



ELEC *tronic*

An Election Law Enforcement Commission Newsletter

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Comments from the Chairman

Ronald DeFilippis

Now that the presidential campaign is over, New Jersey residents should brace themselves for the next campaign: The contest for governor.

New Jersey is one of only two states that will hold an election for governor next year. Virginia is the other.

Therefore, the campaign will not only draw attention from voters and the media in the State but from the media nationwide as well.

New Jersey has been known for its model Gubernatorial Public Financing Program, which in the coming year will be more important than ever. This is due to the anticipated participation of outside, independent groups in our gubernatorial election contest.

Candidates qualifying and participating in the program will receive two public dollars for every private dollar raised.

But there is a string attached. In order to receive public funds, candidates must participate in two debates. Their lieutenant governor running mates must participate in one debate.

So, in anticipation of substantial interest by organizations hoping to sponsor the debates, this column will be dedicated to providing a general outline of the procedures for applying to become a sponsor of the debates.

To sponsor one or more of the debates, an organization must meet the following criteria:

1. The organization must not be affiliated with any political party, holder, or candidate for public office;
2. The organization must not have endorsed any candidate for governor and must agree not to do so until the completion of the sponsored debate; and,
3. The organization must have previous experience sponsoring televised debates for statewide office in New Jersey

There are exceptions to guideline number three. Any association of two or more separately owned broadcast outlets or news publications are eligible if they have substantial viewership or readership in New Jersey.

Also eligible is an association of broadcast news or press service correspondents with substantial followership in New Jersey.

With regard to the primary debates, written applications to sponsor a primary election debate must be submitted to the Commission by March 15, 2017.

The written applications must be on a form provided by the Commission.

On the application form, prospective sponsors should provide the following information:

1. The time and date of the debate;
2. Those television, radio, and media outlets committed to providing live coverage of the debates;

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“Furthering the Interest of an Informed Citizenry”

COMMISSIONERS:

Ronald DeFilippis, Chairman

Edwin R. Matthews, Legal Counsel

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3. The span of coverage, including households and counties;
4. Those media outlets committed to rebroadcasting the debates, including dates and times;
5. Plans for foreign language coverage;
6. The location of the debates, including facilities for handicap accessibility, and seating capacity;
7. Specific plans for promoting the debates;
8. Plans for providing the hearing-impaired the ability to access the debate;
9. Arrangements for a debate moderator; and,
10. Sources of financial support for underwriting the debates.

The Commission is required to select the sponsors for the gubernatorial primary election debates within 30 calendar days of the March 15 deadline for receipt of sponsor applications.

During this gubernatorial year, sponsors will be selected in April 2017.

The preceding is a brief summary of the procedure for becoming a sponsor of the 2017 primary debates. It is by no means an exhaustive list of the responsibilities to be undertaken by debate sponsors.

Potential applicants should consult the Commission's regulations at 19:25-16.39 *et al.* and/or contact the Commission's Special Programs staff at 1-888-313-3532.

Information is also available on the Commission's website at www.elec.state.nj.us.

Executive Director's Thoughts Jeff Brindle

SCALIA INFLUENCED U.S. SUPREME COURT

Reprinted from observer.politickernj.com

How will a Trump presidency impact campaign finance law?

Among the first decisions President-elect Donald J. Trump will make upon assuming office January 20th, will be to nominate someone to fill the U.S. Supreme Court seat left vacant by the death of Justice Antonin Scalia.

Further, the new president may have the opportunity to fill three additional seats on the High Court.

Justice Ruth Bader Ginsburg is 83-years old, Justice Anthony Kennedy is 80 and Justice Stephen Breyer 78.

These justices are not required to leave the bench. The Constitution assures lifetime tenure for good behavior. But age and disability could conspire to bring about additional openings on the court.

President-elect Trump has released a list of 21 possible choices to fill the late Justice Scalia's seat.

Moreover, the President-elect has repeatedly said that the person he nominates will be in the mold of the late justice.

This means the nominee will be an "originalist," meaning that his or her judicial philosophy would be sympathetic to deciding cases by

interpreting the Constitution according to its original meaning.

If confirmed the new justice, in all probability, would tip the balance on the court to nominally conservative.

