



## NEWS RELEASE

CONTACT: FREDERICK M. HERRMANN, Ph.D. *MMH*  
EXECUTIVE DIRECTOR  
(609) 292-8700

FOR RELEASE:

October 25, 1988

### PRESS ADVISORY

Attached is a letter and a copy of proposed amendments to regulations sent yesterday by Frederick M. Herrmann, Executive Director of the New Jersey Election Law Enforcement Commission, to individuals interested in the Gubernatorial Public Financing program.

The purpose of the letter and attached proposal was to advise those persons interested in public financing of gubernatorial elections that the Commission is proposing amendments to the regulations affecting public financing of the general election for the office of Governor. A public hearing on the proposed amendments will be conducted on November 15, 1988 at 10:00 a.m. at the Commission offices at 28 West State Street, Suite 1215, Trenton. Persons interested in testifying are directed to contact Legal Director Gregory E. Nagy at (609) 292-8700. The deadline for submitting written comments is December 7, 1988.

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State of New Jersey

**ELECTION LAW ENFORCEMENT COMMISSION**

NATIONAL STATE BANK BLDG., SUITE 1215  
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TRENTON, NEW JERSEY 08625-0185  
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LEGAL DIRECTOR

EDWARD J. FARRELL  
COUNSEL

October 24, 1988

Dear Sir/Madam:

Kindly be advised that the New Jersey Election Law Enforcement Commission has scheduled a public hearing on the Commission's proposed amendments to its regulations concerning gubernatorial public financing of general elections. The hearing will be conducted at the Commission's meeting on November 15, 1988 at 10:00 a.m. at the Commission offices at 28 West State Street, Suite 1215, Trenton. I have enclosed a copy of the proposed regulations for your convenience. The proposed regulations are substantively almost identical to those recently enacted for the primary election program.

Please contact Legal Director Gregory E. Nagy at the above phone number if you would like to testify. The deadline for submitting written comments is December 7, 1988.

Do not hesitate to contact me or our staff if you have any questions about these proposals or the hearing.

Very truly yours,

FREDERICK M. HERRMANN, PH.D.

FMH/slm  
Enclosure

ELECTION LAW ENFORCEMENT COMMISSION

Public Financing of General Election for Governor

Proposed Amendments: N.J.A.C. 19:25-15.4, 15.5, 15.14, 15.16, 15.17,  
15.20, 15.26, and 15.46

Authorized By: Frederick M. Herrmann, Ph.D., Executive Director,  
Election Law Enforcement Commission

Authority: N.J.S.A. 19:44A-38

Proposal Number: PRN 1988 -

A public hearing concerning this proposal will be conducted on  
November 15, 1988, at 10:00 a.m., at the office of the Election Law  
Enforcement Commission, 28 West State Street, Suite 1215, Trenton,  
New Jersey.

Submit comments by December 7, 1988 to:

Gregory E. Nagy, Esq., Legal Director  
Election Law Enforcement Commission  
28 West State Street, CN-185  
Trenton, New Jersey 08625-0185

The agency proposal follows:

STATE OF NEW JERSEY  
ADMINISTRATIVE LAW

OCT 27 1988

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## Summary

The New Jersey Election Law Enforcement Commission (hereafter, the Commission) proposes to amend its regulations concerning the public financing of general election candidates for Governor; see N.J.A.C. 19:25-15.1 et seq. These proposals are derived from the Commission's experience in administering past programs and from past advisory opinions issued by the Commission. Commission review of the regulations affecting public financing of the primary election for Governor resulted in the adoption of amendments which became effective on September 19, 1988. The proposed amendments which follow will ensure that procedures in the general election for the office of Governor parallel those which are now required of candidates in the primary election. The specific changes are as follows:

1. Subsection 15.4(a) concerning the appointment of treasurers and depositories has been combined with Section 15.5 (Designation of principal campaign committee; contribution limit). No substantive change has been made. Subsections 15.4(b) and (c) have been incorporated into a new Section 15.5.
2. Section 15.5 has been retitled "Pre-candidacy activity" and includes the text of current Subsections 15.4(b) and (c). Individuals, or committees on their behalf conducting pre-candidacy fundraising or spending (i.e. "testing the waters") will be required to file with the Commission within ten days after receipt of funds for such activity a statement identifying the name, address and account number of the bank account established for that purpose.

