

**FIFTH ANNUAL REPORT
OF THE
NEW JERSEY ELECTION
LAW ENFORCEMENT
COMMISSION
1977**



THE COMMISSION

Frank P. Reiche, Chairman
Sidney Goldmann, Vice-Chairman
Josephine S. Margetts, Member
Archibald S. Alexander, Member

Executive Director – Lewis B. Thurston, III
Counsel – Edward J. Farrell
Consultant – Dr. Herbert E. Alexander

Suite 1114, 28 W. State St., Trenton, N. J. 08608 – (609) 292-8700

The New Jersey Election Law Enforcement Commission was created in 1973 to administer and enforce the N.J. Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.). This statute requires candidates and certain other entities participating in State, county, municipal and school board elections to disclose information concerning the campaign contributions they receive and the campaign expenditures they make. That law was supplemented by Chapter 26 of the Laws of 1974, which provides for partial public financing and limits on the amount of political contributions for candidates for Governor in general elections.

The four members of the Commission, no more than two of whom may belong to the same political party, are appointed to three-year terms by the Governor, with the advice and consent of the Senate. Commission members do not participate in partisan political activity and in 1977 received no compensation. They were reimbursed for expenses. The Commission may accept and institute complaints, issue subpoenas, conduct investigations, render advisory opinions, find violations of the Act, levy civil penalties and forward to prosecuting officials evidence of certain willful and knowing violations.

The Commission office and staff of 16 is located one block from the State Capitol Building in Trenton, New Jersey.

TABLE OF CONTENTS

Major Activity	1
Gubernatorial Primary Elections	5
Gubernatorial Election	8
Gubernatorial Inaugural Affairs	16
Legislative Election	17
May Municipal Election	25
Jersey City Mayoralty Election	25
State Public Questions	26
June Municipal Run-Off Election	27
Total Campaign Spending	27
Contents of Filings	28
Litigation	28
Legislation	30
Regulations	31
Enforcement	32
ELEC Budget	34
Data Processing	35
Personnel-Commission and Staff	36
Public Education and Information	37
Future Considerations	38

LIST OF TABLES

Table I	Summary of 1977 Gubernatorial Primary Election Financing-Contributions to Major Party Winners	5
Table II	Loans and Contributions of \$5,000 or More Made for Purposes of the Primary to 1977 Primary Winners as of January 1, 1978	6
Table III	1977 Gubernatorial Primary Election Receipts.....	7
Table IV	Summary of 1977 Gubernatorial General Election Financing	10
Table V	1977 General Election Public Matching Fund Payments	11
Table VI	Contributions of \$5,000 or More to Byrne Inaugural Committee	17
Table VII	1977 Primary Election-Legislative Contests Spending	18
Table VIII	Major Senate Races (more than \$20,000 spent) 1977 Primary	19
Table IX	Major Assembly Races (more than \$20,000 spent) 1977 Primary	20
Table X	1977 General Election Spending for Legislative Races.....	21
Table XI	Major Senate Races (more than \$50,000 spent) 1977 General Election	22
Table XII	Senate Candidates Expending More Than \$30,000 - 1977 General Election	23
Table XIII	Major Assembly Races (more than \$60,000 spent) 1977 General Election	24
Table XIV	Total Campaign Spending	27
Table XV	ELEC Budget Summary-Fiscal Years 1974-1978.....	35

MAJOR ACTIVITY

The focal point of the Commission's activity in 1977 was the gubernatorial general election, the first gubernatorial election in the United States to be financed in part with public funds. Most of the Commission's time and resources were employed in planning, administering and enforcing this major change in the New Jersey election process. This, combined with the normal Commission function of monitoring disclosure reports for the county and municipal candidates and candidates for all 120 seats in the Legislature, made 1977 the most active year in the Commission's history.

Overcoming an early lead by his Republican opponent, State Senator Raymond H. Bateman, Democratic Governor Brendan T. Byrne won reelection by capturing 56 percent of the vote. The central issue in the campaign was the State income tax enacted in 1976.

The public financing law, enacted in 1974 and applied for the first time in 1977, prohibits candidates for Governor in the general election from accepting contributions in excess of \$600 from any contributor. After raising \$40,000 in such contributions, a candidate is qualified to receive from the State two dollars in public matching funds for every dollar of a contribution raised from private sources. Candidates who chose to receive public funding in 1977 had to limit campaign expenditures to \$1,518,576.

The statute also provides for: a \$50,000 limit on bank loans; a \$600 limit on other loans; limits on expenditures by county and municipal political party committees in behalf of gubernatorial candidates; limits on the uses of public funds; certain free candidate use of public television broadcast time; and the mailing, at public expense, of a statement by each candidate in the general election to all registered voters.

It was the Legislature's declared intent, by enactment of the public financing statute, that "such financing be adequate in amount so that the candidates for election to the office of Governor may conduct their campaigns free from improper influence and so that persons of limited financial means may seek election to the State's highest office."

The 1974 Act provides that the public funds used to match contributions raised from private sources will come from the general treasury. The State income tax, enacted in 1976, provides for a gub-

ernatorial election fund financed by a \$1 optional taxpayer checkoff, similar to the Federal income tax provision. In 1977, after the funds had been appropriated from the general treasury, the Governor did not substitute the checkoff funds for the 1977 general election.

The Republican and Democratic nominees were the only gubernatorial candidates to qualify for public matching funds. These monies, totaling \$2,070,816, comprised 63 percent of the available funds in the general election campaign. The money was paid in 14 installments on schedule between August 2 and December 10. The candidates adhered to the \$600 limit on individual contributions and loans and the overall expenditure limit.

The contrast was dramatic between this election and previous gubernatorial general elections and the 1977 primary election for governor, in which no public funds were available and no contribution and loan limits applied. Only 37 percent of the available funds were from private sources versus 100 percent in the previous elections. No contribution from a single source exceeded \$600, in contrast, for example, to the 1973 gubernatorial general election where 51 percent of contributions to the two major party candidates (exclusive of loans and political party committee contributions) were greater than \$600 and to the 1977 gubernatorial primary election, where one individual contributed nearly \$300,000 to one of the candidates.

Much of the Commission's activity involved monitoring the contribution and expenditure limits. The Commission met seven times in October, largely to make determinations on complaints from the two major campaigns alleging violations of the contributions and expenditure limits. The Commission determinations, which were made during the week before the general election and appealed by Governor Byrne's campaign, were upheld by the N. J. Supreme Court on the Saturday prior to the election. The Commission's decisions in the last month of the campaign ordering transfers of funds between the campaigns and their respective state party committees had a significant financial impact on the campaigns.

The campaign finance reports filed with the Commission for the gubernatorial primary election disclosed that the 11 Democratic and four Republican candidates spent more than \$5 million in seeking the two nominations. Many of the candidates borrowed substantially to finance their efforts and some, including Governor Byrne and Senator Bateman, wound up with debts in significant amounts. Congressman

Robert Roe, who spent more than \$1 million in an unsuccessful attempt to win the Democratic nomination and received approximately \$300,000 in contributions from a shopping center developer, had remaining debts of approximately \$363,000 shortly after the election. Governor Byrne won a closely contested Democratic primary, with 30 percent of the vote, beating his nearest challenger, Congressman Roe, by 41,332 votes. Senator Bateman defeated former Assembly Speaker Thomas Kean and two other challengers, with 54.7 percent of the vote, compared to Kean's 36.2 percent.

One of the more significant questions the Commission resolved in the gubernatorial primary and general election was whether the costs involved in issuing the property tax rebate checks related to the new State income tax program were campaign expenditures on behalf of Governor Byrne. The Commission found that the checks were not such expenditures in answering inquiries concerning this question in the primary election and responding to a complaint in the general election.

In the November election, the Democrats retained control of both houses of the Legislature, with all seats being contested. The Republicans gained three seats in the Senate, changing the margin to 27 Democrats and 13 Republicans and the Democrats gained five seats in the Assembly, making the ratio 54 Democrats to 26 Republicans. Approximately \$3.3 million was spent by the 114 Senate and 226 Assembly candidates, with one candidate spending \$97,000.

In by far the most expensive municipal election in 1977, Jersey City Municipal Clerk Thomas F. X. Smith defeated Jersey City Business Manager William Macchi and three other challengers to become mayor of the State's second largest municipality. Smith spent approximately \$217,000 and Macchi \$123,000 in the contest. The total spent by all candidates for mayor and council in Jersey City was approximately \$538,000.

