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An Election Law Enforcement Commission Newsletter

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Comments from the Chairman

Ronald DeFilippis

This column involves the prohibition set forth in the Campaign Contributions and Expenditures Reporting Act on soliciting and making contributions on public property.

Initially, the law, first enacted in 2004, involved gubernatorial and legislative candidates and property owned by the State.

But in 2012, Governor Christie signed a bill (S-3166) authored by Senator Raymond Lesniak (D-Union). The law was amended to include a prohibition on soliciting and making contributions on public property in general.

Thus, the Election Law Enforcement Commission, without benefit of an appropriation, was mandated to monitor this type of activity that might occur, not only on State property, but on property owned by municipalities, school boards, counties, fire districts, and authorities.

The intent of the law is to prevent state, municipal, county, school board, fire district, and authority employees from being pressured while on the job to make political donations.

It also was designed to prevent officials from using public property, i.e., copiers, computers, etc., for the purpose of soliciting contributions.

Interestingly, however, the law does contain an exemption found in N.J.S.A. 19:44A-19.1d. It reads:

“In the event property exclusively owned or leased by the State, or any agency of the State, or by any county, municipality, board of education of a school district, fire district, authority, or other State or local entity, district or instrumentality or part thereof, is made available, through rent, reservation or otherwise, for the exclusive use of any group for a non-governmental purpose as a meeting location, the prohibition in subsection b. of this section shall not apply and the solicitation or making of contributions or funds of any nature from any or among or by the

members of the group during the time the group is using the property made available as a meeting location is permitted.”

And it is with this exemption language that a certain amount of confusion has occurred.

Thus, it was necessary for the Commission to clarify the provision and apply it in a commonsense manner through the issuance of an advisory opinion.

Therefore, the Commission responded to an advisory opinion request from Morris County Freeholder Director Tom Mastrangelo.

Freeholder Mastrangelo asked “whether the prohibition set forth in N.J.S.A. 19:44A-19.1 on making or soliciting campaign contributions on public property categorically prohibit fundraising by a political campaign on public property, or can the exemption set forth in N.J.S.A. 19:44A-19.1d for a meeting for a non-governmental purpose apply.”

“Furthering the Interest of an Informed Citizenry”

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COMMISSIONERS:

Ronald DeFilippis, Chairman
Stephen M. Holden, Commissioner
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Edwin R. Matthews, Legal Counsel

Specifically, the Freeholder desired to learn whether it was permissible to hold a fundraising event at a golf course owned by a municipality.

In its response, the Commission advised that the exemption does apply and that fundraisers are permitted on publicly owned property as long as every group is treated equally.

Moreover, the advisory opinion held that the applicable exemption would apply to a campaign fundraiser held on public property by pre-arrangement with the owner for reservation, rental, and fees for service at the fair market value of that property for the exclusive use of the campaign.

Furthermore, the advisory opinion held that the contemplated activity would occur during a meeting for a political, non-governmental purpose. Under those circumstances, it would be permitted by the exemption.

Disclosure of contributor and expenditure information would be required and would be contained on campaign reports as required by law.

While this advisory opinion is generally applicable, it is always wise for individuals to contact the Commission for guidance if there is any doubt about its applicability.

The Compliance staff is available and can be contacted at the toll-free no. 1-888-313-3532 (ELEC) to answer questions.

Executive Director's Thoughts Jeff Brindle

Gubernatorial Public Financing Program Brings Better Elections at Minimal Cost

Reprinted from InsiderNJ.com

As the gubernatorial primary debate season unfolds, it is appropriate to highlight New Jersey's gold-star public financing program.

Since the general election of 1977, New Jerseyans have supported a nationally recognized Gubernatorial Public Financing Program that has witnessed no less than six participants elected governor- three Democrats and three Republicans.

Among these candidates were big city mayors, state senators and assembly persons, members of the House of Representatives, county executives and freeholders, former state cabinet officials, a former prosecutor and a former U.S. Attorney.

The program has been a relative bargain to state taxpayers. For instance, in 2013, the state spent \$11.8 million on the gubernatorial public financing program. The average cost to each taxpayer – about \$2.50. Roughly the cost of a cup of coffee.