In terms of campaign finance law, this means that the Trumpian court will largely resemble a court influenced by the legacy of the late Justice Scalia.

For sure it will be strong in protecting First Amendment free speech and assembly rights.

In terms of the important and controversial case "Citizens United," many have been calling for its reconsideration by the High Tribunal. A newly constituted Trump court will surely reject this effort.

Thus, the only avenue open for eliminating "Citizens United" would be to amend the Constitution. Since this venerable document has only been amended 27 times in our 229-year history, the likelihood of undoing "Citizens United" is slim.

Therefore, corporations and unions will continue to be a source of funding for independent groups like Super PACs, although to this point corporate participation is not as great as feared because these groups are more likely to be supported by wealthy individuals.

In "Citizens United" the Court did, however, rule decidedly for disclosure, as did subsequent lower court decisions in *Speech Now 2010* and *Carey 2011*.

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In fact, the late Justice Antonin Scalia himself favored disclosure. He stated in *Doe v. Reed*: “there are laws against threats and intimidation; and harsh criticism, short of unlawful action, is a price our people have traditionally been willing to pay for self-governance. Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed. For my part, I do not look forward to a society which, thanks to the Supreme Court, campaigns anonymously (McIntyre) and even exercises the direct democracy of initiative and referendum hidden from public scrutiny and protected from the accountability of criticism. This does not resemble the Home of the Brave.”

It is a good bet that under its new configuration, the court will continue to support disclosure.

Changes may be in the wind in other area’s though, in particular with regard to political parties.

Two cases, {perhaps more} that deal with political parties have a chance of being taken up by the U.S. Supreme Court.

In *Republican Party of Louisiana, et al. v. FEC*, a challenge has been mounted for ending the ban on soft money to national parties.

The Louisiana Republican party is questioning the constitutionality of the Federal Election Campaign Act (FECA) provisions that regulate federal campaign finance activity by state and local parties.

While on November 8, 2016, the United States District Court for the District of Columbia ruled in favor of the Federal Election Commission (FEC) in upholding the soft money restrictions, there is a good possibility that the Supreme Court will ultimately be asked to take up the case sometime in the future.

If it grants certiorari the potential for a First Amendment leaning court to find the soft money ban unconstitutional is real.

In another case, *Alabama Democratic Conference (ADC) v. Attorney General, State of Alabama*, the United States Court of Appeals, Eleventh District, upheld Alabama’s ban on transfers of money between political action committees (PACs), including political parties.

If the Supreme Court hears this case on Appeal, the lower court’s ruling may well be overturned.

Rulings favoring political parties would strengthen the party system and serve to offset the growing influence of often anonymous Super PACs.

In New Jersey, it could further embolden supporters of a stronger party system to push for the enactment of legislation that would reinvigorate the parties and offset the overwhelming influence of independent groups in the garden state.

Finally, in recent years there has been an all-out assault on contribution limits. A challenge to contribution limits is likely to be heard by the High Tribunal.

A Scalia influenced court is unlikely to overturn precedent, dating back to *Buckley v. Valeo* in 1976.

Contributions limits, through which the state has a valid anti-corruption interest, are likely to be preserved.

While it’s difficult to have a crystal ball in terms of what a Trumpian court will do, my guess is it will follow the path set forth by the late Justice Antonin Scalia.

It will protect the First Amendment, let stand “Citizens United,” uphold disclosure, find for political parties, and uphold contribution limits. In terms of campaign finance law the policy direction of the U.S. Supreme Court will remain the same as it has been since John Roberts became Chief Justice in 2005.

ELEC Participated at the 101st NJLM Conference in A.C.

On November 15th, 16th and 17th the Compliance Division of the Commission attended the New Jersey League of Municipalities Convention held at the Convention Center in Atlantic City. The event is heavily attended by elected officials and other individuals employed by local public entities. In the past, compliance officers from the Commission attended this event as requested “consultants,” which generally resulted in a handful of regulated individuals attempting to make contact with Commission staff during a very specific designated time and location in the Convention Center. This year, in an effort to reach a

broader population of those regulated the Compliance Division was present during the entirety of the Convention at a booth in the Exhibitor Hall.