A very significant judicial decision affecting the Commission was handed down by the Appellate Division in December, 1977 in the case of *New Jersey Chamber of Commerce v. N.J. Election Law Enforcement Commission*, 155 N.J. Super. 218 (App. Div. 1977). In a unanimous opinion, the Appellate Division reversed the judgement of the trial court and declared constitutional that part of the Act which requires "political information organizations" engaged in lob-

bying activities to file with the Commission annual reports of contributions and expenditures. The plaintiffs contended, and the trial court held, that the statute was in violation of the Federal Constitution by being overly broad in its scope. The Appellate Division upheld the statute, construing it to be applicable to expenditures in excess of a \$750 threshold. The plaintiffs have appealed the decision to the N. J. Supreme Court.

The portion of the statute in question, requiring annual reporting by lobbyists, has been in limbo since 1973 because of this litigation. The Appellate Division also reversed the Chancery Division's finding that the statute was unconstitutionally overbroad as applied to "political committees". It found that the issue was not properly before the Chancery Division and that the trial court should not have ruled on the issue. In construing the statute to be applicable above a \$750 threshold, the Appellate Division referred to the \$750 threshold provision of Assembly Bill *No. 3140*. That bill, which also contained other significant amendments to the Campaign Contributions and Expenditures Reporting Act, was supported by the Commission. It passed by both houses of the Legislature but was vetoed by the Governor.

In addition to the general set of regulations applicable to the publicly financed gubernatorial election, the Commission issued significant regulations on two other subjects: "street money" and political committees. The regulations require more detailed reporting as to the distribution of election day expenditures and require more reporting by political action committees.

The most significant development in the Commission's internal operations was the installation of computer input terminals for use in entering data for computer processing for monitoring compliance and producing data summary reports. This new equipment eliminates the need to have the Division of Data Processing keypunch the information for the Commission. It is expected to increase the accuracy of the data entry and accelerate the process of production of data summaries.

The largest fine imposed by the Commission in 1977 was \$500 on the Democratic State Committee for late filing of the first pre-election report for the 1977 General election.

Thus, 1977 was an extraordinary year for the Commission. The

pioneering experience of public financing of the gubernatorial election by far dominated Commission activity during these 12 months. The legislative and Jersey City mayoralty elections were very significant as well. The election activity and action regarding litigation and legislation overshadowed the general enforcement and other activity of the Commission.

GUBERNATORIAL PRIMARY ELECTIONS

In what may have been the most expensive gubernatorial primary election in the State's history, Governor Byrne and Senator Bateman emerged as the two major party nominees. The extraordinary expenditures, large contributions, extensive borrowing via large personal and bank loans, and, in one campaign, large contributions of the candidate and his family's own resources highlighted the financial side of the election. There were no expenditure, contribution or loan limits which applied.

Governor Byrne received 39 percent (\$216,133) of the total \$559,624 raised for his campaign, exclusive of loans, from 119 contributions in excess of \$600. Senator Bateman received 36 percent (\$268,329) of his total of \$754,466, exclusive of loans, from 181 contributions in excess of \$600 (see Table I). Also in that election, one individual (Peter Levine) contributed or loaned \$298,277 to the unsuccessful campaign of Congressman Robert Roe.

**TABLE I SUMMARY OF 1977 GUBERNATORIAL
PRIMARY ELECTION FINANCING—CONTRIBUTIONS
TO MAJOR PARTY WINNERS***

	<u>Byrne [D]</u>		
	<u>Amount</u>	<u>No. of Cont'ns.</u>	<u>Avg. Amt.</u>
\$100 or less	\$131,884	2,233	\$59
\$101 - \$600	211,607	644	329
\$601 and over	<u>216,133</u>	<u>119</u>	<u>1,816</u>
Subtotal	559,624	2,996	187
Loans [repaid]	<u>192,500</u> [158,500]		
Total funds Available	593,624		

*Based on contributions received during 1977.

Bateman [R]			
\$100 or less	\$157,807	3,283	\$48
\$101 - \$600	328,330	635	517
\$601 and over	<u>268,329</u>	<u>181</u>	<u>1,482</u>
Subtotal	754,466	4,099	184
Loans [repaid]	<u>230,000</u> [20,000]		
Total funds Available	964,466		

*Based on contributions received during 1977

Table II summarizes contributions (including loans) of \$5,000 or more each to the two major party candidates. Table III summarizes the total receipts of Democratic and Republican candidates.

**TABLE II LOANS AND CONTRIBUTIONS OF
\$5,000 OR MORE MADE FOR PURPOSES OF THE
PRIMARY TO 1977 PRIMARY WINNERS AS OF
JANUARY 1, 1978**

	<u>BATEMAN</u>	<u>Contributions</u> (Not including loans)
	<u>Loans</u>	
Raymond H. Bateman	\$ 20,000	
Nicholas F. Brady	20,000	\$ 3,000
Stuart Coven	10,000	2,000
Melville P. Dickenson, Jr.	10,000	1,275
C. Douglas Dillon	20,000	3,000
Mrs. Charles W. Engelhard, Jr.	10,000	3,000
Millicent Fenwick	10,000	3,000
Leon Hess	10,000	3,000
Raymond L. Hughes	10,000	3,155
John F. Inganamort	10,000	6,526
J. Seward Johnson		6,000
Walter Mannheimer	10,000	3,000
William Marfuggi	10,000	3,000
Harry Richardson, Jr.	10,000	1,500
Richard B. Sellars	20,000	3,000
Sledgers-Forbes, Inc.	10,000	3,000
William F. Taggart	20,000	371

BYRNE

Atlantic City Racing Association		\$ 5,000
Edward Barr	\$ 5,000[repaid]	1,000
Bergen County Associates		5,000
Mrs. Charles W. Engelhard, Jr.	20,000[forgiven]	20,000
Adrian M. Foley	25,000[repaid]	350
Martin S. Fox	10,000[repaid]	5,000
Milton Gilbert	5,000[repaid]	5,000
John Hanson	5,000[repaid]	
Bernard Hellring		6,000
Leon Hess		20,000
Eugene Jacobsen	5,000[repaid]	1,000
Mack Properties Co. No. 3		5,000
Alan Sagner	50,000[5,000 forgiven] [45,000 repaid]	
David M. Satz, Jr.	10,000[repaid]	5,075
Seaboard Properties		5,000
Joel Sterns	5,000[repaid]	750

**TABLE III 1977 GUBERNATORIAL PRIMARY
ELECTION RECEIPTS**

<u>Candidate</u>	<u>1977 Primary Contributions of \$600 or Less</u>	<u>Total Amount Actually Available for 1977 Primary</u>
William Angus (R)	\$ 8,299	\$ 24,227
Raymond Bateman (R)	486,137	964,466
Thomas Kean (R)	214,789	577,458
Robert Sarcone (R)	45,958	189,468
Brendan Byrne (D)	343,491	593,624
Paul Jordan (D)	159,630	297,932
Robert Roe (D)	270,352	1,009,389
Joseph Hoffman (D)	201,740	333,905
James Florio (D)	138,533	269,101
Ralph DeRose (D)	119,906	389,227
Raymond Garramone (D)	43,076	73,876
Emery Zold (D)	2,745	29,745

(1) Based on reports filed through January 1, 1978; these figures include loans which remained outstanding on that date. The total cost of the primary (which includes outstanding obligations) was nearly \$5.2 million including approximately \$3.4 million spent or owed by Democratic candidates and \$1.8 million by Republicans.

Approximately \$5.2 million was spent by the gubernatorial primary candidates, with Congressman Robert Roe spending \$1.1 million, in his unsuccessful attempt to win the Democratic nomination. Republican Thomas Kean contributed \$135,000 of his own funds to his campaign and received \$148,000 more in contributions from relatives. The aggregate family contribution constituted nearly 50 percent of the total funds available to Mr. Kean's campaign.

The contrast between the gubernatorial primary and general election as to the ways they were financed was dramatic. All of the primary monies were raised from private sources, with contributions from one source ranging up to approximately \$300,000. In the general election 63 percent of the funds were public money and no single entity contributed more than \$600.

GUBERNATORIAL ELECTION

The Commission's report, *Public Financing in New Jersey, The 1977 General Election for Governor*, details the Commission's activity with respect to this election. The experience was an extraordinary one, consuming almost a year of planning (in the form of interpreting the statute, formulating regulations, hiring staff, acquiring additional working space, educating the participants and developing computer programs), six months of implementation during the campaign and an additional six months in completing the process and evaluating the experience.

