



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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WALTER F. TIMPONE
Vice Chairman

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Executive Director

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Deputy Director

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Legal Director

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Compliance Director

PUBLIC SESSION MINUTES

September 20, 2011

Chairman DeFilippis, Vice Chairman Timpone, Commissioner Saunders, and senior staff were present. Director of Review and Investigation Shreve Marshall was also present. Report Review Officer Lovinsky Joseph was present for the purpose of recording the minutes. Commissioner Weiss was absent.

The Public Session Minutes will be available online in the Commission's website at: <http://www.elec.state.nj.us>.

The meeting convened at 11:00 a.m. in Trenton.

1. Open Public Meetings Statement

Chairman DeFilippis called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., adequate 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. It was also posted on the Commission's website.

2. Approval of Public Session Minutes of July 19, 2011

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission approved the Public Session Minutes of July 19, 2011 as amended by Chairman DeFilippis.

3. Executive Director's Report

A. Press Conference

Executive Director Brindle informed the Commissioners that he participated in a press conference the previous week with Comptroller Matthew Boxer concerning pay-to-play regulation.

The Executive Director reported that he discussed the Commission's recommendations to pass a single state-wide law, elimination of the "fair and open" exception, require disclosure of all contracts and contributions at or above \$17,500, and raise contribution limits modestly. He noted the proliferation of PACs being used to circumvent the law.

Executive Director Brindle stated that the event had been successful and had increased awareness of the need for pay-to-play reform and end the confusion created by multiple local statutes.

Commissioner Saunders noted that he had recently read an editorial in the Bergen Record that recommended a rejection of a proposed local pay-to-play ordinance due to the "fair and open" exception noted by Executive Director Brindle.

The Executive Director noted that the Governor's proposal for pay-to-play reform included ending the "fair and open" exception and other actions similar to the Commission's proposals.

Chairman DeFilippis asked if any action had taken place in the Legislature to forward the Commission's recommendations for pay-to-play reform.

Executive Director Brindle stated that Assemblywoman Amy Handlin of Monmouth County has supported such efforts and Assemblyman Wayne DeAngelo had proposed legislation that would mirror the Commission's recommendations. He also reported that Senator Loretta Weinberg of Bergen County has supported such legislation. The Executive Director reported that he did not have information as to a timeframe for the relevant legislation.

Vice Chairman Timpone stated that it was not in the self-interest of the Legislature to advance pay-to-play legislation, noting that economic and employment issues took precedence.

Commissioner Saunders expressed his belief that local officials were afraid of losing extra contributions obtained through the practice of "wheeling."

The Executive Director stated that the "fair and open" exception was the biggest loophole reducing the effectiveness of pay-to-play laws.

Commissioner Saunders noted that lax local pay-to-play ordinances allowed wheeling to continue on a statewide level.

Deputy Director Donohue noted that wheeling was a difficult activity to track across the state.

Executive Director Brindle informed the Commissioners that spinoff local PACs had proliferated in number as they were not subject to pay-to-play laws. He stated that the Commission had prepared a recommendation to increase the minimum number of individuals necessary to form a PAC to 9 in order to ameliorate this problem.

Deputy Director Donohue noted that the recommendation was modeled after a Federal Election Commission regulation.

Chairman DeFilippis noted that he had observed this phenomenon also occur with contractors restricted by pay-to-play regulation.

B. Training Sessions

Executive Director Brindle informed the Commissioners that the Commission had facilitated its most recent campaign and political party training seminar on September 12. He added that training sessions would be reduced for the upcoming filing season, but would pick up again after the election.

The Executive Director further informed the Commissioners that the Commission had held a successful initial pay-to-play seminar on September 16. He noted the efforts of Compliance Director Amy Davis in bringing the pilot program to fruition.

C. Analytical Press Releases

Executive Director Brindle reported that the Commission would issue analytical press releases relevant to the general election in the Legislature following the 29-day preelection report period (October 18), the 11-day preelection report period (November 3), and the 20-day postelection report period (December 5). He anticipated that fundraising would be significantly reduced due to pay-to-play legislation and the underperforming economy.

The Executive Director further reported that the Commission would issue analytical press releases relevant to the “Big Six” state political party and legislative leadership committees on October 19, with a report relevant to the county party committees the following week. He anticipated that fundraising would also be significantly reduced.

Executive Director Brindle informed the Commissioners that data relevant to the 2011 legislative primary election was now accessible online, as well as local contributor database information through the 2010 general election. He recognized the Data Entry staff for its efforts in processing and uploading the information.

