

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

MARCH 8, 1982

PRESENT

Andrew C. Axtell, Member
M. Robert DeCotiis, Member
Haydn Proctor, Member
Alexander P. Waugh, Jr., Member
Scott A. Weiner, Executive Director
William R. Schmidt, Assistant Executive Director
Gregory E. Nagy, Staff Counsel
Michele Hoffman, Assistant Staff Counsel
Edward J. Farrell, General Counsel
Judge Sidney Goldmann, Former Member

Acting Chairman Axtell called the meeting to order and announced that pursuant to the Open Public Meetings Law, P.L. 1975, c.231, annual notice of the meetings of the Commission, as amended, has been filed with the Secretary of State's office, and that copies have been filed in the State House Annex, and mailed to the Newark Star Ledger, and the entire State House press corps.

The meeting convened at 10:00 a.m. at the Commission's offices.

1. Approval of Minutes of Public Session of Commission Meeting of February 22, 1982

The Commission reviewed the minutes and on the motion of Commissioner Waugh, seconded by Commissioner Proctor and a vote of 3-0, the Commission approved the minutes of the public session of the above-cited meeting. Commissioner DeCotiis did not vote because he was absent from the February 22, 1982 meeting.

2. Election of a Vice-Chairman

On a motion by Commissioner Proctor, seconded by Commissioner Waugh and a vote of 3-0 (with Commissioner DeCotiis abstaining) the Commission elected M. Robert DeCotiis as Vice-Chairman.

3. Discussion Concerning Public Financing

The Commission discussed Issue No. 8 "Repayment of Public Funds When Candidate Fails to Receive 5% of Party's Vote", a six page "Issue Paper" previously distributed to the Commission. During the discussion, the repayment proposal was characterized as "rolling dice". The Executive Director pointed out that the screening devices of the contribution threshold and petition signatures could serve the purpose of determining if a candidate serious. Acting Chairman Axtell noted that some of the candidates in the 1981 primary were not serious candidates.

Commissioner DeCotiis noted that probably most, if not all, of the candidates who entered the primary and took public funds were expecting "lightening to strike" and were expecting to find themselves a winner. Executive Director Weiner raised the rhetorical question whether the state benefitted from the participation in the primary by those candidates who were able to run only because of the availability of public financing. Acting Chairman Axtell noted from his own experience in politics that even when candidates raise and discuss issues, the electorate tends to have limited knowledge of the issues or the relationship between specific candidates and specific issues.

Discussion ensued on the idea of requiring a candidate seeking public funds to secure a specific percentage of his or her funds from each county. There was also a discussion of the federal system, applied to presidential candidate John Anderson, whereby Mr. Anderson and his Unity Party received federal public funds after the election based on his performance in the 1980 presidential election.

Commissioner Waugh discussed the idea of having candidates pay back some but not all of the money, which is the idea proposed by Gina Glantz. Her proposal defines \$100,000 of public funds as a threshold of "viability" and if a candidate subsequently receives less than 5% of the vote, that candidate would have to return any public funds in excess of \$100,000.

Executive Director Weiner said that this "Issue Paper" will be reviewed again by staff and with former Chairman Goldmann and then it will be printed and distributed to the mailing list which includes legislative leadership, former candidates and their treasurers, the editorial boards of the press in New Jersey, and other interested parties, e.g. Common Cause, League of Women Voters, and Eagleton.

4. Public Hearing

The Executive Director reviewed the public hearing process. He said that the first seven "Issue Papers" had been distributed to mailing lists of approximately 200 individuals and organizations. Furthermore, all of those on the mailing list have received notices of the hearings and have been invited to attend and testify or to submit their comments and observations in writing. He said that the hearing in Hackensack on Friday, March 12, would be recorded and a transcript would be prepared. He noted that to date only four individuals had signed up for the Atlantic City hearing scheduled for Friday, March 26, and thus that hearing may be called off because of lack of witnesses.