Only in 2005, when Republican candidate Douglas Forrester ran against Democrat Jon Corzine, did neither major party candidate take public funds.

With super PACs increasingly dominating the political and electoral landscapes in New Jersey, the Gubernatorial Public Financing Program, which matches two public dollars for every private dollar raised, is now more important than ever.

By providing qualified candidates of otherwise limited personal wealth the means to get their message out to the voters, the program is now critical to offsetting the ever-growing influence of super PACs and other independent groups.

Without this support, the campaign's policy agenda would be overshadowed by independent groups. At least with public financing there remains the opportunity for the candidates themselves to control their campaigns and drive their own policy agendas.

New Jersey's Gubernatorial Public Financing Program was established in 1977 with two goals in mind: to provide qualified candidates of limited personal means the ability to run effective campaigns for governor and to eliminate any undue influence over the gubernatorial electoral process.

In both regards the program has proven to be a great success. As mentioned earlier, six governors since 1977 participated in the program and there has never been a hint of corruption involving gubernatorial campaigns.

Here's how the program works. First, the Legislature, when it enacted legislation creating the program in 1974, determined that there should

be a viability test for candidates to receive matching public funds.

This year that viability threshold amounts to \$430,000 raised and spent, or committed to be spent, by the last day for filing petitions to run for governor, or April 3rd.

Four candidates, Democrats Jim Johnson and Assemblyman John Wisniewski along with Republicans Lt. Governor Kim Guadagno and Assemblyman Jack Ciattarelli, have qualified for public funds in the primary election.

In its wisdom, the Legislature also imposed a contribution limit, this year at \$4,300 on donations to the candidates and a public funds cap \$4 million in the primary and \$9.3 million in the general election.

The 1974 statute also imposes an expenditure limit on spending by participating candidates, this year amounting to \$6.4 million in the primary and \$13.8 million in the general election.

In addition, the Legislature mandated that publicly-funded candidates must participate in two public financing debates in the primary and two in the general election, otherwise the candidate would forfeit his or her funding and be required to payback any funds already spent.

Further, the law allows non-participating candidates who nevertheless meet the threshold amounts and declare their intention by April 3rd to participate in the debates to do so.

Since its inception in the general election of 1977, which was then extended to primary elections in 1981, the New Jersey Election Law Enforcement Commission has administered the program.

Overall, a total of \$117,412,518 million has been provided to 56 candidates since the program began in 1977 through the elections of 2013.

Thus, over ten gubernatorial election cycles an average of only \$11.7 million has been spent providing qualified candidates with the means to run meaningful campaigns for governor.

To provide these qualified individuals with the means to run for governor not only assured that the public was offered qualified individuals for the state's highest office but that the election and the incoming governor would be free of even the appearance, let alone the actuality, of corruption.

During these times of super PAC dominance and relative distrust and cynicism toward politics in general, the importance of the Gubernatorial Public Financing Program cannot be overestimated.

New Website Rollout

A modern, more streamlined website with powerful new tools for accessing and interpreting campaign finance and lobbying information was unveiled Thursday, May 25th by the New Jersey Election Law Enforcement Commission (ELEC).

Jeff Brindle, ELEC's Executive Director, said the website (www.elec.nj.gov) is a major advance over a previous one that first went active in 1997.

"ELEC is among the best campaign finance disclosure agencies in the United States. Our recent computer upgrades will keep the agency in the national vanguard for many years," he said.

"We think the new website offers many advantages," said Brindle. "The home page is simpler and makes it easier to find a topic. The site offers significant new search tools. And it allows for more convenient viewing on laptops, tablets and smart phones."

In addition, the agency soon will be using the site to permit all candidates and political fundraising committees to submit their forms online.

Some of the key new features:

- A cleaner, less text-heavy home page that enables quick access to most sections of the website.

- For the first time, users will be able to search a database of candidate expenses as well as contributions. Right now, only information about gubernatorial candidates can be searched. Queries will give a summary of expenses and allow users to “drill down” into the details. The site will include expenses reported by all candidates once electronic filing is mandatory.
- The ability to search for candidate reports by clicking on maps that display legislative districts or counties.
- Users who query the master database of candidate contributions will now see summaries such as top five contributors, top five contributors by firm, and top five contributors by occupations.
- Website visitors can also do sophisticated queries on information contained in quarterly lobbying reports. For instance, a user can enter a bill number and see what lobbyists are actively working to support or defeat the bill.
- The website follows new technical standards that enable it to automatically reorient itself if someone is viewing it on a laptop, tablet or smartphone.
- Within the next six months to a year, all campaign finance filers, including candidates, political parties and political action committees, will be able to file their reports online.