D. Cost Analyses Report

The Executive Director informed the Commissioners of progress being made by the Commission in the compilation of the cost analyses report mandated by statute. He stated that the report required the Commission to calculate the increase in campaign costs during a four-year period using a special campaign inflation index.

Executive Director Brindle stated that the inflation rate is used to calculate new contribution limits, noting that adjustment for inflation is automatic for gubernatorial elections. He noted that for non-gubernatorial elections, the report is sent to the Legislature, which may choose to either adopt a new scheme or keep the current limits in place.

The Executive Director informed the Commissioners that the report will be presented to the Commissioners for their consideration in June 2012. He anticipated that the process of compiling the report would begin in the spring.

Chairman DeFilippis asked if the base period for calculating the inflation rate encompassed a full calendar year.

Executive Director Brindle replied that the Commission calculates the inflation rate as indicated by the consumer price index for advertisements. He added that the Commission combined three years of reported income with one estimated year to obtain a final estimate.

E. Lobbying – Electronic Filing

The Executive Director informed the Commissioners that the Commission had made significant progress towards introducing electronic filing for lobbying annual reports. He stated that the introductory website would begin in-house testing on September 26.

F. Fall/Winter Meeting Schedule

- October 18, 2011 at 11:00 a.m. in Trenton;
- November 15, 2011 at 11:00 a.m. in Trenton; and,
- December 20, 2011 at 11:00 a.m. in Trenton.

G. White Paper

Deputy Director Donohue informed the Commissioners of the publication of the latest White Paper, “Trends in Legislative Campaign Financing: Fundraising in the Era of Pay-to-Play Reform, Self-Funders and Recession • 1999-2009.” He noted that this publication was the third volume in a series.

The Deputy Director reported that spending in elections increased considerably, but that most of the increase was in the first half of the decade, with growth decreasing after that time.

Deputy Director Donohue further reported that the 2009 Assembly race was the first in 25 years in which spending was lower than in the previous campaign. He attributed this decrease to the recession and pay-to-play legislation, noting that many contractors have stopped making campaign contributions for fear of breaking the law. The Deputy Director stated that this effect could serve as an argument for simplifying pay-to-play laws.

Deputy Director Donohue informed the Commissioners that financial activity by PACs had increased somewhat, and that more legislators were dependent on PAC contributions with the decline in receipts from individual contributors. He expressed his belief that knowing the intended and unintended consequences of regulations was important in order to inform policymakers.

The Deputy Director reported that the largest expense for candidates was for communications. He noted that candidates were often unclear as to the allocation of campaign funds, but that expenses were now generating more attention with the less favorable fundraising climate.

Deputy Director Donohue stated that the Commission's legislative recommendations may not be moved for some time, but establishing a foundation for their advancement would aid the Commission in the future.

The Deputy Director noted the limitations placed on the Commission due to budget restraints, and anticipated that increased electronic filing would encourage additional efficiency.

Deputy Director Donohue informed the Commissioners of the outstanding example of the Corzine/Forrester gubernatorial contest, which spent extremely large sums of money that in total compromised 2 percent of all legislative candidate spending for the past decade. He noted a mini-trend of candidates self-financing.

The Deputy Director reported that in contests in battleground districts, large in-kind contributions were frequently made by the state party committees to their respective candidates. He further reported that in the 8th District, there were 6 races in which over \$1 million was spent, and that the 1st, 2nd, and 12th Districts were also competitive districts in which heavy spending occurred. Deputy Director Donohue added that the 38th and 36th Districts in Bergen County were occasionally high-spending and competitive.

Chairman DeFilippis praised the detail of the report.

Vice Chairman Timpone also praised the report.

The Chairman asked if any members of the public wished to comment.

4. Resolution to go into Executive Session

On a motion by Commissioner Saunders, seconded by Vice Chairman Timpone and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss anticipated litigation, which will become public as follows:

- A. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public not later than seven business days after mailing to the named respondents.
- B. Investigative Reports of possible violations, which reports will not become public. However, any complaint generated as the result of an Investigative Report will become public not later than seven business days after mailing to the named respondents.

Return to Public Session

5. Adjournment

On a motion by Commissioner Saunders, seconded by Vice Chairman Timpone and passed by a vote of 3-0, the Commission resolved to adjourn at 1:37 p.m.

Respectfully submitted as true
and correct,

Jeffrey M. Brindle
Executive Director

JMB/elz