3. A new subsection (a) has been added to Section 15.14 (Contributions eligible for match; generally) to provide that a contribution will not be matched with public funds unless it was deposited and received in either a pre-candidacy ("testing the waters") account or was received by a person who was a candidate in the general election for the office of Governor. It is the Commission's intention to exclude from matching fund eligibility any contribution received by a candidate at a time when that candidate was seeking an elective office other than Governor.
  
4. A new subsection (e) has been added to Section 15.14 permitting the matching of contributions received from persons or entities who are also contributing to bona fide continuing political committees with at least 15 contributing members, which continuing political committees in turn are making contributions eligible for match to the same gubernatorial candidate. Therefore, a member of such an organization may contribute up to the maximum contribution of \$800.00 to a gubernatorial candidate notwithstanding the fact that the organization to which the member belongs has also contributed a full maximum \$800.00 contribution to the same candidate.
  
5. Section 15.16 (Limitation on contributions eligible for match) has been amended to establish the purchase price of a ticket to a fund raising event or lottery ticket as the amount of the contribution eligible for match, and has established an additional requirement that tickets for such events or lotteries and their promotional material must state that the price represents a contribution to the candidate conducting the event or lottery. The existing regulation

requires the Commission to determine the fair market value of any entertainment event or lottery conducted by a gubernatorial candidate. Only the difference between the purchase price and the fair market value, under the existing regulation, can be treated as eligible for matching public funds. The Commission believes that tickets for entertainment events and lotteries present substantial valuation problems beyond the ability of the Commission to establish in the short time frame of a matching fund application for a gubernatorial candidacy. Further, the Commission is persuaded that the current regulation is overly complex and difficult for candidates or the Commission to apply. The proposed amendment would be predicated on the reasonable assumption that any contributor purchasing a ticket to a fund raising event or a lottery sponsored by a candidate or committee is doing so as an expression of political support, and not for the value of attending the event or participating in the lottery.

6. A new subsection (i) has been added to Section 15.17 (Matching of funds) requiring that statements submitted by candidates concerning applications for public funds cannot be handwritten.
  
7. New subsections (b), (c) and (d) have been added to Section 15.20 (Special account for public funds) to require the campaign treasurer of a candidate receiving public funds to file reports with the Commission which identify disbursements made out of any public funds account established for the candidate's campaign. This reporting obligation begins once a candidate has made a submission for public matching funds and continues for as long as the candidate's public fund account is open. The reports must identify each disbursement

made from the public fund account and must give a complete statement of the purpose of the expenditure, indicating which permitted use of public funds is applicable; see N.J.A.C. 19:25-15.24. For any reported expenditures for media consultants or other services in the aggregate exceeding \$5,000.00, a certification from the payee must be provided which categorizes the services provided, incurred, or contemplated, and certifies that those funds have been expended in compliance with N.J.A.C. 19:25-15.24 (Use of public funds). Failure to file complete or timely reports, or failure to expend public funds in compliance with statutory and regulatory requirements may result in immediate cessation of further public fund deposits by the Commission. New subsection (d) specifically provides that the reports of public fund account disbursements submitted shall not be made available for public inspection.

8. Section 15.26 (Expenses not subject to expenditure limits) has been amended to provide that expenses incurred for an election night celebration or event as defined in proposed N.J.A.C. 19:25-15.46(c) shall not be subject to the overall expenditure limit on candidates receiving public funds. The Commission believes that expenses for election night events are a traditional part of the campaign process and are not intended to be part of the overall campaign expenditure limit provided in N.J.S.A. 19:44A-7, particularly because they generally are conducted after the close of the polls.
  