1. Contributions and Expenditures

A total of \$2,070,816 in public matching funds was disbursed, including \$1,020,247 to Senator Bateman and \$1,050,569 to Governor Byrne. Senator Bateman received contributions of \$600 or less from 5,854 contributors (\$109 average) who gave \$636,035, and spent \$1,496,188 subject to the \$1,518,576 expenditure limit. Governor Byrne received \$573,380 from 3,650 contributors (\$157 average) and spent \$1,505,878. The Byrne campaign made \$161,471 and

the Bateman campaign \$145,829 in additional expenditures which were exempt from the spending limit, raising the total expenditures to \$1,667,349 and \$1,642,017, respectively. Public funds comprised 65 percent of the total funds available for the Byrne campaign and 62 percent of the funds available to the Bateman campaign. Contributing the maximum of \$600 to Governor Byrne's campaign were 463 persons while 429 gave the maximum to the Bateman campaign. For additional information see Table IV.

The restriction in the 1977 General Election resulted in a dramatic change from previous elections. In the 1973 gubernatorial campaign, when no public financing was provided and unlimited contributions were permitted, Brendan Byrne received \$639,546 from 301 contributions in excess of \$600 (exclusive of loans and party committees contributions) and Congressman Charles Sandman, the Republican nominee, raised \$254,655 from 116 such contributions.

2. Administration

The Commission issued 21 pages of regulations relating in some way to the gubernatorial election and answered 18 written advisory opinion requests concerning the implementation of the public financing portions of the Act. An additional five staff persons (headed by a Director of Public Financing), at a cost of approximately \$43,000, administered the program. Data processing, printing and overhead expenses totaled approximately \$19,000. These costs do not include the time of the executive director and council.

3. Matching Funds Process

The campaign organizations were required to submit a copy of the check, or a signature card from the contributor in the case of a cash contribution, for each contribution submitted for matching funds.

Documentations of contributions for which public matching funds were sought was submitted on Mondays, as specified in the schedule established by the Commission. During the week the public financing staff examined each document and checked each contributor's name against the computer list of the previous contributors. The examination was completed by the Friday following a submission and a summary of contributions accepted and rejected for matching was prepared. This summary, along with the reasons for rejecting any contribution, was sent to each campaign and presented to the Commission for its consideration at a meeting scheduled for the next Monday.

TABLE IV · SUMMARY OF 1977 GUBERNATORIAL GENERAL ELECTION FINANCING

	Byrne [D]			Bateman [R]		
	Amount	Number of Cont'ns.	Average Amount	Amount	Number of Cont'ns.	Average Amount
	\$100 or less	\$ 98,401	2,271	\$ 43	\$ 182,324	4,639
\$101 - \$599	197,179	920	214	196,311	786	250
\$600	<u>277,800</u>	<u>463</u>		<u>\$ 257,400</u>	<u>429</u>	
Sub total	573,380	3,654	157	636,035	5,854	109
Loans [repaid]				25,000	[25,000]	
Public Matching Funds	<u>1,050,569</u>			<u>1,020,247</u>		
Total Funds Available	\$1,623,949			\$1,656,282		
				Byrne [D]	Bateman [R]	
A. Expenditures exempt from limitation						
-candidate's travel				\$ 49,906	\$ 54,350	
-Food and Beverage fundraising events				76,399	59,432	
-Election night activities				2,702	11,226	
-Public financing statute compliance				<u>32,464</u>	<u>20,821</u>	
Total expenditures exempt from limitation				161,471	145,829	
B. Expenditures subject to limit						
-Administration (includes polls, office expenses, salary, telephones, etc.)				411,604	486,468	
-Communication						
-Radio and TV broadcast time				805,094	661,217	
-Advertising production and consulting				180,000	96,021	
-Newspaper advertising				28,215	104,774	
-Billboards					66,973	
-Printing and mailing of campaign literature				<u>37,260</u>	<u>80,735</u>	
Total communication expenditures				1,050,569	\$1,009,720	
-Expenditures by party committees				<u>43,704</u>		
Total expenditures subject to limit				<u>1,505,877</u>	<u>1,496,188</u>	
C. Total campaign expenditures				\$1,667,348	\$1,642,017	

(1) These amounts reflect the distribution of public funds expended.

(2) These expenditures were made from funds raised by the party committees and not by the Byrne campaign.

After a review of the material presented to it, the Commission voted to certify the appropriate amount of public funds to be distributed to each candidate. Certification of these amounts was forwarded to the State Treasurer, who issued checks the next day (Tuesday), which were picked up by the Commission staff and deposited in the public financing account of each candidate for immediate use. Fourteen payments of matching funds were made (see Table V).

**TABLE V 1977 GENERAL ELECTION PUBLIC
MATCHING FUND PAYMENTS**

<u>Date of Payment</u>	<u>Byrne</u>	<u>Bateman</u>
Aug. 2	\$ 147,965	\$ 83,036
16	51,330	51,116
30	28,486	191,262
Sept. 12	53,530	217,394
20	115,790	42,513
27	59,058	73,048
Oct. 4	63,148	39,191
11	85,580	65,332
18	145,386	47,738
25	100,002	65,754
Nov. 1	121,005	96,738
9	45,888	18,660
17	33,401	26,215
Dec. 10	—	2,250
Total	\$1,050,569	\$1,020,247

4. Litigation, Complaints, Commission Orders

Two of the Commission regulations adopted in 1977 and two administrative orders were challenged in the New Jersey courts, and two of these suits were ultimately decided by the New Jersey Supreme Court. During the last month of the election campaign, the Commission issued three administrative orders, all of which were related to a complaint filed by the Byrne for Governor Committee against the Bateman-Governor/77 Committee and the Republican State Committee's adjunct called the Republican Legislative Campaign Committee.

In Summary, These Matters Were:

A. Use of Candidates' Own Funds

In light of the U. S. Supreme Court decision in *Buckley v. Valeo*, 424 U. S. 1, 46 L. Ed. 2d 659 (1976) and the language of the Act, the Commission's public financing regulations permit a candidate to expend an unlimited amount of his own funds on behalf of his own candidacy. These expenditures count toward the \$1.5 million expenditure limit. Only \$600, however, from the candidate's own funds can be matched with public funds.

On April 20, 1977 Common Cause filed suit against the Commission challenging this regulation and arguing that the New Jersey statute permitted only \$600 of a candidate's own funds to be used on behalf of his candidacy. The case was not heard until after the election on December 19, 1977 and was decided on January 6, 1978. The unanimous opinion of the Appellate Division of the Superior Court in favor of the Commission's position was not appealed. *Common Cause v. New Jersey Law Enforcement Commission*, 155 N. J. Super. 241 (App. Div. 1978).

The decision permits unlimited spending by the candidate from his own funds in behalf of his own candidacy, subject only to the overall \$1.5 million spending limit for the campaign. Since the case was heard and decided after the election and neither Bateman nor Byrne spent from their own funds in behalf of their candidacies, the case had no effect on the 1977 election.

B. Interpretation of the Contribution Limit Relative to Primary Contributions After the Date of the Primary Election

After extensive discussion and in an effort to avoid the retroactive effect which the adoption of a contrary regulation would have had upon candidates who had already incurred substantial primary debts, the Commission, in June, adopted a regulation permitting a contributor to contribute up to \$600 to the general election campaign of a gubernatorial candidate and up to another \$600 after the date of the primary election to pay off the primary election debts of the candidate in gubernatorial elections beginning in 1981 but not limiting post-primary contributions to pay primary debts in the 1977 election. Common Cause filed a challenge to this regulation on June 15, 1977, with the Appellate Division of the Superior Court and the case was argued orally on June 28. Common Cause argued that the statute in question, N.J.S.A. 19:44A-29 (b), permitted only one \$600 contri-

bution to a general election candidate from any contributor after the primary election to be used for the general election campaign and/or the primary election campaign. On July 1 the Appellate Division rendered a unanimous opinion in favor of Common Cause. The Commission appealed that decision to the New Jersey Supreme Court on July 12 and the case was decided 6-0 in favor of Common Cause on July 30, 1977. *Common Cause v. New Jersey Election Law Enforcement Commission*, 151 N. J. Super. 265 (App. Div. 1977), aff'd 74 N. J. 231 (1977).

The Bateman-Governor/77 Committee intervened in both the Appellate Division and the Supreme Court to argue that the statute upon which the regulation was based was intended to apply only to the general election and did not regulate in any manner funds raised for the primary election. Senator Bateman finished the primary campaign with debts in excess of \$300,000 while Governor Byrne had outstanding obligations of approximately \$150,000.