The ELEC booth was set up to promote electronic filing of campaign finance reports and to provide regulatory guidance materials. Electronic short forms for candidates and committees are available for filing through the website and the “Report of Contributions and Expenditures” (Form R-1) is available for filing electronically by downloading the R-1 Electronic Filing Software (REFS). Training for the use of the REFS Software is available at the Commission offices. The regulatory guidance materials available, included campaign finance manuals, continuing political committee manuals and bookmarks created by compliance

staff that provide a quick reference of required filings for candidates, committees and business entities. (See brochures in pages 6 and 7).

Additionally, computers were set up by Information Technology staff to access the Commission’s website and database to provide filing information and guidance to individuals that stopped by with questions or that needed assistance. Compliance staff demonstrated use of the Commission’s website to individuals that stopped at the ELEC booth to search for reports, to search contributors and to file electronically.

2017 COMMISSION MEETING SCHEDULE

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	17	July	18
February	21	August	15 (if needed)
March	21	September	19
April	18	October	17
May	16	November	21
June	20	December	19

Calendar 2017

JANUARY Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	FEBRUARY Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	MARCH Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
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Training Seminars

TREASURER TRAINING FOR POLITICAL COMMITTEES AND PACS	
12/14/2016	10:00 a.m.

Lobbying Reporting

INCLUSION DATES		ELEC DUE DATE
Lobbying Quarterly Filing		
4 th Quarter	10/1/2016 to 12/31/2016	1/10/2017

REPORTING DATES

	Inclusion Dates	Report Due Date
General (90 day start date: 8/10/2016)*** - 11/8/2016		
29-day Preelection Reporting Date	6/25/16 - 10/7/16	10/11/2016
11-day Preelection Reporting Date	10/8/16 - 10/25/16	10/28/2016
20-day Postelection Reporting Date	10/26/16 - 11/25/16	11/28/2016
48 Hour Notice Reports Start on 10/26/2016 through 11/08/2016		
Runoff (December)** - 12/6/2016		
29-day Preelection Reporting Date	No Report Required for this Period	
11-day Preelection Reporting Date	10/26/16 - 11/22/16	11/25/2016
20-day Postelection Reporting Date	11/23/16 - 12/23/16	12/27/2016
48 Hour Notice Reports Start on 11/23/2016 through 12/6/2016		
PACs, PCFRs & Campaign Quarterly Filers		
1st Quarter	1/1/16 - 3/31/16	4/15/2016
2nd Quarter	4/1/16 - 6/30/16	7/15/2016
3rd Quarter	7/1/16 - 9/30/16	10/17/2016
4th Quarter	10/1/16 - 12/31/16	1/17/2017

** A candidate committee or joint candidates' committee that is filing in a 2016 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 14, 2016 for Primary Election Candidates and June 17, 2016 for Independent General Election Candidates.

Note: A fourth quarter 2015 filing is needed for Primary 2016 candidates if they started their campaign prior to 12/9/15. A second quarter 2016 filing is needed by Independent/Non-Partisan General Election candidates if they started their campaign prior to 5/11/2016.

HOW TO CONTACT ELEC

www.elec.state.nj.us

In Person: 28 W. State Street, Trenton, NJ
 By Mail: P.O. Box 185, Trenton, NJ 08625
 By Telephone: (609) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)

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Public Information

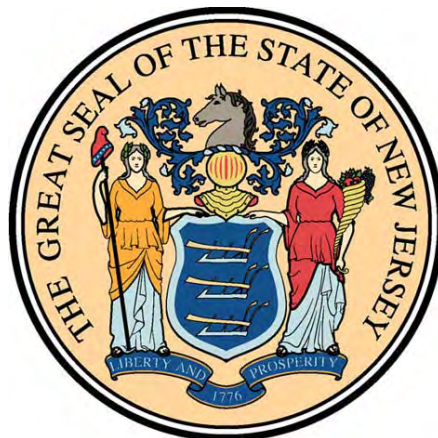
Disclosure of reports filed with the Commission is of paramount importance to the administration and enforcement of the laws and regulations related to campaign finance, lobbying and pay-to-play. Therefore, reports filed by the regulated community are public information and are available on our website.