Brindle said the improvements to the website and its underlying computer hardware and software were made possible because of a special \$2 million appropriation in the fiscal year 2014-2015 state budget.

“ELEC won an award as the state’s best website in 2010. It is even better now with our latest upgrades,” he said.

Prior to receiving the special appropriation, the agency already had made many of its legacy documents available online, including all minutes, advisory opinions, press releases, and annual reports. Viewers can now conveniently search for reports filed by independent special interest groups that are becoming a major part of campaigns in New Jersey.

In addition, ELEC now provides electronic access to lobbyist annual and quarterly reports, and is one of the few agencies in the nation that enables the public to search contributions to local officials. Thousands of disclosure reports filed by public contractors since 2006 are available online along with spreadsheets containing information from those reports.

Brindle said the sweeping revamp of ELEC’s website wouldn’t have been possible without the hard work of the information technology staff. “I especially want to salute the efforts of IT Director Anthony Giancarli, former Director Carol Neiman, and Principal Webmaster Marianne Garcia,” he said.

Legislators from both parties supported the appropriation, as did Governor Chris Christie, who included it in his budget, said Brindle. “ELEC greatly appreciates the support in these tough budget times.”

Along with Governor Christie, Brindle thanked former state Treasurer Andrew Sidamon-Eristoff and Jennifer Duffy, former Treasury Department Chief of Staff; Senate President Stephen Sweeney, Senate Majority Leader Loretta Weinberg, Senate Minority Leader Tom Kean, and Senators Paul Sarlo, Sam Thompson, Anthony Bucco, Joseph Pennacchio and James Whelan; Assembly Speaker Vincent Prieto, Assembly Minority Leader Jon Bramnick, and Assembly members Gary Schaer and John McKeon.

People with questions about using the new website can contact ELEC’s help desk at 609-292-8700 or toll-free within New Jersey at 1-888-313-ELEC (3532).

Gubernatorial Candidates Primary Election Reports

Direct spending by gubernatorial candidates so far has reached nearly \$28 million for the 2017 primary elections, according to the most recent reports filed with the New Jersey Election Law Enforcement Commission (ELEC).

Murphy and Guadagno also dominated fundraising during the latest reporting period (May 6 through May 23). The primary election is June 6, 2017.

Jeff Brindle, ELEC’s Executive Director, said this year’s primary campaign could prove to be one of the most expensive in history.

“Adjusting for inflation, only the 2005, 2001, 1989 and 1981 gubernatorial primaries cost more,” said Brindle.

He said the 2001 campaign, the first to include major independent spending, cost \$41.2 million on an inflation adjusted basis. The 1981 primary campaign, which was nearly all spending by candidates, would have cost \$39.7 million in today’s dollars, he said.

Independent committees include several that were formed by or affiliated with prospective candidates before the official start of the primary campaign.

