



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Vice Chairman

AMOS C. SAUNDERS
Commissioner

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Legal Director

AMY F. DAVIS
Compliance Director

ANDREW M. BARON
Legal Counsel

PUBLIC SESSION MINUTES

October 18, 2011

Chairman DeFilippis, Vice Chairman Timpone, Commissioner Saunders, Commissioner Weiss, Legal Counsel Baron, 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.

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 September 20, 2011

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 4-0, the Commission approved the Public Session Minutes of September 20, 2011 as amended by Chairman DeFilippis and Commissioner Saunders.

3. Executive Director's Report

A. Recognition of Legal Counsel Wyse

Executive Director Brindle recognized former Legal Counsel Wyse for his service to the Commission, and read a proclamation from the Commission noting his accomplishments. The Executive Director presented the proclamation to Counsel Wyse and wished him success in his future endeavors.

Counsel Wyse expressed his regret at having to depart, and remarked that he had always enjoyed practicing law at the Commission, citing its dedication, non partisanship and integrity. He thanked the Commission for the opportunity to serve as Legal Counsel for 16 years.

B. Budget

Executive Director Brindle informed the Commissioners on the status of the Commission's budget for Fiscal Year 2013. He reported that preliminary information from the Office of Management and Budget had provided for a satisfactory continuation budget of \$4.254 million.

The Executive Director noted that the figure did not include the approximately \$480,000 allocated for administration of the Public Financing Program or appropriation for gubernatorial candidates, which are separate from the regular budget. He reported that the Commission has requested \$12.9 million for gubernatorial candidates, although Office of Management and Budget (OMB) usually allocates less than the requested amount. Executive Director Brindle informed the Commissioners that the statute allows for the Commission to acquire additional funding for gubernatorial candidates after the initial allocation.

Chairman DeFilippis asked if the \$480,000 allocation for Fiscal Year 2013 was for the primary election.

The Executive Director replied in the affirmative. He added that another \$460,000 plus an appropriation for the ballot statement program would be added in fiscal year 2014.

C. Analytical Press Releases

Executive Director Brindle informed the Commissioners of the analytical press release issued by the Commission on October 18 relevant to Legislative candidates during the 29-day preelection report period. He reported that Legislative candidates had raised \$26 million and spent \$12.8 million, a decline of 7 percent and 10 percent, respectively, compared to 2007. The Executive Director stated that the downward trend was a significant departure from the increase in fundraising and spending that had become customary with successive election cycles.

Executive Director Brindle further reported that Democrats had raised \$18.5 million, twice as much as the \$7.5 million raised by Republicans, and that Democrats had spent \$9.9 million, three times as much as the \$2.8 million spent by Republicans.

The Executive Director stated that one of the most outstanding phenomena noted in the analytical press release was that of incumbents raising 84 percent of funds, a sharp increase from the usual 60/40 split in funding between incumbents and challengers. He suggested that pay-to-play laws may have contributed to this disparity by affecting challengers more than incumbents, which may ultimately reduce the competitiveness of elections.

Vice Chairman Timpone asked why pay-to-play laws would have a greater impact on challengers.

The Executive Director replied that special interests seeking to make the best use of their money would be more likely to contribute money to safer candidates, which favored incumbents.

Chairman DeFilippis noted that only 4 or 5 districts were considered competitive, reflecting the great stability of incumbents, which would be attractive for donors.

Commissioner Saunders further noted that political parties would be reluctant to support weaker challengers.

Vice Chairman Timpone additionally noted the role of redistricting in protecting incumbents.

Executive Director Brindle stated that the Commission would continue to analyze this information.

The Executive Director reported that on October 19, the Commission would issue a press release relevant to the "Big Six" political party and legislative leadership committees.

D. Training Sessions

Executive Director Brindle informed the Commission that new pay-to-play seminars had been well-attended, with approximately 30 individuals present at each session. He stated that the Commission planned additional pay-to-play seminars for the coming year.

The Executive Director reported that the Commission will have representatives present at the forthcoming League of Municipalities convention in order to provide information.

E. Electronic Filing

Executive Director Brindle recognized Associate Compliance Officer Nancy Fitzpatrick and Associate Compliance Officer Titus Kamal for their efforts in promoting electronic filing for candidates and committees. He reported that an additional 450 candidates and committees were now filing electronically, a significant increase.

Chairman DeFilippis asked if the new electronic filers were local only.

Associate Compliance Officer Fitzpatrick replied that reports of candidates for all levels of government were eligible for electronic filing.

The Chairman asked how the Commission was encouraging more electronic filing.

Associate Compliance Officer Fitzpatrick replied that the Commission encourages electronic filing in its training seminars and also provides in-house software training.

Chairman DeFilippis asked how long it would be before the Commission would be able to have mandatory electronic filing and asked if there was anything the Commission could do to help.

Associate Compliance Officer Fitzpatrick stated that she did not have a definitive date for when the Commission would have mandatory electronic filing.

Executive Director Brindle replied that mandatory electronic filing for all filers would require legislation to be enacted. Moreover, the Executive Director mentioned that additional funding would also be helpful.

Chairman DeFilippis expressed his desire for universal electronic filing for all subdivisions in the future, including fire districts.

The Chairman thanked Associate Compliance Officer Fitzpatrick and stated that he would try to obtain additional funding for electronic filing in the future.

F. Morris County Election

Executive Director Brindle thanked Legal Director Carol Hoekje for her work in preparing the motion to intervene in litigation concerning a Morris County primary election. The Legal Director noted that it had been a group effort.

G. Television Interview

The Executive Director informed the Commissioners that he had been interviewed on September 30 by Jim McQueeney for the program "New Jersey Power and Politics" on News 12 concerning trends in campaign finance.

H. Federal Developments

The Executive Director reported that the Federal Election Commission (FEC) has adopted rules to comply with the Supreme Court ruling in Cary v. FEC, which allows for corporations and unions to make unlimited contributions to "super PACs" as long as funds are placed in a separate account and spent on independent ads. He stated that this created a two-tier system in which separate accounts are maintained for hard and soft money.

I. Fall/Winter Meeting Schedule

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

Chairman DeFilippis asked if there were any comments from the public.

4. Resolution to go into Executive Session

On a motion by Commissioner Saunders, seconded by Vice Chairman Timpone and passed by a vote of 4-0, the Commission resolved to go into Executive Session to discuss anticipated litigation, which will become public as follows:

- A. Final Decision Recommendations in complaint 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. A report on requests from the public for investigations of possible violations, which report will not become public in order to protect the identity of informants and maintain the integrity of investigative procedures and priorities. However, any complaint alleging violations, which complaint may be generated as a result of a request for investigation, 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 Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission resolved to adjourn at 12:10 p.m. Commissioner Weiss was absent for this vote.

Respectfully submitted as true
and correct,

Jeffrey M. Brindle
Executive Director

JMB/elz