



State of New Jersey

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Chairman

WALTER F. TIMPONE
Vice Chairman

AMOS C. SAUNDERS
Commissioner

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

October 21, 2014

Chairman DeFilippis, Vice Chairman Timpone, Legal Counsel Matthews, and senior staff were present. Director of Review and Investigation Shreve Marshall and Associate Legal Director Michelle Levy were also present. Special Programs Analyst Scott Fagerty was present for the purpose of recording the minutes. Commissioner Saunders joined the meeting during the Executive Session and participated in public session for the purposes of adjournment.

The Public Session Minutes will be available online on 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. Executive Director Brindle 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 16, 2014**

On a motion by Vice Chairman Timpone, seconded by Chairman DeFilippis, and passed by a vote of 2-0, the Commission approved the Public Session Minutes of September 16, 2014.

3. **Executive Director's Report**

- A. **Big Six** – Executive Director Brindle announced that the 3rd quarterly reports for the "Big Six" committees have been received. The reports show that a total of \$2.4 million has been raised, while expenditures total \$1.9 million.

The Executive Director stated that the Republican State Committee has raised \$1.6 million, which is an increase of 7 percent from the amount reported in the 3rd quarter of 2010. It has spent \$1.1 million, which is a decrease of 22 percent. In contrast, the

Democratic State Committee, on the other hand, has raised \$879,082, which is a decrease of 48 percent from the amount raised in the 3rd quarter of 2010, while it has reported spending \$846,904, which is a decrease of 44 percent from 2010.

- B. Legislation – The Executive Director reported that S-1530 (Weinberg) will be voted on by the Senate on Thursday, October 23, 2014. The bill will require the disclosure of activity by governmental affairs agents hired by governmental agencies.

Executive Director Brindle also reported that S-827 (Beach) is working its way through the Senate. The bill would eliminate the requirement that county clerks include 500-word statements submitted by gubernatorial candidates on the general election ballot. The bill would instead require the statements to be posted on the websites of ELEC, the County Clerks and the Division of Elections. Executive Director Brindle maintained that this bill will save money and enhance the amount of time that the public may review and consider the statements.

Both bills would codify recommendations made by ELEC.

- C. Computer Upgrade – The Executive Director stated that staff is waiting to receive approval from the Division of Archival and Records Management. He added that he is hopeful that the approval will be given by Wednesday, October 22, 2014.
- D. Federal Elections – Executive Director Brindle updated the Commission on the status of a number of federal elections within New Jersey.

In the 3rd District race between Tom MacArthur and Aimee Belgard, a total of \$8 million has been spent, of which \$3 million has come from independent sources. In the 5th District race between Scott Garrett and Roy Cho, an amount of \$2.8 million has been spent. The Executive Director noted that the information was obtained compliments of the Sunlight Foundation.

In all, 24 candidates for the House of Representatives have raised \$24.1 million and have spent \$21.4 million. He added that no information is immediately available for the Senatorial Race between Sen. Cory Booker and challenger Jeff Bell.

- E. Wagner v FEC – Executive Director Brindle informed the Commission that the U.S. Court of Appeals, DC has heard oral arguments in Wagner v. FEC. The case involves a challenge to the FEC's ban on contributions made by federal contractors to federal candidates and committees. The challenge centers on 1st and 5th amendment free speech and equal protection claims. The Executive Director stated that if the Court finds the law to be unconstitutional, it could affect New Jersey's Pay-to-Play rules. He noted, however, that unlike the federal law, New Jersey's Pay-to-Play law does not have an outright ban on contractor contributions.
- F. Training Sessions – Executive Director Brindle announced that staff will conduct training and information sessions on the following dates:

- Pay-to-Play: Friday, November 14, 2014;
- CPC: Wednesday, December 10, 2014;

The Executive Director stated that in addition to the scheduled training and information sessions, staff will maintain a booth at the Annual League of Municipalities Conference on November 18, 2014 in Atlantic City.

G. Future Meetings Schedule

- November 18, 2014 at 11:00 a.m. in Trenton; and,
- December 16, 2014 at 11:00 a.m. in Trenton.

4. Proposed Regulations Concerning Elimination of Requirement to File Copies of Reports with County Clerks

Legal Director Roberts presented the proposed amendments concerning elimination of the requirement to file copies of reports with county clerks. She stated that the proposed amendments primarily addressed N.J.A.C. 19:25-8.12, Time and place of filing reports, subsection (b), to codify the new statutory language by removing the requirement to file duplicate reports with the county clerk, and specifying that candidates need not file duplicate reports with the county clerk. She stated that reports continue to be required to be filed with the Commission.

Chairman DeFilippis noted that the summary of the proposed regulations described the elimination of the requirement that municipal, county, and school board candidates file with the respective county clerks. Chairman DeFilippis asked if it should also specifically list state and legislative candidates as well.

Associate Legal Director Michelle Levy stated that the proposed regulation mirrored the language of the statute. However, the proposed regulations do clarify that “no candidate” shall be required to file reports with the county clerks.

Legal Director Roberts stated that, if approved by the Commission, the proposed amendments and new rules will be filed at the Office of Administrative Law for publication in the New Jersey Register, and would be the subject of a public hearing scheduled for the February 17, 2015 meeting.

5. Public Comments

Chairman DeFilippis asked if any members of the public wished to comment. Seeing none, he asked for a motion to enter Executive Session.

6. Resolution to go into Executive Session

On a motion by Chairman DeFilippis, seconded by Vice Chairman Timpone and passed by a vote of 2-0, the Commission resolved to go into Executive Session to discuss anticipated litigation and current 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.
- C. 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. The reports 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.
- D. Matters under current litigation, the substance of discussions of which will not become public in order to protect the attorney-client privilege and the deliberative process. However, any litigation in which the Commission is currently a party is a public matter and will become public subject to the above limitations and privileges.

Return to Public Session

7. 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 12:07 p.m.

Respectfully submitted as true
and correct,

Jeffrey M. Brindle
Executive Director

JMB/elz