Reports accessible online include:

- Candidate Committees
- Continuing Political Committees
- Annual and Quarterly Lobbying
- Business Entity Disclosure
- Professional Campaign Fundraiser

Other online information includes:

- Complaints and Final Decisions
- Analytical Reports and Statistics
- Contributor Searches
- Lobbying Legislative Activity Search
- Annual Financial Lobbying Data
- Press Releases and Advisories



Contact Information:

1-888-313-ELEC (toll free in NJ)
(609) 292-8700

In Person:

28 W. State Street
13th Floor
Trenton, NJ 08608

USPS Mailing Address:

NJ Election Law Enforcement Commission
Attn: Compliance Division
P.O. Box 185
Trenton, NJ 08625-0185

Visit our website at:

www.elec.nj.gov
for additional information



***Established in 1973,
ELEC monitors,
administers and
enforces matters
related to:***

Campaign Finance

Lobbying

Pay-To-Play

***Gubernatorial Public
Financing***

***Professional Campaign
Fundraising***

November 2016

Are You Running For Office?

Candidates for all elected public offices in the State of New Jersey must file reports of their campaign financial activity. Individuals who engage in “pre-candidacy” activity, commonly known

as “testing the waters,” are defined by law as candidates. Candidates for federal office or persons running for political party positions (county committee member, state committee member, or delegates to national party conventions) are **not** required to file reports with the Commission.

Additionally, ELEC has jurisdiction over reporting by Political Party Committees, Continuing Political Committees, Political Committees, Governmental Affairs Agents (Lobbyists) and Professional Campaign Fundraisers (PCFRs).

Reporting Dates

Candidates in a current election file reports 29 and 11 days before the election and 20 days after the election. Candidates required to file reports before and/or after those times, file quarterly reports. Those reports are filed on:

- April 15 (January 1 → March 31)
- July 15 (April 1 → June 30)
- October 15 (July 1 → September 30)
- January 15 (October 1 → December 31)

If the due date falls on a weekend or holiday, the due date becomes the next business day.



Electronic Filing

ELEC has developed electronic filing programs to provide an efficient means for candidates and committees to file reports. Short forms for candidates and committees are available for filing through the website. The “Report of Contributions and Expenditures” (Form R-1) is available for filing by downloading the R-1 Electronic Filing Software (REFS).

In order to sign electronic reports, each individual must obtain a Registration Number and PIN.

Obtaining a Registration Number and PIN

- Complete the application found on our website
- Submit via fax or mail
- You will receive a Registration Number and PIN via email and regular mail

Who is required to file electronically?

- Gubernatorial candidates (GEFS)
- Legislative candidates who expect to raise or spend in excess of \$100,000
- Governmental Affairs Agents
- Represented Entities
- Grassroots Lobbyists

Compliance Assistance

The Compliance staff of the Commission is accessible for questions and assistance over the phone and in-person at the Commission offices. Compliance Officers’ answer the phones, Monday through Friday, from 9:00 a.m. to 5:00 p.m. and can answer any compliance related question within the jurisdiction of the Commission. Additionally, Compliance staff assists the regulated community and the public in-person, Monday through Friday, 9:15 a.m. to 4:45 p.m.

Resources and Training

Commission regulations and informational manuals that cover all matters within the jurisdiction of the Commission are accessible online and by request.

Training is available online and in-person at the Commission’s offices. Treasurer training is mandatory for treasurers of certain candidate and political party committees. Interactive online training is available through the Commission’s website and satisfies the mandatory training requirements. Otherwise, training sessions are periodically scheduled and can be reserved for attendance through the website. Mandatory training is required for the following candidates/committees:

- Senate and Assembly (spending > \$100,000)
- Legislative Leadership Committees
- State Political Party Committees
- Gubernatorial – Treasurer Training and Electronic Filing (Gubernatorial Electronic Filing Software (GEFS))

(All gubernatorial training is scheduled by appointment.)

Training is optional for treasurers of local candidates and committees, county and local political party committees and continuing political committees. In addition to treasurer training for candidate committees and continuing political committees, Compliance staff provides the following training seminars:

- REFS (R-1 Electronic Filing Software)
- Annual Lobbying – Electronic Filing
- Quarterly Lobbying - Electronic Filing
- Pay-to-Play (Business Entity Disclosure)