Subsequently a bill to not restrict contributions to the primary election for Governor was introduced by the majority and minority leaders of the State Senate. The bill was reported to the Senate on July 18 but no vote was taken on it.

Following the Supreme Court decision the Commission reviewed contributions made after the date of the primary election for Governor Byrne and Senator Bateman and independent candidates and required the return to contributors of contributions of more than \$600 raised after the primary election. Senator Bateman returned \$5,450 to contributors in response to the Commission directive. The decision had less impact on Byrne, the incumbent Governor and winner of the general election, than it did on the losing candidate, Bateman. By the end of 1977 the Byrne primary debt had been reduced to approximately \$50,000 and was completely erased with funds raised during inaugural events in January 1978. In contrast, the Bateman campaign nine months after the primary remained in excess of \$200,000 in debt and encountered difficulty finding potential contributors who had not already given the maximum \$600 allowable.

Another effect of the Supreme Court opinion was that it applied the \$600 contribution limit to any candidates for Governor whether or not they participated in the public financing. The Commission had interpreted the statute to exclude from any limitation

the funds raised by candidates who did not seek to qualify for public funds, but the courts held that no such exemption is granted by the statute. Therefore, the \$600 contribution limit applied to all candidates for Governor in the general election.

C. Complaint Regarding a Violation of the Expenditure and Contribution Limits - Byrne for Governor vs. Republican State Committee and Bateman - Governor/77.

On September 23, 1977, a complaint was filed by the Byrne for Governor Committee against the Republican State Committee and Bateman-Governor/77 Committee. The Byrne for Governor Committee, alleged that solicitations to a fund-raising event held by the Republican Legislative Campaign Committee, an arm of the Republican State Committee, was an appeal to the donors to violate the \$600 contribution limit and that expenditures made jointly by the Republican State Committee and the Bateman campaign for an "anti-Byrne" advertising campaign were improperly allocated between the committees. They argued that expenditures properly allocated to the Bateman campaign might result in expenditures in behalf of the Bateman candidacy beyond the statutory spending limit.

The Commission appointed a hearing officer, who conducted hearings on the complaint on September 29 and 30 and reported his findings to the Commission. After examining the 25-day pre-election disclosure reports for the Bateman campaign and the Republican Legislative Campaign Committee, the Commission examined advertisements purchased through expenditures shared by the two committees.

Following appearances by attorneys for the parties involved, the Commission made a determination in regard to this complaint at its meeting on October 21. The Commission determined that the proceeds from the fund-raising event in question were not used in behalf of the Bateman campaign and, therefore, the solicitation was not a solicitation of contributions for that campaign. The Commission also determined that the expenditures listed in the disclosure reports which were shared by the two committees had not been reasonably allocated between the committees. Accordingly, the Commission required these expenditures to be reallocated, substantially increasing the share of the cost for the Bateman-Governor/77 Committee.

Following a review of expenses shared by the two committees reported on the 7-day pre-election disclosure reports filed on November 1, the Commission determined that additional shared expenses had been unreasonably allocated and on November 4, 1977, ordered the committees to adjust their respective shares of the expenditures to reflect a higher allocation to Senator Bateman's campaign.

The Commission's reallocations of shared expenses of six different items required the Bateman campaign to pay an additional \$76,337 over what it had considered its reasonable allocation, as follows:

Items for which costs were shared	Total Cost	Bateman's Proposed Share	Bateman's share determined by Commission	
			Amount	Amount
1. Phone banks	\$140,000	12.5%	\$17,500	\$ 28,000
2. Bumper stickers	740	25 %	185	370
3. Production costs for "Anti-Byrne" TV ads	34,400	25 %	8,600	22,910
4. Broadcast time for "Anti-Byrne" TV ads	87,120	25 %	21,780	58,022
5. Polling	24,200	25 %	6,050	18,150
6. "New Jersey Blues" flyer	10,000	50 %	5,000	8,000
TOTALS	\$296,460		\$59,115	\$135,452

D. Requested Reallocation of Byrne Campaign Radio Commercials

On November 1, 1977, the Byrne for Governor Committee filed an amendment to the 25-day pre-election report in which one-third of the cost for broadcasting what it characterized as "anti-Bateman" radio commercials was allocated to the Democratic State Committee for Legislative candidates. According to the Byrne for Governor Committee, the amendment was filed after an analysis of the commercials "in light of the precedent established by the Commission in its ruling on the 'anti-Byrne' media campaign undertaken by the Bateman for Governor Committee and the Republican State Committee." The total amount allocated to the Democratic State Committee was \$33,177. The Commission reviewed this matter on

November 3, 1977 and on November 4 made a determination that such allocation was unreasonable and that "100 percent of the production and dissemination (cost) of the radio ads in question" should be allocated to the Byrne for Governor Committee.

The Byrne for Governor Committee immediately appealed the Commission's determination in this matter and the earlier Commission determination regarding the allocation of expenses between the Bateman-Governor/77 Committee and the Republican State Committee. The matter was argued and decided on November 4, with the Appellate Division affirming both determinations by a unanimous vote. This decision was appealed to the New Jersey Supreme Court which affirmed the Appellate Division opinion by a vote of 5-to-2 on Saturday, November 5, only three days before the election. (Appellate Division/ November 4, 1977, aff'd 75 N.J. 585 (1977).

5. Rebate Checks

The State income tax and tax reform and education financing program enacted by the Governor and Legislature in 1976 was the major issue in the general election campaign. One part of that program involved the State sending out two checks to taxpayers, in May and October, as a rebate of property taxes replaced by state income tax revenue. Governor Byrne's name was printed on the checks and a card with an explanatory message signed by Governor Byrne was enclosed with the check. The checks were sent in mid-March - April, 1977 and in September, 1977.

Initially, in response to inquiries regarding the first rebate check and subsequently in response to a complaint from the United Taxpayers of New Jersey regarding the second rebate check, the Commission obtained additional information concerning the issuance of the checks and reviewed the information relative to the question of whether the costs involved in issuing the checks were campaign expenditures in behalf of Governor Byrne. The Commission determined that, considering all the facts and circumstances involved (including the statute requiring the issuance of the checks at specified times), the costs were not campaign expenditures.

GUBERNATORIAL INAUGURAL AFFAIRS

Some proceeds from fund-raising events held in conjunction with the Governor's January, 1978 inauguration were used to pay

obligations incurred in the Byrne primary and general election campaigns. It was necessary, therefore, to establish procedures to ensure that the proceeds used for campaign purposes did not include any contribution in violation of the \$600 limit. The procedure suggested by the Commission and used by the Byrne Inaugural Committee called for segregating in a separate bank account contributions of \$600 or less or some portion (not more than \$600) of contributions larger than \$600. Funds in this account were used to pay a proportionate share of the expenses of the Committee and to pay outstanding campaign obligations. Through the inaugural fund-raising events the Byrne Inaugural Committee raised approximately \$500,000. Of that sum \$8,000 was transferred to the Byrne general election committee to pay campaign obligations; \$48,600 was transferred to the primary election committee to pay its obligations; \$125,000 was transferred to the Democratic State Committee, and the remainder was used to pay the expenses of inaugural events.

While funds raised for campaign purposes were isolated and limited in amount, there was no limit on contributions raised by the Byrne Inaugural Committee for other purposes. A list of contributions to this Committee of \$5,000 or more appears in Table VI.

TABLE VI CONTRIBUTORS OF \$5,000 OR MORE TO BYRNE INAUGURAL COMMITTEE

Peter Levine	\$14,419
Hartz Mountain Industries	10,000
Sills, Beck, Cummis, Radin & Tischman	7,025
Domenico Bus Service	5,750
Ace Alagna	5,350
Eastern Airlines	5,075
CBA Industries Inc.	5,000
Essex County Democratic Comm.	5,000
Johnson & Johnson	5,000
Jack Kraft	5,000
Marriott Corp.	5,000
Smith, Barney, Harris Upham & Co.	5,000
Supermarkets General Corp.	5,000

LEGISLATIVE ELECTION

A. Primary

All 120 seats in both houses of the Legislature were contested in 1977. The 201 Senate candidates and 266 Assembly candidates

spent approximately \$800,000 in the primary election. The spending ranged from under \$1,000 for many candidates (most unopposed) to \$71,000.

The maximum individual contribution received by any Senate candidate was \$17,300 and the comparable figure for Assembly candidate was \$27,500. The largest committee (non-party) contributor to the Senate campaign was \$23,000, while for the Assembly, \$16,240. The largest (non-candidate) loans were \$9,500 to a Senate candidate and \$8,100 to an Assembly candidate. One Senate candidate loaned or contributed \$10,500 to his own campaign while an Assembly colleague loaned or contributed \$8,848.