**TABLE 1
PRIMARY CAMPAIGN FINANCE ACTIVITY OF GUBERNATORIAL CANDIDATES THROUGH MAY 23, 2017 (RANKED BY SPENDING)**

CANDIDATE	PARTY	LATEST RAISED	LATEST SPENT*	RAISED-TO-DATE	SPENT-TO-DATE	CASH-ON-HAND
Murphy, Phil	D	\$ 1,911,841	\$ 1,703,691	\$21,167,146	\$20,100,357	\$1,067,089
Guadagno, Kimberly	R	\$ 661,757	\$ 1,308,500	\$ 2,891,545	\$ 2,024,345	\$ 867,201
Johnson, James	D	\$ 288,239	\$ 98,503	\$ 2,611,748	\$ 1,825,112	\$ 786,636
Wisniewski, John	D	\$ 308,702	\$ 296,823	\$ 1,667,212	\$ 1,558,394	\$ 108,912
Ciattarelli, Jack	R	\$ 276,588	\$ 573,676	\$ 1,562,149	\$ 1,398,186	\$ 163,963
Singh, Hirsh	R	\$ 25	\$ 327,192	\$ 1,005,912	\$ 614,714	\$ 391,198
Lesniak, Ray	D	\$ 2,207	\$ 158,542	\$ 536,441	\$ 423,149	\$ 113,292
Zinna, Mark†	D	\$ 500	\$ 4,995	\$ 30,330	\$ 29,385	\$ 946
Rogers, Steven	R	\$ 4,104	\$ 526	\$ 24,727	\$ 20,140	\$ 4,587
Rullo, Joseph	R	\$ 599	\$ 493	\$ 11,931	\$ 11,353	\$ 578
Brennan, Bill	D	\$ 2,202	\$ 1401	\$ 17,327	\$ 4,736	\$ 12,592
TOTAL- PRIMARY CANDIDATES†		\$3,456,764	\$4,4674,342	\$31,526,468	\$28,009,871	\$3,516,994

*Spending may exceed fundraising because candidate also used reserves or loans.

Reports due 11 days before the election indicate Democratic candidate Phil Murphy remains dominant in his fundraising. He has raised \$21.2 million and spent \$20.1 million. Murphy also reported the largest cash reserve- \$1.1 million.

“But this year’s campaign isn’t over. And the total spent by candidates doesn’t include another \$8.8 million spent separately by independent committees that have worked to support one gubernatorial candidate or another.”

Lt. Governor Kimberly Guadagno led all Republicans after raising \$2.9 million and spending \$2 million through May 23. She also has \$867,201 set aside for the campaign’s final days.

“If you combine candidate and independent spending, this year’s primary already has cost nearly \$37 million. That tops all but two previous gubernatorial primary campaigns,” said Brindle.

**TABLE 2
SPENDING BY INDEPENDENT COMMITTEES
RELATED TO GUBERNATORIAL CAMPAIGN**

FORMED BY, AFFILIATED WITH OR SUPPORTS	INDEPENDENT COMMITTEES	RAISED	SPENT
Murphy, Phil	New Way For New Jersey	\$ 3,911,842	\$ 3,810,811
Sweeney, Stephen*	New Jerseyans For A Better Tomorrow	\$ 2,367,965	\$ 1,301,503
Murphy, Phil	New Start NJ	\$ 1,300,000	\$ 1,290,688
Fulop, Steve*	Coalition For Progress	\$ 4,278,456	\$ 1,037,268
Lesniak, Ray	Committee For Economic Growth And Social Justice	\$ 683,661	\$ 683,581
Guadagno, Kimberly	Building A Better New Jersey Together	\$ 405,455	\$ 352,952
Lesniak, Ray	Run Ray Run	\$ 164,815	\$ 148,164
Murphy, Phil	NJ League of Conservation Voters Victory Fund	\$ 140,000	\$ 124,553
Johnson, James	NJ Prepared To Vote	\$ 54,460	\$ 51,181
Democrats	Our New Jersey (Democratic Governors Association)**	\$ 0	\$ 0
	Total- Independent Committees	\$13,306,654	\$ 8,800,701
	Total- Primary Candidates	\$31,525,968	\$28,004,876
	Total- Gubernatorial Campaign	\$44,832,622	\$36,805,577

Information in this press release was based on reports filed by noon on May 30, 2017. Reports filed by gubernatorial candidates are available online 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).

*Not a candidate.

**Has registered for gubernatorial election.

Lobbying Reporting Dates

INCLUSION DATES		ELEC DUE DATE
Lobbying Quarterly Filing		
1st Quarter	1/1/17 – 3/31/17	4/10/17
2nd Quarter	4/1/17 – 6/30/17	7/10/17
3rd Quarter	7/1/17 – 9/30/17	10/10/17
4th Quarter	10/1/17 – 12/31/17	1/10/18

Training Seminars

The seminars listed below will be held at the Offices of the Commission, located at 28 West State St., Trenton, NJ. Since space is limited, you must reserve a seat in order to attend. Please visit ELEC’s website at <http://www.elec.state.nj.us> for more information on training seminar registration.

