 105,341
Democratic Assembly Campaign Committee	\$ 877,128	\$ 831,659	\$ 362,684	\$ 332,245
SUB TOTAL-DEMOCRATS	\$1,853,042	\$1,802,780	\$ 722,903	\$ 632,721
TOTAL-BOTH PARTIES	\$3,896,539	\$3,579,018	\$1,984,629	\$1,346,849

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

**Some spending totals exceed fundraising totals because cash reserves were used as well as recent contributions.

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.

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 www.elec.state.nj.us for more information on training seminar registration.

PAY-TO-PLAY	
November 16, 2015	2:00 p.m.
TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS	
December 16, 2015	10:00 a.m.

LOBBYING REPORTING DATES

LOBBYING REPORTING DATES		
Quarterly Filing	Inclusion Dates	ELEC Due Date
4 th Quarter	10/1/2015-12/31/2015	1/11/2016

2015 REPORTING DATES

		<i>Inclusion Dates</i>	<i>Report Due Date</i>
Fire Commissioner - 2/21/2015			
29-day pre-election		Inception of campaign* - 1/20/15	1/23/2015
11-day pre-election		1/21/15 - 2/7/15	2/10/2015
20-day post-election		2/8/15 - 3/10/15	3/13/2015
48 Hour Notice Reports Start on 2/8/2015 through 2/21/2015			
School Board Election - 4/21/2015			
29-day pre-election		Inception of campaign* - 3/20/15	3/23/2015
11-day pre-election		3/21/15 - 4/7/15	4/10/2015
20-day post-election		4/8/15 - 5/8/15	5/11/2015
48 Hour Notice Reports Start on 4/8/2015 through 4/21/2015			
May Municipal Election - 5/12/2015			
29-day pre-election		Inception of campaign* - 4/10/15	4/13/2015
11-day pre-election		4/11/15 - 4/28/15	5/1/2015
20-day post-election		4/29/15 - 5/29/15	6/1/2015
48 Hour Notice Reports Start on 4/29/2015 through 5/12/2015			
Runoff (June)** - 6/9/2015			
29-day pre-election		No Report Required for this Period	
11-day pre-election		4/29/15 - 5/26/15	5/29/2015
20-day post-election		5/27/15-6/26/15	6/29/2015
48 Hour Notice Reports Start on 5/27/2015 through 6/9/2015			
Primary Election*** - 6/2/2015			
29-day pre-election		Inception of campaign* - 5/1/15	5/4/2015
11-day pre-election		5/2/15 - 5/19/15	5/22/2015
20-day post-election		5/20/15 - 6/19/15	6/22/2015
48 Hour Notice Reports Start on 5/20/2015 through 6/2/2015			
90 Day Start Date: 3/4/2015			
General Election*** - 11/3/2015			
29-day pre-election		6/20/15 - 10/2/15	10/5/2015
11-day pre-election		10/3/15 - 10/20/15	10/23/2015
20-day post-election		10/21/15 - 11/20/15	11/23/2015
48 Hour Notice Reports Start on 10/21/2015 through 11/3/2015			
Runoff (December)** - 12/8/2015			
29-day pre-election		No Report Required for this Period	
11-day pre-election		10/21/15 - 11/24/15	11/27/2015
20-day post-election		11/25/15 - 12/25/15	12/28/2015
48 Hour Notice Reports Start on 11/25/2015 through 12/8/2015			
PACs, PCFRs & Campaign Quarterly Filers			
1 st Quarter		1/1/15 - 3/31/15	4/15/2015
2 nd Quarter****		4/1/15 - 6/30/15	7/15/2015
3 rd Quarter		7/1/15 - 9/30/15	10/15/2015
4 th Quarter		10/1/15 - 12/31/15	1/15/2016

* Inception Date of Campaign (first time filers) or from January 1, 2015 (Quarterly filers).

** A candidate committee or joint candidates committee that is filing in a 2015 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 9, 2015 for Primary Election Candidates and June 12, 2015 for Independent General Election Candidates.

**** A second quarter report is needed by Independent/Non-Partisan General Election candidates if they started their campaign before 5/5/2015.