9. New subsection (b) has been added to Section 15.46 (Repayment of public or other funds) to the effect that a publicly funded candidate cannot incur new debt or make expenditures after the date of the election other than to satisfy preexisting campaign

obligations or to pay the reasonable and necessary costs of closing the campaign. This proposal is intended to protect the interest of the State in the return to the State of any unexpended balance remaining in the account of a publicly funded candidate; see N.J.S.A. 19:44A-35(c). A publicly financed candidate is therefore prohibited from using any remaining balance for expenses not strictly related to campaign activity, or closing of the campaign account.

10. A new subsection (c) has been added to Section 15.46 (Repayment of public or other funds) to provide that an election night celebration conducted on the date of the general election is a permissible campaign expenditure.

#### Social Impact

The proposed amendments will affect gubernatorial candidates and their campaign treasurers in general elections. However, the Commission does not believe that these proposals affect the public at large. The proposals are intended to enhance the Commission's ability to administer the statutory requirements of the public funding program, particularly the requirements that public funds awarded to gubernatorial candidates must be spent for purposes specifically enumerated in the statute. Also, the Commission believes that gubernatorial campaign reporting will be enhanced by requiring prospective candidates to identify their bank accounts and by requiring candidates to identify and categorize disbursements made from public fund accounts established for the candidates' campaigns. In the absence of such a proposal, the Commission



is concerned that public funds could be spent in violation of the specific uses enumerated for such public funds.

#### Economic Impact

The Commission believes that the proposed amendments will have only a nominal economic impact on prospective and actual candidates for governor in the general election. New minimal filing responsibilities are imposed upon prospective candidates, and enhanced filing responsibilities are imposed upon actual candidates who are receiving public funds. The Commission believes that the public benefit from these additional requirements far outweigh any nominal economic cost to prospective or actual candidates. Further, the Commission believes its proposed amendment requiring publicly funded candidates to avoid new debt after the date of the election and limiting expenditures to preexisting outstanding campaign obligations or reasonable and necessary campaign closing costs will increase the amount of funds ultimately remaining as unexpended and returned to the State at the close of the campaign.

#### Regulatory Flexibility Statement

The proposed amendments affect the campaign financing of gubernatorial candidates in a general election, and as such do not affect, impact or impose reporting or other compliance requirements on small businesses other than those imposed on any entity making a contribution to a gubernatorial candidate. Therefore, a regulatory flexibility analysis is not required because this proposal does not impose reporting, record keeping or other compliance requirements on small businesses.

Full text of the proposal follows (additions indicated by underlining thus; deletions indicated in brackets [thus]).

19:25-15.4 Appointment of treasurers and depositories

[(a) Each candidate in a general election, whether or not publicly declared and whether or not intending to participate in public funding, must appoint a campaign treasurer and designate a depository bank account and must notify the commission pursuant to N.J.A.C. 19:25-5.2 (Appointment by candidates) of such appointment and designation no later than the tenth day after receipt of any contribution or incurring or making any expenditure, whichever comes first.

(b) All funds received by an individual, or a committee in his or her behalf, solely for the purpose of determining whether that individual should become a candidate (for example, "testing the waters") shall be deposited in a separate depository established solely for that purpose.

(c) In the event the individual on whose behalf funds are received and payments made solely for the purpose of determining whether the individual should become a candidate does in fact become a candidate, the separate depository established under (b) above may be designated by that individual as or incorporated with the matching fund account under N.J.A.C. 19:25-15.17(b), provided that the account and all of the contributions deposited in it meet all of the requirements of N.J.A.C. 19:25-15.17(b).]

(a) Each candidate in a general election, whether or not publicly declared and whether or not intending to participate in public funding,

shall on or before the first Monday following the date of the primary election for nomination for the office of Governor designate to the Commission the name and address of his or her principal campaign committee for the general election. A candidate may designate as his or her principal campaign committee a committee which has engaged in campaign activity prior to the designation date specified in this subsection.

(b) Each candidate in a general election, whether or not publicly declared and whether or not intending to participate in public funding, shall appoint a campaign treasurer and designate a depository bank account and shall notify the commission pursuant to N.J.A.C. 19:25-5.2 (Appointment by candidates) of such appointment and designation no later than the tenth day after receipt of any contribution or after incurring or making any expenditure, whichever comes first.

