

OTHER AGENCIES

ELECTION LAW ENFORCEMENT COMMISSION

PERSONAL FINANCIAL DISCLOSURE STATEMENTS

Posting Personal Financial Disclosure Statements on the Commission's website, eliminating need to file copies.

Proposed Amendment: N.J.A.C. 19:25-19.7

Authorized By: Election Law Enforcement Commission, Jeffrey M. Brindle, Executive Director.

Authority: N.J.S.A. 19:44B-7

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2012-

The sitting New Jersey Election Law Enforcement Commission will conduct a **public hearing** concerning this proposal on Tuesday, October 16, 2012 at 11:00 A.M. at:

Election Law Enforcement Commission
Edward J. Farrell Memorial Conference Room
28 West State Street, 12th floor
Trenton, New Jersey

Persons wishing to testify are requested to reserve time to speak by contacting Administrative Assistant Elbia L. Zeppetelli at (609) 292-8700 no later than Friday, October 12, 2012.

Submit written comments by October 16, 2012 to:

Michelle R. Levy, Associate Legal Director
Election Law Enforcement Commission
PO Box 185
Trenton, New Jersey 08625-0185

The agency proposal follows:

Summary

N.J.S.A. 19:44B-1 et seq., Financial Disclosure by Candidates: Gubernatorial Legislative Disclosure Statement (hereafter, the Act), requires every candidate for the office of Governor and every candidate for the Senate or General Assembly to file a financial disclosure statement with the Commission.

Personal Financial Disclosure Statement Copies

Commission rules currently require an original and two copies of a Personal Financial Disclosure Statement to be filed with the Commission. In order to increase efficiency and reduce unnecessary paperwork, the Commission proposes to amend N.J.A.C. 19:25-19.7(d), to eliminate the obligation to file two copies along with the original Personal Financial Disclosure Statement. As Commission staff electronically scans each Personal Financial Disclosure Statement upon receipt, ELEC maintains both the original and an electronic version of the Statement, and therefore does not have need of additional paper copies.

Website disclosure of Personal Financial Disclosure Statements

N.J.S.A. 19:44B-9 states that financial disclosure statements “shall be public records,” and that the Commission make Personal Financial Disclosure Statements available to any person upon written request. The trend within New Jersey is to utilize technology to fulfill the goal of disclosure. The Commission notes that financial statements filed by legislators are made available on the Legislative website and that financial statements filed with the State Ethics Commission (SEC) are available on the SEC website. The legislative code of ethics, enacted for the legislative years 2008 and 2009 by 2008 Assembly Concurrent Resolution No. 159, adopted March 17, 2008, states at §4:4 that “all notices or statements to be filed with the Joint Legislative Committee on Ethical Standards shall be public records. All such notices or statements shall be available for inspection by the public at the office where required to be filed, and shall remain on file for 5 years from the date of issuance.” Such notices and statements are available on the Legislative website, even though electronic posting is not specified in the enabling legislation, see N.J.S.A. 52:13D-23(c). Additionally, N.J.S.A. 52:13D-21(n), State Ethics Commission; membership; powers; duties; penalties, which requires financial disclosure to be made available to the public, was amended in 2005 to specifically authorize posting of such statements on the State Ethics Commission website.

The Commission proposes to amend N.J.A.C. 19:25-19.7 to add new subsection (e) to permit ELEC to post Personal Financial Disclosure Statements to its website. N.J.A.C. 19:25-2.4, Release of documents, subsection (a) indicates that a copy of a report filed with the Commission pursuant to the Legislative and Governmental Process Activities Disclosure Act (N.J.S.A. 52:13C-20 et seq.) shall be made available for public access within seven business days after the date on which that report is required to be filed with the Commission. The Commission therefore proposes that N.J.A.C. 19:25-19.7, new subsection (e) require the Commission to post Personal Financial Disclosure Statements on the Commission’s website within seven business days of receipt.

The purpose of financial disclosure requirements is to provide transparency regarding the financial dealings of candidates for the offices of Governor and Lieutenant Governor, and for the offices of the Senate and the General Assembly, to ensure the public of the integrity of candidates for State government. The Commission believes that eliminating the need for a

middleman, and allowing unfettered public access to these documents is within the intent of the Act, which requires that Personal Financial Disclosure Statements are “public records.” Personal Financial Disclosure Statements are the only candidate reports filed with the Commission that are not currently made available on the Commission’s website. Thus, ELEC proposes an amendment to N.J.A.C. 19:25-19.7, to make Personal Financial Disclosure Statements publicly available on its website.