The Executive Director reported that he and Assistant Executive Director Schmidt met with three representatives of the Democratic State Committee to discuss the issue of funding political parties. He further reported that a mailing would go out to all county political party chairmen of an Issue paper on the impact of public financing on the county political parties. He said he may recommend the Commission schedule a separate public hearing on this issue.

5. Schedule of Commission Meetings

On a motion by Commissioner Proctor, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission voted to change its March 22, 1982 meeting to March 29, 1982.

6. Advisory Opinion No. 06-1982

The Commission reviewed a draft advisory opinion prepared in response to a request from Dean A. Kant, Esq. who asked whether a company that engages in the business of influencing legislation and receives fees from lobbyists for services related to their lobbying activity must file an annual report if the company did not engage in "direct, express and intentional communication..." during the reporting year.

Commissioner Waugh suggested an amendment on the first page, second paragraph next to the last line by adding the words "or the Governor or his staff" after the word "legislators".

On a motion by Commissioner Proctor, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission approved the draft advisory opinion, as amended, for release.

7. Advisory Opinion 07-1982

The Commission reviewed a draft advisory opinion prepared in response to a request from Louis David Balk, Esq. who asked whether the Lawyers' Committee on Workers' Compensation is required to file an annual report of lobbying activity.

The Commission held a lengthy discussion on the facts and issues raised by this advisory opinion request. The Commission decided that the newsletter described in the advisory opinion request was not a reportable activity. The Commission noted that the paid legislative agent who lobbied on behalf of a workers' compensation bill did so during calendar year 1979 and, again, the cost was not reportable. It was noted that the letter inferred but was not explicit that there was not a paid legislative agent during calendar year 1980.

Commissioner Waugh suggested that the advisory opinion include an observation about the necessity of the committee to report campaign contributions under the election law.

On a motion by Commissioner Proctor, seconded by Commissioner Waugh and a vote of 4-0, the Commission approved the draft advisory opinion, as amended to include an observation about reporting campaign contributions.

8. Advisory Opinion No. 04-1982

At its February 22, 1982 meeting, the Commission directed the staff to secure more facts on the issues raised in an advisory opinion request from Joseph W. Katz, president, The Joseph W. Katz Company. The Commission reviewed a February 23, 1982 letter prepared by Staff Counsel and addressed to Mr. Katz and Mr. Katz's March 2, 1982 response. The Commission then reviewed the draft of the advisory opinion, as revised in light of the response from Mr. Katz.

On a motion by Commissioner Waugh, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission authorized the release of the advisory opinion as revised.

9. Pending Legislation

Executive Director Weiner reported that a bill to repeal the requirement for the printing of general election gubernatorial candidates' 500 word statements has been introduced. The Executive Director noted that the Commission played an expeditor role in 1977 of securing the statements from the candidates, having the statements translated into Spanish and typeset and distributing the typeset copies to the county clerks so that the statements could be printed and distributed with the sample ballots. After the 1977 experience, the Commission, in its report of the 1977 gubernatorial general election, recommended that the requirement for the statements be retained but that the cost be assumed by the state. He said that in 1980 the law was so amended. During the 1981 legislature, a bill to repeal the requirement for the gubernatorial candidates' statement was passed in the Senate by a vote of 34-0. The bill was to have been considered by the Assembly, but when the Assembly did not reconvene, the bill was not considered. Therefore, the statements were required for the 1981 general election. The Commission again played the expeditor role by securing the statements and having them translated and typeset and distributed to the county clerks. The Executive Director noted that to date we have received claims from 16 of the 21 counties for a total of approximately \$85,000. He said he expects the cost, when the remaining 5 counties submit their claims, to reach \$125,000. He said an opinion of the Attorney General has been requested by the Budget Bureau as to

whether the Election Law Enforcement Commission can pay for the cost of printing and mailing the statements out of the Gubernatorial Election Fund. The Commission agreed not to take any position on the bill to repeal the requirement for the 500 word statement at this time but to consider commenting on the issues as part of its report concerning public financing.