The average amount spent in an Assembly primary contest by the 81 candidates spending more than \$1,000 was \$4,345. For the Senate races, the figure was \$10,217 for the 43 candidates spending more than \$1,000. However, 168 Senate candidates (79 percent) and 185 Assembly candidates (69 percent) did not spend more than \$1,000 each.

The following table summarizes the legislative primary spending:

TABLE VII *1977 PRIMARY ELECTION - LEGISLATIVE CONTESTS SPENDING

	Senate Total	Senate Average	Assembly Total	Assembly Average
Democrats	\$348,019	\$12,429	\$167,786	\$3,495
Republicans	91,297	6,086	184,162	5,416
Winners	299,307	10,689	188,485	4,188
Losers	140,009	8,750	163,463	4,418
Total Spending	\$439,316		\$351,948	

*Based on 43 Senate candidates and 81 Assembly candidates spending more than \$1,000. Does not include those candidates spending \$1,000 or less.

In seven Senate races more than \$20,000 was spent by candidates from one party. Five of these races involved incumbents facing a serious challenge from within their party. Of these five races only one

incumbent, Frank Dodd, was successful in retaining his Senate seat. Spending in Legislative races is shown in Tables VIII and IX.

TABLE VIII MAJOR SENATE RACES
 (more than \$20,000 spent)
1977 PRIMARY

<u>District</u>	<u>Candidate</u>	<u>Party</u>	<u>Amount Spent</u>	<u>W/L</u>
No. 1	+ Steven Perskie (unopposed)	D	\$37,060	W
No. 7	+ Edward Hughes	D	17,760	L
No. 7	Charles B. Yates	D	10,613	W
No. 19	+ John J. Fay	D	24,551	L
No. 19	Lawrence Weiss	D	19,089	W
No. 23	Albert Merck	R	25,467	W
No. 26	+ Frank Dodd	D	26,711	W
No. 26	Eldridge Hawkins	D	6,886	L
No. 26	Althea Gibson	D	470	L
No. 31	+ James P. Dugan	D	15,248	L
No. 31	Walter Sheil	D	11,204	W
No. 32	David Friedland	D	71,799	W
No. 32	+ Joseph Tumulty	D	9,226	L

+ Incumbent

TABLE IX MAJOR ASSEMBLY RACES
 (more than \$20,000 spent)
1977 PRIMARY

<u>District</u>	<u>Candidate</u>	<u>Party</u>	<u>Amount</u>	<u>W/L</u>
19	Robert F. Dato	D	\$ 6,005.34	L
	+Alan J. Karcher	D	6,344.08	W
	Stanley Marchinczyk	D	3,062.11	L
	+George Otlowski	D	6,419.12	W
21	Frank P. Benianto	D	\$ 998	L
	+Thomas J. Deverin	D	4,492	W
	James S. LaCorte	D	7,747	L
	Raymond Lesniak	D	6,803	W
23	Arthur Albohn	R	\$ 2,863	L
	+James J. Barry, Jr.	R	4,826	W
	Carl R. Fruehung	R	2,908	L
	Wright Hitt	R	5,972	L
	Joseph Mariziti	R	7,480	W
	Alfred J. Villorosi	R	7,507	L
25	+Jane Burgio	R	\$ 5,017	W
	Norman Lapidus	R	1,374	L
	Newton E. Miller	R	12,794	L
	Frederick Remington	R	3,260	W
	Shirley A. Szabo	R	378	L
	Melvin Tolstoi	R	7,333	L
31	John Alston, Sr.	D	\$ 8,121	L
	Charles Mays	D	6,777	W
	Patrick C. Pasculli	D	2,148	W
	+William O. Perkins	D	6,474	L
	Frank Perrucci	D	8,121	L
	Moris Pesin	D	9,241	L
	Leonard Kiczek	D	5,512	L
39	Gerald Cardinale	R	\$ 8,085	W
	John F. Ingamamort	R	22,259	W
	John J. Johl	R	1,575	L

+ Incumbent

40	W. Cary Edwards	R	\$11,336	W
	Walter Kern, Jr.	R	7,575	W
	Richard Moca	R	4,689	L
	+ John Spizziri	R	17,826	L

+ Incumbent

B. General Election

In the general election, the Democratic Party retained control of both houses of the Legislature by margins of 27-to-13 in the Senate and 54-to-26 in the Assembly. This represented a gain of three seats in the Senate for the Republicans and a gain of five seats in the Assembly for the Democrats.

The 107 Senate candidates and 208 Assembly candidates spent approximately \$3.6 million in the general election. The spending ranged from less than \$1,000 to a high of \$96,944.88.

The average spending by the 158 Assembly candidates who spent more than \$1,000 was \$12,410. For the Senate races, the figure was \$19,667 for the 87 candidates spending more than \$1,000, each. Eighteen Senate candidates and 48 Assembly candidates did not spend more than \$1,000 each.

The following tables summarize General Election spending for legislative races:

TABLE X 1977 GENERAL ELECTION SPENDING FOR LEGISLATIVE RACES

	<u>Senate Total</u>	<u>Senate Average</u>	<u>Assembly Total</u>	<u>Assembly Average</u>
Democrats	\$ 930,277	\$23,853	\$ 916,719	\$11,459
Republicans	640,702	16,861	1,033,152	13,913
Other	140,098	20,014	10,922	2,730
Winners	994,835	24,871	1,097,016	13,713
Losers	716,242	10,690	863,777	6,748
Total Spending	\$1,711,077		\$1,960,793	

There were 10 Senate races in which more than \$50,000 was expended. Two of these races (in the 2nd and 21st districts) involved Democratic incumbents who were attempting to retain their seats as independents, and one (the 30th district) included Anthony Imperiale, the only independent incumbent.

TABLE XI MAJOR SENATE RACES
(more than \$50,000 spent)
1977 GENERAL ELECTION

<u>District</u>	<u>Candidate</u>	<u>Party</u>	<u>Amount</u>	<u>W/L</u>
2	+Joseph McGahn	I	\$96,945	L
	Steven Perskie	D	95,367	W
	Frederick Perone	R	41,242	L
3	+Raymond Zane	D	34,772	W
	Robert Hendrickson	R	15,489	L
20	Anthony Russo	D	57,012	W
	Frank X. McDermott	R	32,392	L
21	John T. Gregorio	D	54,593	W
	+Thomas G. Dunn	I	27,226	L
	Robert Walsh	R	6,081	L
23	John Dorsey	R	31,939	W
	+Stephen Wiley	D	36,277	L
28	+Martin Greenberg	D	18,702	W
	James Pindar	R	37,351	L
30	Francis E. Rodgers	D	63,285	W
	+Anthony Imperiale	I	12,666	L
35	+Frank X. Graves	D	33,634	W
	Alfred Fontanella	R	31,058	L
37	+Matthew Feldman	D	59,004	W
	William C. Clark	R	33,853	L

+ Incumbent

40	Anthony Andora	D	\$37,591	L
	+Garret Hagedorn	R	28,496	W

**TABLE XII SENATE CANDIDATES EXPENDING
MORE THAN \$30,000
1977 GENERAL ELECTION**

<u>District</u>	<u>Candidates</u>	<u>Party</u>	<u>Amount</u>	<u>W/L</u>
2	Joseph McGahn	I	\$ 96,945	L
2	*Steven Perskie	D	95,367	W
30	Francis Rodgers	D	63,285	W
37	Matthew Feldman	D	59,005	W
20	Anthony Russo	D	57,012	W
21	John Gregorio	D	54,593	W
31	Walter Sheil	D	42,921	W
2	Frederick Perone	R	41,242	L
40	Anthony Andora	D	37,591	L
28	James Pindar	R	37,351	L
23	Stephen Wiley	D	36,277	L
3	Raymond Zane	D	34,772	W
5	Angelo Errichetti	D	34,643	W
37	William Clark	R	33,853	L
35	Frank Graves	D	33,634	W
20	Francis McDermott	R	32,393	L
23	John Dorsey	R	31,939	W
35	Alfred Fontanella	R	31,058	L
TOTAL		18	\$909,156	10W; 8L

*Also spent \$37,060 in unopposed primary election.