N.J.S.A. 19:44B-7 provides that the Commission shall promulgate such regulations and perform such duties as is necessary to implement the provisions of the Act. The Commission proposes to make the Personal Financial Disclosure Statements publicly available on its website, in order to comply with the intent of the Act, and to effectuate disclosure to the public.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

Personal Financial Disclosure Statement Copies

The proposed amendment to N.J.A.C. 19:25-19.1(d), to eliminate the obligation to file two copies along with the original Personal Financial Disclosure Statement will have a positive social impact by reducing the amount of unnecessary paperwork received by the Commission, and reducing costs and personnel time to prepare copies for the filer. By storing an electronic version of the Personal Financial Disclosure Statement rather than requiring two copies, the Commission promotes conservation of natural resources (paper, copier energy and ink).

Website disclosure of Personal Financial Disclosure Statements

The Commission believes that the goals of transparency in government and ensuring the integrity of candidates are beneficial social objectives. The Commission’s proposal to amend N.J.A.C. 19:25-19.7 to add new subsection (e) to permit the Commission to post Personal Financial Disclosure Statements to its website will have a positive social impact of increasing transparency of disclosure, and increase ease of access to such information. In a digital age, the requirement to mail a written request to the Commission and then await a posted response or appear at Commission offices to obtain a copy of a public record that the Commission stores electronically has a chilling effect, and is obsolete. Because Personal Financial Disclosure Statements are specifically designated as public records pursuant to N.J.S.A. 19:44B-1, there is no harmful social impact in the proposed amendment to N.J.A.C. 19:25-19.7, to allow posting of these public records on the Commission’s website.

Economic Impact

Personal Financial Disclosure Statement Copies

The proposed amendment to N.J.A.C. 19:25-19.1(d), to eliminate the obligation to file two copies along with the original Personal Financial Disclosure Statement will have a positive

economic impact on both filers and the Commission. By decreasing the amount of paperwork received, the Commission will reduce storage costs for filed statements. Filers will benefit from eliminating copying costs, paper costs, and will require reduced personnel time to prepare statements.

Website disclosure of Personal Financial Disclosure Statements

The ability to post Personal Financial Disclosure Statements on the Commission's website will have the positive economic impact of reducing the amount of staff time the Commission uses in processing requests for Personal Financial Disclosure Statements, copying costs, postage costs, and costs associated with storage of written requests. The proposed amendment adding new subsection (e) to N.J.A.C. 19:25-19.7 is not expected to impose any additional costs on candidates for the office of Governor, Senate or General Assembly, who file Personal Financial Disclosure Statements with the Commission.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendment concerns New Jersey filing entities. The proposed amendment is not subject to any Federal requirements or standards.

Jobs Impact

The proposed amendment is not expected to result in the generation or loss of jobs.

Agriculture Industry Impact

The proposed amendment is not expected to have any impact on the agriculture industry in the State of New Jersey.

Regulatory Flexibility Statement

The proposed amendment does not impose recordkeeping, reporting, or other compliance requirements on small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as the proposed amendments concern gubernatorial candidates and candidates for the Senate or General Assembly in New Jersey.

Housing Affordability Impact Analysis

The proposed amendment will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the amendment regarding Personal Financial Disclosure Statements would evoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The proposed amendment will have an insignificant impact on smart growth development and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rule concerns Personal Financial Disclosure Statements filed by candidates for the office of Governor, Senate, or General Assembly.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

19:25-19.7 Time and place for filing

(a) - (c) (No change.)

(d) [An original and two copies of the] **The** Personal Financial Disclosure Statement shall be received at the Commission offices no later than 5:00 P.M. on the date the report is due for filing pursuant to (a), (b), or (c) above in order to be deemed timely filed. A report submitted by United States mail postmarked on or before a filing date but not received until after 5:00 P.M. of the date the report is due for filing will not be deemed timely filed.

(e) The Commission shall make available to the public the Personal Financial Disclosure Statement filed pursuant to (a), (b), and (c), above, by posting such Statement on the Commission's website within seven business days of receipt.