(c) No political committee, other than the principal campaign committee designated pursuant to (a) above, may contribute to any candidate or expend on behalf of such candidate more than \$800.00.

19:25-15.5 [Designation of principal campaign committee; contribution limit] Pre-candidacy activity

[(a) On or before the first Monday following the date of the primary election for nomination for the office of Governor, each gubernatorial general election candidate, whether or not intending to participate in public funding, shall designate to the commission the name and mailing address of his or her principal campaign committee for the general election. A candidate may designate as his or her principal

campaign committee a committee which has engaged in campaign activity prior to the designation date specified in this subsection.

(b) No political committee, other than the principal campaign committee designated pursuant to (a) above may contribute to any candidate or expend on behalf of such candidate more than \$800.00.]

(a) All funds received by an individual, or a committee in his or her behalf, solely for the purpose of determining whether that individual should become a candidate (for example, "testing the waters") shall be deposited in a separate depository established solely for that purpose.

(b) An individual, or a committee on that individual's behalf, shall file with the commission a notice containing the name, address and account number of the depository established pursuant to N.J.A.C. 19:25-15.5(a) above not later than 10 days after the receipt of funds for the purpose of determining whether that individual should become a candidate.

(c) In the event the individual on whose behalf funds are received and payments made solely for the purpose of determining whether the individual should become a candidate does in fact become a candidate, the separate depository established pursuant to N.J.A.C. 19:25-15.5(a) above may be designated by that individual as or incorporated with the matching fund account under N.J.A.C. 19:25-15.17(b), provided that the account and all of the contributions deposited in it meet all of the requirements of N.J.A.C. 19:25-15.17(b).

19:25-15.14 Contributions eligible for match; generally

(a) To be eligible for matching with public funds for a gubernatorial general election, a contribution must have been received by a candidate at a time when that candidate was seeking or had sought election for the office of Governor, except that a contribution received and deposited pursuant to N.J.A.C. 19:25-15.7 (Separately maintained primary and general bank accounts) or pursuant to N.J.A.C 19:25-15.5 (Pre-candidacy activity) for the purpose of determining whether an individual should become a candidate for election for the office of Governor shall be eligible. Any funds received prior to the inception of such a candidacy, or prior to the inception of fund raising activity to determine whether an individual should become a candidate for election for the office of Governor and not deposited pursuant to N.J.A.C. 19:25-15.5 or pursuant to N.J.A.C. 19:25-7(a) shall not be eligible for match.

[[a)] (b) Only contributions in cash or by check, money order or negotiable instrument shall be contributions eligible for match. Loans shall not be eligible for match. In-kind contributions shall not be eligible for match. In-kind contributions shall not be eligible for match, but will count toward the individual contribution limit of \$800.00 and the overall expenditure limit contained in N.J.S.A. 19:44A-7 except for expenses not subject to expenditure limits pursuant to N.J.A.C. 19:25-15.26. The total of all contributions eligible for match from any person or political committee shall not exceed \$800.00 in the aggregate.

[[b)] (c) A maximum of \$800.00 in the aggregate of a candidate's own funds may be deposited in the matching fund account.

[(c)] (d) Every contribution eligible for match must be accompanied by a written statement which shall identify the individual making the contribution by full name and full mailing address (number, street, city, state, zip code), the name of the candidate, the amount and date of the contribution, and shall bear the signature of the contributor. The requirement of such written statement will be deemed to be satisfied in the case where a contribution is made by means of a check, money order or other negotiable instrument payable on demand and to the order of, or specially endorsed without qualification to, the candidate or to his campaign committee, if such check, money order or instrument contains all of the foregoing information.

(e) A contribution received from a contributing member of a political committee which has made a prior contribution to the candidate shall be eligible for matching funds, provided that the political committee is a bona fide political entity with at least 15 contributing members and was not created to circumvent the contribution limit contained in the act.

19:25-15.16 Limitation on contributions eligible for match

(a) Any contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value (such as a watch) [or in the form of a purchase price paid for a chance to participate in a raffle, lottery or similar drawing for valuable prizes, or in the form of a purchase price paid for the admission to any activity that primarily confers private benefits to the contributor in the form of entertainment (such as a concert, motion picture or theatrical performance)] shall be eligible for match only to the extent the purchase price exceeds the fair

market value of the item or benefit conferred on the contributor, and only the excess will be included in calculating the \$800.00 contribution limit.