**TABLE XIII MAJOR ASSEMBLY RACES
(OVER \$60,000 SPENT)
1977 GENERAL ELECTION**

<u>District</u>	<u>Candidates</u>	<u>Party</u>	<u>Amount</u>	<u>W/L</u>
2	Rocco Carri	D	\$ 8,147	L
	William Gormley	R	18,339	W
	+Howard Kupperman	R	21,776	L
	Michael Mathews	D	12,115	W
3	+Martin Herman	D	18,095	W
	Douglas Zee	R	18,860	L
	+H. Donald Stewart	D	18,920	W
	Thomas P. Haaf	R	16,681	L
6	Barbara Berman	D	13,411	W
	+Mary Keating Croce	D	11,498	W
	William Dickey	R	16,470	L
	Mario Iavicoli	R	30,565	L
10	+Anthony Villane	R	21,799	W
	William Dowd	R	16,761	W
	Gertrude Berman	D	14,102	L
	Richard J. Rooney	D	9,629	L
16	Timothy Carden	D	\$33,602	L
	Peter G. Dowling	D	5,122	L
	+Walter Kavanaugh	R	20,315	W
	Elliott Smith	R	16,269	W
20	+C. Louis Bassano	R	31,216	W
	Charles Hardwick	R	29,988	W
	Vincent Baldassano	D	5,837	L
	Daniel Mason	D	8,549	L
30	+Michael Adubato	D	25,296	W
	+John Cali	D	44,379	W
	Daniel Russo	R	10,441	L
	Theodore Murnick	I	5,195	L
	George Riepe, Jr.	R	10,441	L
	Anthony Esposito	I	1,363	L

+ Incumbent

<u>District</u>	<u>Candidates</u>	<u>Party</u>	<u>Amount</u>	<u>W/L</u>
35	+Ronald Fava	R	\$22,930	L
	Henry Ramer	R	12,638	L
	+Vincent Pellechia	D	13,941	W
	John A. Girgenti	D	13,831	W
39	John Inganamort	R	52,467	L
	Gerald Cardinale	R	25,106	L
	Greta Kiernan	D	13,390	W
	+Harold Martin	D	5,610	W
40	Chris Burdick	D	13,389	L
	W. C. Edwards	R	25,092	W
	John Henderson	D	6,536	L
	Walter Kerns, Jr.	R	21,723	W

+ Incumbent

MAY MUNICIPAL ELECTION

The May municipal non-partisan election saw 309 candidates in 29 communities spend \$1,540,897. Thirty-two point nine percent of this amount, \$553,641, was expended on behalf of the various candidates for mayor and council in Jersey City.

The following seven municipalities had May elections in which the candidates for all municipal offices in each spent more than \$25,000 in the aggregate:

1. Jersey City	\$553,641
2. Hoboken	\$ 83,770
3. Cherry Hill	\$ 64,852
4. Passaic	\$ 55,057
5. Asbury Park	\$ 50,927
6. Hackensack	\$ 33,504
7. Millville	\$ 25,025

JERSEY CITY MAYORALTY ELECTION

The most significant county or municipal election was the mayor's race in Jersey City. The incumbent mayor, Paul Jordan, was

a candidate in the Democratic gubernatorial primary election. Jordan supported Jersey City Business Administrator William Macchi over another Jordan associate, Arthur Cashin, and Jersey City Municipal Clerk Thomas F. X. Smith in the May election. Although most observers predicted a run-off election between Smith and Macchi, Smith won the May election without need for a run-off.

The election was a very expensive one, with the three major candidates spending a total of \$368,704. Smith spent \$217,559, Macchi \$123,626 and Cashin \$27,519.

Contributors of \$2,500 or more to Smith's campaign were:

Michael Barrett	\$5,000
Frank Guarini, Jr.	\$5,000
Thomas McGovern	\$5,000
Joseph Scott	\$5,000
Walter Sheil	\$5,000
Joseph Georgia	\$3,000
Ray Means	\$3,000
Thomas Sheil	\$2,500
Raymond Maloney	\$2,500
Alice Maloney	\$2,500
Robert Janiszewski	\$2,500

STATE PUBLIC QUESTIONS

The two State public questions on the November ballot were approved by the voters. The first called for authorization to sell \$30 million in bonds for the development, construction and maintenance of beach and harbor facilities. The second authorized the sale of \$120 million in bonds to refinance the Teaching Hospital project of the college of Medicine and Dentistry of New Jersey. The first question passed by a vote of 907,904 to 640,029 and the second by a vote of 929,138 to 616,502.

There appeared to be little or no organized opposition to these public questions and no reports were filed with the Commission by individuals or groups opposing the questions. The referenda questions were proposed and supported by the Byrne Administration. Very little was spent on behalf of the questions, with only one group, Concerned CMDNJ (College of Medicine and Dentistry of New Jersey) Alumni in Support for Health Facilities Bond Issue, which supported

the second question, filing reports with the Commission. The group spent approximately \$6,000.

JUNE MUNICIPAL RUN OFF ELECTION

More than \$145,072 was spent by the 22 candidates in the run-off election held in June. A run-off is required if no candidate in the May elections received more than 50 percent of the vote. Run-off elections were held in Saddle Brook, Evesham, Cherry Hill, Jersey City (City Council) and Passaic. Three-fourths of all of the money spent (\$108,804) was spent on a run-off election in Cherry Hill for three city commissioners.

TOTAL CAMPAIGN SPENDING

In 1977, more than \$17 million was expended on behalf of candidates in the State of New Jersey. Approximately one-half of of that money was expended by candidates for Governor. The remaining amount was expended on behalf of the Legislative candidates and candidates for the thousands of statewide county and municipal offices.

The following table depicts the approximate spending in each election:

TABLE XIV

May Municipal			
Jersey City	\$ 553,641		\$ 1,540,897
June Runoff			
Cherry Hill	108,804		142,112
Primary			6,304,000
Governor	5,000,000		
Legislature	804,000		
Other	500,000		
General			9,196,000
Governor	3,200,000		
Legislature	3,300,000		
Other	2,696,000		
Total			\$17,183,009

CONTENTS OF FILING

In 1977, 5,958 candidates and 1,181 committees filed over 60,000 pages of campaign finance information with the Commission. All of these documents were initially reviewed and made available for public inspection within 24 hours of their filing.

A breakdown of the number of candidates and committees for each election follows:

<u>ELECTION</u>	<u>CANDIDATES</u>	<u>COMMITTEES</u>
May Municipal	342	41
June Run-off	28	5
Primary	2,790	153
General	<u>2,798</u>	<u>982</u>
Total	5,958	1,181

If a candidate expends less than \$1,000 he or she can simply file a sworn statement to that effect. A breakdown of the number and percentages of candidates filing sworn statements and reports follows:

<u>Election</u>	<u>Reports</u>	<u>Percent</u>	<u>Sworn Statement</u>	<u>Percent</u>
May Municipal	173	51%	169	49%
June Run-off	22	84%	6	16%
Primary	308	11%	2,482	89%
General	<u>862</u>	31%	<u>1,936</u>	69%
	1,365		4,593	

LITIGATION

There were five items of litigation during the year. Two of these involved New Jersey Supreme Court decisions, one a decision of the Appellate Division, one was a case decided in the Chancery Division and one was a suit instituted in the Chancery Division. In each case the Commission was the defendant.

In *Common Cause vs. ELEC*, 74 N.J. 231 (1977) the Supreme Court declared invalid a regulation of the Commission which interpreted the Act to permit \$600 each for primary and general elections to be contributed to a winning primary candidate for Governor after the date of the primary. The Court found that only one \$600 contribution could be made after the date of the primary, to be used either for the general election or primary election or part for each.

In the case of *In re: Allocation of a Portion of the costs of Byrne for Governor Radio Advertising Campaign*, 75 N.J. 585 (1977), the Supreme Court upheld determinations of the Commission in requiring reallocation of expenditures from the Bateman campaign to the Republican State Committee and denied a requested reallocation of expenditures by the Byrne campaign to the Democratic State Committee. The 5-to-2 decision was rendered on the Saturday prior to the election, after the Commission's determinations were made on the previous Thursday, and affirmed by the Appellate Division on the previous Friday.

In *New Jersey Chamber of Commerce vs. New Jersey Election Law Enforcement Commission*, 155 N.J. Super 218 (App. Div. 1977) the Appellate Division reversed the trial court and upheld the constitutionality of that portion of the Campaign Contributions and Expenditures Reporting Act which requires annual disclosure reports of receipts and disbursements of lobbyists ("political information organizations" as defined in the Act). The Court construes the Act to be applicable above a \$750 expenditure threshold, and found that the statute constitutionally valid. The Court also found that the trial judge erred in ruling that the Act's provision requiring reporting by "political committees" was unconstitutional because it found that the the issue was not properly at issue before him. The plaintiffs appealed the Appellate Division decision to the N.J. Supreme Court.

