

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

SEPTEMBER 19, 1984

PRESENT

Alexander P. Waugh, Jr., Vice Chairman
Haydn Proctor, Member
Frederick M. Herrmann, Executive Director
William R. Schmidt, Asst. Executive Director
Gregory E. Nagy, Staff Counsel
Edward J. Farrell, General Legal Counsel

ABSENT

Andrew C. Axtell,
Chairman

Vice Chairman Waugh called the meeting to order and announced that pursuant to the Open Public Meetings Law, P.L. 1975, c.231, special notice of the meeting of the Commission had been filed with the Secretary of State's office and distributed to the entire State House press corps.

The meeting convened at 10:20 a.m. at the offices of the Commission, 28 West State Street, Trenton, New Jersey.

1. Approval of Minutes of Public Session of September 4, 1984

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 2-0, the Commission approved the public session minutes of September 4, 1984.

2. Personal Financial Disclosure Legislation

The Commission reviewed a one-page September 13, 1984, memorandum from Staff Counsel Nagy, along with a two-page draft letter to Marvin W. Jiggetts of the Office of Legislative Services.

General Legal Counsel Farrell suggested that the Commission should not be taking the lead on this legislation. He noted that the Commission was not involved with the legislation when it was first enacted. It was a legislative decision to require personal financial disclosure by legislative and gubernatorial candidates and to place the administration of the program with the Commission. Vice Chairman Waugh suggested that the Commission disassociate itself from proposing the legislation and instead amend the letter so that the impetus for introducing the legislation would rest with the Joint Legislative Committee on Ethical Standards.

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 2-0, the Commission approved the draft letter as amended.

3. Adoption of Proposed Regulations

The Commission reviewed a one-page September 14, 1984, memorandum from Staff Counsel Nagy concerning the adoption of proposed regulations having to do with the establishing of bank accounts by political party committees and the filing of reports by national political action committees. The Commission also reviewed a two-page September 14, 1984, letter from Sonya Meyers Davis, an attorney with Monsanto. Ms. Davis raised two points. First, she expressed an objection to the requirement that national PAC's qualifying as peripheral continuing political committees must report receipts from New Jersey contributors in excess of \$100. In her judgment, the proposed requirement is unnecessary and would impose an administrative burden on many national PAC's whose records may not be organized to report contributors by their state of residence. Her second point concerned the 48-hour notice requirement imposed on national PAC's that report on a campaign cycle rather than reporting on a quarterly cycle. She noted that the 48-hour report requirement may prove to be a serious burden for many federal PAC's, in part because many such PAC's receive a number of their contributions through payroll deductions, which are made at the end of the month.

General Legal Counsel Farrell noted that the requirement imposed on national PAC's to disclose all New Jersey contributors can be defended legally and constitutionally. Concerning the second point, it was agreed that the staff should do additional analysis and prepare recommendations for the Commission's consideration whether the 48-hour notice requirement should be eased for national PAC's reporting in an election cycle.

Mr. Nagy noted that he had received no comments on the proposed requirement that political party committees establish a second bank account when they are designated as candidate's campaign committees.

Commissioner Proctor noted that he owned twenty-five shares of Monsanto but he expressed his judgment that his ownership of those shares has no effect on his vote on this issue. On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 2-0, the Commission approved the proposed regulations and authorized the Executive Director to file certificates of adoption for the proposed regulations.

Mr. Nagy noted that the certificates and supporting public record have to be filed by September 28 and the regulations will become effective on October 15.

4. Fiscal Year 1986 Budget

The Commission reviewed the memorandum from Executive Director Herrmann and the accompanying documentation setting forth the proposed Commission budget for Fiscal Year 1986. Mr. Herrmann noted that the two principal increases in the proposed budget are for a 50% increase in Commissioner per diem and funds for purchasing equipment and hiring part-time special services staff to carry out a project to microfilm the backlog of previously filed reports. He noted that other proposed increases in specific line items chiefly would bring the Fiscal Year 1986 appropriation level up to our actual costs in 1984 and 1985. He noted

that the funds making it possible to increase these various line items chiefly come from the line item for data processing, the total costs of which will go down now that the Commission has its own computer.

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 2-0, the Commission approved the proposed budget and authorized the Executive Director to submit it to the Office of Management and Budget.