(b) A contribution in the form of the purchase price paid for admission to a testimonial affair as defined in N.J.A.C. 19:25-1.7 shall be a contribution eligible for match and for purposes of the \$800.00 limitation.

(c) The purchase price paid to a candidate for a fund raising event, lottery, raffle, or admission to any activity that primarily confers private benefits to the contributor in the form of entertainment (such as a concert, motion picture or theatrical performance) shall be deemed the amount of the contribution made to such candidate. The tickets for such an event or lottery and the promotional materials shall state that the purchase price represents a political contribution to the candidate.

#### 19:25-15.17 Matching of funds

(a) - (h) (No change.)

(i) Any statement or list submitted pursuant to this section cannot be handwritten.

#### 19:25-15.20 Special account for public funds

(a) The commission shall maintain for each qualified candidate a separate segregated public fund account for deposit of public funds. All public funds received by the commission from the General Treasury of the

State shall be promptly deposited by the commission into such separate segregated public fund account. No funds other than such public funds shall be deposited in such separate segregated public fund account, and all expenditures from such account shall be separately identified in reports filed with the commission.

(b) The campaign treasurer of a candidate on whose behalf a public fund account has been established shall file with the commission on each date upon which a submission for public matching funds has been made pursuant to N.J.A.C. 19:25-15.17 (Matching of funds) and N.J.A.C. 19:25-15.18 (Date of submission) and for as long as said public fund account is open and such submissions are being made, a report identifying each disbursement made out of the public fund account since the last such submission for public matching funds. The initial report shall identify all such disbursements. The identification of each disbursement from the public fund account shall include the check number, date of payment, amount of payment, full name of payee, full payee mailing address and a complete statement of purpose of the expenditure indicating which of the permitted purposes set forth in N.J.A.C. 19:25-15.24 (Use of public funds) is applicable. Failure to file any such report, failure to provide the identification information required in such report, or failure to expend public funds in compliance with N.J.A.C. 19:25-15.24 may result in immediate cessation of public fund deposits by the commission.

(c) Any report filed pursuant to this section disclosing an expenditure in an aggregate sum exceeding \$5,000.00 for the purpose of purchase of media consultant services or other services shall be accompanied by a certification from the payee categorizing media



advertising purchases or other services provided, incurred or contemplated, and certifying that such funds have been or will be expended in compliance with N.J.A.C. 19:25-15.24.

(d) The reports of disbursements made from the public fund account submitted pursuant to this section shall not be available for public inspection.

19:25-15.26 Expenses not subject to expenditure limits

(a) The following expenditures by a qualified candidate shall not be subject to the expenditure limit described in N.J.A.C. 19:25-15.11(a)3;

1. - 3. (No change.)

4. Election night celebration or event expenses as defined in N.J.A.C. 19:25-15.46(c).

19:25-15.46 Repayment of public or other funds

(a) All public moneys received by a qualified candidate remaining after the liquidation of all lawful obligations with respect to that election shall be repaid to the commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such general election. All moneys other than public moneys, remaining available to any qualified candidate after the liquidation of all obligations, shall also be repaid to the commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such general election; provided, however, that nothing herein

contained shall require any candidate to pay to the State Treasurer, a total amount of moneys in excess of the total amount of public moneys received by such qualified candidate from the public fund.

(b) No candidate who has received public funds shall incur any debt or make any expenditure after the date of the election for any purpose other than:

1. to satisfy outstanding obligations incurred on or before the date of the election made for appropriate campaign purposes, or

2. to pay the reasonable and necessary costs of closing the campaign.

(c) An election night celebration or event conducted by a candidate who has received public funds will be deemed a reasonable and necessary cost of closing the campaign provided that it is conducted on the date of the general election.

ELECTION LAW ENFORCEMENT COMMISSION

By:   
FREDERICK M. HERRMANN, PH.D.  
Executive Director

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