In *Common Cause v. ELEC*, 155 N.J. Super. 241 (App. Div. 1978) the Appellate Division upheld a regulation of the Commission which stated that the Act as drafted contained no limit on the expenditures by a candidate of his own funds on behalf of his own candidacy. The plaintiff had argued that the Act limited such expenditures to \$600. The decision was not appealed.

In *Socialist Workers Party et al v. ELEC* the Socialist Workers Party and its candidate for Governor filed suit in the Chancery Division of the Superior Court of New Jersey to enjoin the Commission from

requiring disclosure of the names and addresses of contributors to their candidate in excess of \$100 because of the alleged “chilling effect” on that campaign’s fund-raising effort. Earlier in the year the Socialist Worker’s Party had requested an exemption from the disclosure requirements on this basis but the Commission had found no statutory authority for it to grant such an exemption.

These 5 matters constituted the most significant litigation in which the Commission was involved.

LEGISLATION

The Commission had a major interest in seven bills considered in the Legislature in 1977.

A3140, which the Commission strongly supported, proposed to establish a \$750 threshold amount of expenditures before a “political information organization” was required to file annual reports. It also modified the definitions of “political committee” and “political information organization”, applied expenditure limits to only candidates participating in public financing (to bring the law into conformity with the U. S. Supreme Court decision in *Buckley v. Valeo*), and applied the civil penalties of the Act to anyone who violated its provisions. The bill passed in both houses of the Legislature rather easily but was vetoed by the Governor who indicated in part that:

“...the language of this legislation is so narrow in relation to the \$750 reporting threshold level for political information organization, that too many single issue, ad hoc or voluntary groups will be forced to go through the added burden of appointing a treasurer and depository.”

After the bill had passed both houses but before it was vetoed the Appellate Division decision in the *Chamber of Commerce* case was rendered, based in part on the \$750 threshold contained in the bill.

A3034, strongly supported by most of the county clerks, proposed to repeal that portion of the Act which permitted general election gubernatorial candidates to send through ELEC a 500-word statement to the registered voters. It passed easily in both houses but was also vetoed by the Governor who indicated that:

“It would be hypocritical of me to single out a portion of the public financing campaign law for repeal since I am a candidate taking advantage of public financing. A denial of the oppor-

tunity for other candidates to be presented to the voting public is contrary to my sense of equal access, the premise upon which the law as passed.”

A 706, drafted by ELEC to modify a number of provisions of the Campaign Contributions and Expenditures Reporting Act which are unworkable, unnecessary, inappropriate or in need of clarification, remained in the Assembly Committee on State Government, Federal & Interstate Relations and Veterans Affairs throughout 1977, as it had in 1976.

A 1960 and S 1465, initiated by Common Cause, proposed to repeal the present lobbyist registration and activity report statute administered by the Attorney General and those portions of the Campaign Contributions and Expenditures Reporting Act which require annual financial reports to ELEC of lobbyists and to replace them with a new consolidated statute under the jurisdiction of ELEC or a new State lobbyist regulation commission, respectively. Neither bill was reported out of committee in the house of origin.

A 3324, the Election Law Revision Commission's bill to substitute Title 19A (Elections) for the present Title 19 election code and place authority for administration and supervision of most aspects of elections in ELEC, also was not reported out of committee in the Assembly. It is opposed by county election officials, county clerks and the Secretary of State, among others.

REGULATIONS

In 1977 the Commission adopted a substantial number of new regulations. Most of them related to the public financing of the gubernatorial election. The basic public financing regulations adopted on March 7: clarified the applicability of the \$600 contribution limit; set the standard for judging the independence of contributions made by affiliated corporations, associations and labor organizations; detailed the process by which candidates qualify for and receive matching funds; established a schedule for the submission of contributions which are to be matched; exempted compliance costs from the expenditure limit; and described the requirements for reporting independent expenditures.

The basic regulations were supplemented three times during 1977. In April, regulations (N.J.A.C. 19:25-15.35 through 15.37) were proposed, dealing with post-election fund raising, the applica-

tion of the \$600 contribution limit to funds raised after the date of the primary election and repayment to the State of surplus campaign funds. A public hearing was held on April 27 and the regulations were adopted on June 14.

In August the Commission proposed other regulations to clarify the method by which the costs of the candidate's travel and the value of goods and services donated to a candidate are to be determined. These regulations (N.J.A.C. 19:25-15.40 through 15.41) were adopted on September 19 following a public hearing on August 25. At the same time regulations (N.J.A.C. 19:25-15.38 through 15.39) clarifying the reporting requirements for political action committees also were adopted.

Later in September, the Commission prepared a draft regulation to supplement existing regulations on the reporting of so-called "street money" and other election day expenditures. This regulation (N.J.A.C. 19:25-12.1 (b)) was adopted on October 3 following a public hearing on September 19. It requires the reporting of the ultimate payees of all such "street money" initially distributed in amounts of \$100 or more.

Additionally, the Commission adopted regulations designed to disclose additional information from political action committees, particularly those not based in New Jersey, in their reporting to ELEC. These committees are growing more numerous and appear to be substantially influential in the election process.

ENFORCEMENT

In 1977, despite the fact that the Commission's attention was focused upon the gubernatorial election and public financing, the Commission continued its intensive effort to both encourage and enforce timely and accurate disclosure. The Commission in 1977 sent approximately 3,000 notices to candidates and committees notifying them of the failure to file timely campaign reports, and 691 notices to correct reports. Additionally, the Commission's staff made several hundred telephone requests for clarification of certain information. In 1977, the Commission's staff made a stronger effort to develop an automatic procedure for the follow-up of these correction notices.

There were 264 hearing proceedings held in 1977. Most of these hearings related to late filings in the 1976 elections. The Commission

found 182 candidates or committees guilty of violation of the Act. Fines totaling \$6,040 were imposed in 165 of these cases. The remaining 17 violators were reprimanded. The Commission dismissed seven of the complaints filed. Additionally, 150 cases heard in 1977 were not decided that year because of the amount of time which the Commission needed to devote to administering the public financing law. The Commission rendered decisions in these cases in early 1978. This schedule is the major reason for the lower amount of fines collected in 1977 v. 1976 (\$13,125).

The largest fine of 1977 was levied against the Democratic State Committee. The Commission fined that Committee \$500 for failing to file the 25-day pre-election report for the general election report for the general election on time. The report, which was due to be filed on October 14, 1977, was filed on October 19. A complaint was filed on October 18 by the Chairman of the Republican State Committee. The Democratic State Committee acknowledged that it had failed to file timely and waived its right to a hearing. On November 1, 1977, the Commission found the violation and levied the \$500 fine.

On September 23, 1977, a complaint was filed by the Byrne for Governor Committee against the Republican State Committee and Bateman-Governor/77 Committee. The Complaint alleged that expenditures which had been made jointly by the Republican State Committee and the Bateman Campaign for "anti-Byrne" advertising were improperly allocated between the committees. They argued that expenditures properly allocated to the Bateman campaign might result in expenditures in behalf of the Bateman candidacy beyond the statutory spending limit. The Commission determined that the expenditures shared by the two committees listed in the disclosure reports had not been allocated reasonably between the two committees. The Commission required that these expenditures be reallocated between the committees, substantially increasing the share of the cost for the Bateman Committee (by approximately \$75,000).

On November 1, 1977, the Byrne for Governor Committee filed an amendment to its 25-day pre-election report in which one-third of the cost for broadcasting what was characterized as "anti-Bateman" radio commercials was allocated to the Democratic State Committee and the Democratic legislative candidates. The Commis-

sion reviewed the matter on November 3 and on November 4 made a determination that such allocation was not reasonable and that 100 percent of the cost should be allocated to the Byrne for Governor Committee.

The Byrne for Governor Committee immediately appealed the Commission's decision. The Appellate Division upheld the Commission's decision by a vote of 3-to-0. This decision was appealed to the New Jersey Supreme Court, which upheld the decision by a vote of 5-to-2 on Saturday, November 5, only four days before the election.

The Commission staff conducted 60 investigations and 72 field audits during 1977. The latter figure more than doubled the 32 audits which were conducted in 1976. The Commission completed its project of auditing the 42 Republican and Democratic County Committees and the Democratic and Republican State Committees. Each of these Committees has been audited for at least two years of their financial activity.