5. Report on the FEC/ELEC Workshop

Executive Director Herrmann reported on the workshop held on Monday, September 10 at the Ramada Inn in Princeton. He said that former ELEC Chairman Frank Reiche had spoken at lunch and that former State Senator William Schluter, former Executive Directors Lew Thurston and Scott Weiner, Director of the Secretary of State's Election Division Christine St. John, and some members of the Legislature attended. He said that representatives from the Federal Election Commission and many of those who attended had expressed their compliments concerning the success and usefulness of the workshop. He noted that enough registrations had been received to cover fully the Commission's out-of-pocket costs for the conference for such items as the hotel rental, food, travel, postage, and printing. Mr. Herrmann presented to the Commissioners and Mr. Farrell the FEC and ELEC folders distributed at the workshop.

6. Pending Legislation: S-1523

Executive Director Herrmann said that S-1523, Senate President Orechio's bill to amend the public financing program, was not posted for the Senate for its next session on Thursday, September 20. He noted he had spoken to various legislative staff. The Commission discussed possible reasons why the Legislature is not acting on S-1523.

Mr. Farrell suggested the staff begin to consider and anticipate the types of problems which will arise because of the expenditure limit. He suggested that the problems will be much more severe in 1985 with the limit at the approximate same level as in 1981. Mr. Schmidt also noted that the four million dollar appropriation will probably prove insufficient if S-1523 is not enacted. However, there is a provision in the law authorizing the Commission to certify a potential or actual short fall of funds and for the Director of Budget and Accounting to authorize expenditures in excess of the appropriation.

7. Council on Governmental Ethics Law Conference

Mr. Herrmann distributed to the Commissioners the proposed program for the conference to be held from Sunday, December 2 through Wednesday, December 5 in Seattle, Washington. He noted that a session being held on Tuesday afternoon will be conducted by New Jersey. The session deals with auditing/verification for campaign finance. He said Juana Schultz will be conducting that session and that the Executive Director from Minnesota has agreed to assist. He said he has approached the Executive Director of the California Commission who has not yet decided if California can participate.

Mr. Herrmann asked if any of the Commissioners plan to attend and, if so, if they would advise him.

8. Pending Legislation

Mr. Herrmann reported that S-669, sponsored by Senator Saxton, is on the Senate's board list for the Senate's September 20, 1984 session. This bill would repeal the requirement that gubernatorial candidates in the general election be permitted to have printed at state expense a 500-word statement on sample ballots. It was noted that in 1977, the Commission supported the continuation of the 500-word statement but that in the Commission's report on the 1981 election, the Commission made no comment. Mr. Schmidt recalled that during the Commission's deliberation on its recommendations for amending the law that the Commission decided not to take a stand on the 500-statement issue.

Mr. Herrmann also distributed a copy of S-2077, sponsored by Senators Codey and Russo, a bill which will be discussed at the Senate State Government Committee meeting. This bill would prohibit any State agency from expending funds to purchase air time for an eighteen-month period prior to a gubernatorial general election in which the advertisement contained the image or voice of any person holding any elected or appointed State office.

9. Appointment of a Fourth Commissioner

The Commission discussed the fact that the Governor has not nominated anyone to fill the vacancy created by the resignation of former Commissioner Robert DeCotiis which was effective March 16, 1984. The Commissioners expressed their concern that the absence of a fourth Commissioner creates serious problems for the Commission in its enforcement responsibilities and that the issues arising from the 1985 gubernatorial election require the attention of a full Commission. Vice Chairman Waugh said that he was preparing a letter to Governor Kean on this issue.

10. Meeting Dates

The Commission decided to hold its next meeting on Wednesday, October 3, possibly in Montclair if it would be convenient for Chairman Axtell. The Commission also decided to hold a meeting on Tuesday, November 20 in conjunction with its public hearing on the proposed changes to the regulations for the gubernatorial primary and gubernatorial general election.

11. Opening the Files After the 29-Day Preelection Filing

The Commission reviewed a two-page September 14, 1984, memorandum from Executive Director Herrmann concerning the issue of increasing from 24 hours to 48 hours the number of hours between the 29-day preelection filing date and the time the Commission makes the reports filed on that date available to the public. The Commission also reviewed a table visually displaying the time frame under the law when the filing date was on a Friday or 25 days before the election and the requirements under the new law and the impact of increasing the number of hours from 24 to 48 hours. It was agreed that in announcing the time when the reports would be made available to the public that the announcement

should simply say "the reports will be available on Thursday," and not point out that the Commission has changed its policy.

12. Resolution to Enter Executive Session

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 2-0, the Commission decided to go into executive session to review the executive session minutes of September 4, 1984, and to discuss investigative, enforcement, and personnel matters, the results of which will be made public at their conclusion.

13. Adjournment

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 2-0, the Commission voted to adjourn.

Respectfully submitted,



FREDERICK M. HERRMANN
Executive Director