The Executive Director next reported on the surplus campaign funds bill for which the Commission's staff is providing drafting assistance to Senator Perskie who wishes to introduce the bill into the Legislature. Mr. Weiner said that the Office of Legislative Services is doing additional drafting and at the request of the sponsor has added more provisions, one of which requires the reporting by legislators of all funds received to run legislative offices. Mr. Weiner noted that this new provision has not been reviewed by the Commission. With the addition of this new provision, Mr. Weiner said that he had spoken to the staff of Legislative Services who advised that Senator Perskie agreed that the sponsor's statement on the bill would reflect the fact that the Commission had expressed its approval only of the regulation of surplus campaign funds and had expressed no position on the new provisions added to the bill. Mr. Weiner said a final draft of the bill is being prepared by the Office of Legislative Services. Mr. Weiner said that the ELEC staff is continuing to respond to technical questions on the proposed bill that have come from Senator Perskie and from the staff of the Office of Legislative Services.

The Executive Director next reported on S-911, the bill introduced by Senator Perskie to limit contributions to legislative candidates. Mr. Weiner reported that he had spoken with Senator Perskie and met with the Senator on Wednesday, February 24 to discuss some of the problems the bill, as presently written, might create, for example it would require the state political party committees to set up 120 separate campaign accounts. Mr. Weiner said that the Senator understood that the Commission and its staff were not endorsing or supporting the bill and might even oppose it. Mr. Weiner also reported that he and the General Legal Counsel, Assistant Executive Director, the Staff Counsel and the Director of Compliance and Review had reviewed the bill as now drafted to discuss how the contribution limits could be enforced and reported and the possible impact the bill would have on the reporting by and behavior of candidate campaign committees and political party campaign committees. The Commission expressed its desire that the Executive Director continue to work with Senator Perskie, on a technical assistance basis. In addition, the Commission requested that Senator Perskie be urged to reconsider the amount of the limit.

10. Executive Director's Report

The Executive Director reported that Ms. Schultz, Director of Compliance and Review, had attended a training session for treasurers and financial officials held by the Accountants for the Public

Interest at Rutgers University on Saturday, March 6. He reported that 20 to 30 individuals attended the training session. He also reported that he and Staff Counsel Nagy had attended a seminar on administrative law held by the New Jersey State Bar. Approximately 150 to 200 regulatory officials attended to discuss problems and concerns. He noted that close to 40 administrative law judges also attended.

He next reported on his own attendance at the meeting held on March 2 and 3 in Atlantic City by The Society for Environmental and Economic Development. He said that he had participated in a seminar on PAC's. He noted that there is a need for the Commission and its staff to look at and possibly revise the PAC regulations.

On that point, the Executive Director said that the staff is beginning a program to review the regulations and laws as a beginning step in revising the regulations and recommending changes in the laws the Commission enforces and administers.

Concerning the public financing report, Mr. Weiner said that Herb Alexander is interested in assisting the staff and the Commission. The Executive Director proposed that Mr. Alexander be retained for consultation including two days of consultation in New Jersey in May, one day to meet with the staff and one day to meet with the Commission at a fee of \$200 per day plus expenses, not to exceed \$1,000. Following discussion of this recommendation, on a motion by Commissioner DeCotiis, seconded by Commissioner Waugh and a vote of 4-0, the Commission authorized the Executive Director to enter into such an agreement with Mr. Alexander.

At this point, former Chairman Goldmann left the Commission meeting.

11. Executive Session

On a motion by Commissioner Proctor, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission voted to resolve to go into executive session to review the executive session minutes of February 22, 1982 and to discuss investigations and enforcement actions, results of which will be made public at their conclusion.

12. Adjournment - On a motion by Commissioner Waugh, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission voted to adjourn.

Respectfully submitted,



SCOTT A. WEINER
Executive Director