TREASURER TRAINING FOR CANDIDATES AND COMMITTEES	
Wednesday, September 13 th	10:00 a.m.
Tuesday, October 3 rd	10:00 a.m.
TREASURER TRAINING FOR POLITICAL COMMITTEES AND PACS	
Wednesday, June 21 st	10:00 a.m.
Tuesday, September 26 th	10:00 a.m.
Tuesday, December 12 th	10:00 a.m.
R-1 ELECTRONIC FILING SOFTWARE (REFS) TRAINING	
Wednesday, July 26 th	10:00 a.m.
Tuesday, September 19 th	10:00 a.m.
Wednesday, October 4 th	10:00 a.m.

Reporting Dates

ELECTION	48-HOUR START DATE	INCLUSION DATES	REPORT DUE DATE
FIRE COMMISSIONER -2/18/2017	2/5/2017- through 2/18/2017		
29-day Preelection Reporting Date		Inception of campaign* - 1/17/17	1/20/2017
11-day Preelection Reporting Date		1/18/17 - 2/4/17	2/7/2017
20-day Postelection Reporting Date		2/5/17 - 3/7/17	3/10/2017
APRIL SCHOOL BOARD- 4/25/2017	4/12/2017 through 4/25/2017		
29-day Preelection Reporting Date		Inception of campaign* - 3/24/17	3/27/2017
11-day Preelection Reporting Date		3/25/17 - 4/11/17	4/17/2017
20-day Postelection Reporting Date		4/12/17 - 5/12/17	5/15/2017
MAY MUNICIPAL – 5/9/2017	4/26/2017 through 5/9/2017		
29-day Preelection Reporting Date		Inception of campaign* - 4/7/17	4/10/2017
11-day Preelection Reporting Date		4/8/17 - 4/25/17	4/28/2017
20-day Postelection Reporting Date		4/26/17 - 5/26/17	5/30/2017
RUNOFF (JUNE)**- 6/13/2017	5/31/2017 through 6/13/2017		
29-day Preelection Reporting Date		No Report Required for this Period	
11-day Preelection Reporting Date		4/26/17 - 5/30/17	6/2/2017
20-day Postelection Reporting Date		5/31/17 - 6/30/17	7/3/2017
PRIMARY (90 DAY START DATE: 3/8/2017)***	5/24/2017 through 6/6/2017		
29-day Preelection Reporting Date		Inception of campaign* - 5/5/17	5/8/2017
11-day Preelection Reporting Date		5/6/17 - 5/23/17	5/26/2017
20-day Postelection Reporting Date		5/24/17 - 6/23/17	6/26/2017
GENERAL (90 DAY START DATE: 8/9/2017)***	10/25/2017 through 11/7/2017		
29-day Preelection Reporting Date		6/24/17 - 10/6/17	10/10/2017
11-day Preelection Reporting Date		10/7/17 - 10/24/17	10/27/2017
20-day Postelection Reporting Date		10/25/17 - 11/24/17	11/27/2017
RUNOFF (DECEMBER)**- 12/5/2017	11/22/2017 through 12/5/2017		
29-day Preelection Reporting Date		No Report Required for this Period	
11-day Preelection Reporting Date		10/25/17 - 11/21/17	11/24/2017
20-day Postelection Reporting Date		11/22/17 - 12/22/17	12/26/2017
PACs, PCFRs & CAMPAIGN QUARTERLY FILERS			
1st Quarter		1/1/17 - 3/31/17	4/17/2017
2nd Quarter		4/1/17 - 6/30/17	7/17/2017
3rd Quarter		7/1/17 - 9/30/17	10/16/2017
4th Quarter		10/1/17 - 12/31/17	1/16/2018

* Inception Date of Campaign (first time filers) or from January 1, 2017 (Quarterly filers).

** A candidate committee or joint candidates' committee that is filing in a 2017 Runoff election is not required to file a 20-day postelection report for the corresponding prior election (May Municipal or General).

*** Form PFD-1 is due on April 13, 2017 for Primary Election Candidates and June 16, 2017 for Independent General Election Candidates.

Note: A fourth quarter 2016 filing is needed for Primary 2017 candidates if they started their campaign prior to December 8, 2016. A second quarter 2017 filing is needed by Independent/Non-Partisan General Election candidates if they started their campaign prior to May 10, 2017.

HOW TO CONTACT ELEC

www.elec.state.nj.us

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