In late 1977, the Commission's staff began drafting a plan to facilitate the enforcement procedure for routine late filing cases. These cases have taken up an inordinate amount of the Commission's and staff's time. The object of the proposal was to provide more uniform standards for the imposition of penalties in those cases where the candidates had merely failed to file timely a sworn statement that expenditures will not exceed \$1,000. The goal is to expedite the disposition of these cases so that the Commission and staff can concentrate their efforts on deficiencies in reporting by campaigns where substantial sums of money are raised and spent.

ELEC BUDGET

The Commission's operating budget was \$361,223 for fiscal year 1977-78, an increase of \$65,865 over the previous year. Additionally, \$1,812,088 for public financing of the gubernatorial general election was appropriated to ELEC, bringing the total appropriation to \$2,173,311. This figure was \$84,121 less than the Commission requested and \$38,000 less than the Governor recommended. The Commission requested \$445,344 for the operating budget and the Governor recommended \$399,233 for that purpose.

The Commission's request included increases of \$81,955 for eight additional staff positions, including a director and four other

staff members for public financing, an additional investigator, two additional secretaries, and significant increases in the accounts for printing and supplies and consultant services (needed for the gubernatorial campaign). Additionally, the Commission requested that two positions (compliance director and investigator) be converted from temporary to budgeted status.

The appropriated amount included the basic funds for the five public financing staff positions, additional printing and consultant funds and conversion of the two positions to budgeted status.

TABLE XV ELEC BUDGET SUMMARY
FISCAL YEARS 1974 - 1978

<u>Operating Budget</u>			
<u>Fiscal Year</u>	<u>Requested</u>	<u>Recommended by Governor</u>	<u>Appropriated</u>
1974	\$150,000.	\$150,000.	\$150,000.
1975	\$259,966.	\$253,166.	\$253,166.
1976	\$399,983.	\$296,305.	\$296,305.
1977	\$326,839.	\$228,300.	\$295,358.
1978	\$445,344.	\$399,223.	\$361,223.
<u>Public Financing</u>			
1976	\$ 500,000.	\$ 500,000.	_____
1977	\$1,786,668.	\$1,786,668.	\$ 786,668.
1978	\$1,812,088.	\$1,812,088.	\$1,812,088.
<u>Total Budget</u>			
1974	\$ 150,000.	\$ 150,000.	\$ 150,000.
1975	\$ 259,966.	\$ 253,166.	\$ 253,166.
1976	\$ 899,983	\$ 796,305.	\$ 296,305.
1977	\$2,113,507.	\$2,014,968.	\$1,082,026.
1978	\$2,257,432.	\$2,211,311.	\$2,173,311.

DATA PROCESSING

One of the key elements in the Commission's enforcement and public information efforts is its computer operation. Without the

computer capacity, efficient enforcement of the filing requirements for the thousands of candidates and committees which file with the Commission annually would be more difficult. The data processing program assists in monitoring all of those candidates and committees which have filed reports and prepares labels for letters to those candidates who have failed to file. It also monitors those candidates or committees which have filed deficient reports which the Commission has requested be corrected. Additionally, the program enables the Commission to produce summaries of all the information contained in the campaign financial disclosure reports, including an alphabetical list of contributors to all elections.

In March, 1977, the Commission improved its computer operation with the installation in its offices of two video display terminals (VDT). These terminals enable the Commission's staff to enter information directly from the report into the computer, rather than through the more laborious effort of transcribing the information by hand and sending it to the Division of Data Processing to be key-punched. Initially the terminals were used to process the summary information from the filed reports. The first special project undertaken with the terminals was the Commission's report on the receipts and disbursements relative to the 1976 casino gambling state public question which was published in August. This report, which was done in an 8½ inch by 11 inch format, contained an analysis of major contributors for and against the 1976 casino gambling state referendum and a complete listing in alphabetical order of all contributions made in respect of that public question. In July, 1977, because of the success of the initial experience with the VDT, the Commission extended the use of the terminals to include monitoring candidates' and committees' filing requirements. This has resulted in the elimination of all need for key-punching cards by the Division of Data Processing and expedited the process of preparing delinquent reports for non-filers. The Commission expects that the cost of the terminals will be offset by the elimination of the cost of key-punching time, and that the use of the terminals will significantly increase the time needed to produce the financial summaries.

PERSONNEL - COMMISSION AND STAFF

There were no changes in the Commission membership in 1977. Commission member Josephine Margetts, appointed by Governor

William T. Cahill in January, 1974, to fill an unexpired term, was re-appointed for a full three-year term by Governor Byrne on May 23, 1977.

Major staff additions included a director of public financing and four additional members of the public financing staff. Turnovers occurred in the positions of director of compliance and review, assistant election finance analyst, senior statistical clerk and senior clerk stenographer.

The Commission convened more times in 1977, (34), than during any year in its history. It met seven times in October to deal with the several complaints in the gubernatorial election.

The chairman, executive director and counsel all participated as panelists on the program at the annual conference of Public Officials and the Public Trust held in December in New Orleans, Louisiana. Chairman Frank Reiche was elected a member of the Steering Committee selected to formulate plans for a permanent organization of state ethics agencies. He and Executive Director Lewis B. Thurston, III attended a meeting in Chicago on April 24 and 25 to begin formulation of such plans.

During the year, the executive director spoke to a number of organizations in New Jersey about the Act and the operation of the Commission.

PUBLIC EDUCATION AND INFORMATION

The Commission has continued to focus a major part of its time in educating candidates and treasurers as to the requirements of the Act and providing the public with ready access to all of the reports filed with the Commission.

To provide the candidates with information about their reporting requirements, the Commission sends to each candidate forms and instructions. As in the past, because of the closeness of the deadline for filing petitions (40 days before the election) and the first report due 25 days prior to the primary election, it has been very difficult for the Commission to provide the necessary information to candidates in the primary election sufficiently in advance of the reporting date, despite the excellent cooperation of the county and municipal clerks. The Commission is considering putting all its forms and instructions into one booklet to be distributed at the time of filing the petition

with the municipal and county clerks to help overcome this problem.

The Commission held three seminars throughout the state for the primary and five for the general election to explain the reporting requirements to candidates and treasurers and to answer their questions about the Act. These proved to be valuable not only to candidates but for the Commission's staff as well, because they provided an opportunity for the Commission to hear suggestions from the public on how to improve the reporting requirements. Several suggestions from the public have been incorporated in the Commission's information publications.

One of the Commission's basic functions is to provide the public with access to all reports filed and to make available copies of the information at a reasonable cost. In 1977, 592 people reviewed files in the Commission's office. Additional hundreds of persons reviewed reports in the offices of the county clerks. Due to the special interest in the gubernatorial race, reports filed by gubernatorial candidates were made available to the public almost immediately upon their receipt. All other reports were made available on the next working day after they were filed.

The Act requires the Commission to publish a summary of all the information which is filed in campaign disclosure reports. The Commission made public computer summaries of all of the information filed for each election. In August, 1977, the Commission published the first of what it hopes to be a series of special reports focusing on specific elections. The subject of the first special report was the \$1.5 million spent relative to the 1976 State public referendum on casino gambling in Atlantic City. The Commission hopes to publish additional special reports on the 1977 gubernatorial and Senate and Assembly elections. All publications are available from the Commission's office free of charge or at cost. Copies of reports on file are available at a cost of ten cents a page.

FUTURE CONSIDERATIONS

The Commission continues to support enactment of legislation it previously proposed to amend the Campaign Contributions and Expenditures Reporting Act in a variety of ways based on the Commission's experience in administering the Act. Additionally, the Commission reiterates its interest in legislation to revise Title 19, the state election code, and the state lobbyist regulation statute. Additionally,

legislation to clearly indicate the permissible uses of surplus election campaign funds and a legislative review of present statutes to determine if new legislation clearly barring political activity on the job by public officials is necessary are desirable. The legislation and review were suggested by the Commission in its 1976 annual report.

The Commission anticipates that with additional resources through increased appropriations it has the capacity to eliminate the backlog of data summaries from previous elections and produce such summaries more expeditiously. The addition of a third investigator position will give the Commission greater capacity to conduct necessary investigations. Continued refinement of the Commission's data processing programs is anticipated to better monitor compliance and summarize significant information filed with the Commission.

Finally, the Commission hopes that there will be resolution in the near future of the issue of the reporting obligations of lobbyists and other "political information organizations", central in the case of *N. J. Chamber of Commerce et al v. N. J. Election Law Enforcement Commission et al*, now awaiting decision by the N. J. Supreme Court.