

---

---

# 1995 Annual Report

**The N.J. Election Law  
Enforcement  
Commission**



---

---

May, 1996

# TABLE OF CONTENTS

*1995 Annual Report*

*May 1996*

THE COMMISSION .....	1
CHAIR'S MESSAGE .....	8
COMMISSION STAFF .....	11
TABLE OF ORGANIZATION .....	13
EXECUTIVE DIRECTOR'S REMARKS .....	14
ELEC OVERVIEW .....	17
LEGISLATIVE REVIEW .....	20
LEGAL SECTION .....	25
COMPLIANCE AND INFORMATION SECTION .....	32
REVIEW AND INVESTIGATION SECTION .....	37
GUBERNATORIAL PUBLIC FINANCING SECTION .....	44
COMPUTER SECTION .....	47
ADMINISTRATION SECTION .....	50
BUDGET OVERVIEW .....	52
1995 EVALUATION DATA .....	53

## **ELEC'S LOCATION & MAILING ADDRESS**

*1995 Annual Report*

*May 1996*

### ***ELEC'S LOCATION:***

28 West State Street  
12th Floor  
Trenton, NJ

### ***MAILING ADDRESS:***

New Jersey Election Law Enforcement  
Commission  
CN-185  
Trenton, NJ 08625-0185

### ***TELEPHONE:***

(609) 292-8700

### ***FACSIMILE:***

(609) 633-9854

# THE COMMISSION

*1995 Annual Report*

*May 1996*

## **Ralph V. Martin, Chair**

Ralph V. Martin, retired Superior Court Judge serving Passaic County, and now a practicing attorney in Wayne, New Jersey, was appointed to fill an unexpired term on the Commission in December, 1995, and was appointed Chair in February, 1996, by Governor Christine Todd Whitman.

While a Superior Court Judge, the Chair was involved in all divisions of the Court, with the bulk of his service occurring in the Civil Division.

A graduate of Rutgers University in 1951 with a B.S. and M.S., Judge Martin earned his J.D. in 1958 from Rutgers University. He was subsequently admitted to the New Jersey and U.S. District Court in 1958 and to the U.S. Supreme Court in 1963.

The Chair is a member of the Passaic County and State of New Jersey Bar Associations. He has a legal interest in complex litigation and media delivery issues. Judge Martin had chaired the Supreme Court Media Committee for an extensive period of time.

A veteran of the U.S. Army wherein he served as a Nuclear Guided Missile Officer from 1951-1955 (14th Ordnance Battalion), the Chair is married to the former Ida K. Kuiphoff. The couple have four sons.

### **Owen V. McNany, III, Vice Chair**

Owen V. McNany, III, has completed four terms on the Commission. Prior to being named Vice Chair last year, he had served as Chair of the Commission since 1990. From 1988 to 1990, he had served in the capacity of Vice Chair.

He is currently President of Essex Properties, Inc. and McLand Realty Management, Inc. involved in commercial and residential real estate development and multifamily property management.

The Vice Chair is a past State Director of the Institute of Financial Education of the U.S. League of Savings Associations as well as the former Chair of the Board of Trustees of the Hospital Center at Orange. Mr. McNany is past President and Director of the Yorkwood Savings and Loan Association and former President and Director of the Crestwood Service Corporation. An active member of various community organizations, Mr. McNany was named "man of the year" in 1990 by the Maplewood Chamber of Commerce. He is a past President of the Maplewood Lions Club, a member of the Maplewood Chamber of Commerce, and a trustee of Our Lady of Sorrows Church.

The Vice Chair served as Director of Business Development for the Hospital Center at Orange where he oversaw the Hospital's for-profit and not-for-profit subsidiary operations. Mr. McNany also directed the operations of the Hospital's long term care affiliate, South Mountain Healthcare and Rehabilitation Center.

Married to the former Patricia Beury, Owen V. McNany, III, is the father of four children.

## **David Linett, Commissioner**

David Linett has completed two terms on the Commission. An attorney, he is currently President of the Bridgewater law firm of Ginden and Linett, PC.

Commissioner Linett is a former Prosecutor of Somerset County and a former Treasurer of the National District Attorneys Association. A past Chair of the Supreme Court's District XIII Ethics Committee, he also served as the Treasurer of the Supreme Court's Ethics Financial Committee. He is a member of the American, New Jersey State and Somerset County Bar Associations.

Very active in charitable and volunteer endeavors, Commissioner Linett was named "Citizen of the Year" in 1989 by the Somerset County Chamber of Commerce. Further, he served three terms as Chair of the Board of Trustees of Alternatives, Inc. (formerly AAMH), and two terms as a Director of the Somerset County Chamber of Commerce. Commissioner Linett was a District Governor of Rotary International in 1991-92 and a past-president of the Somerville Rotary Club. He was twice elected to the Democratic State Committee from Somerset County.

Commissioner Linett is a graduate of Yale University and Harvard Law School. He resides in Summit with his wife, Penny. They have five children and three grandchildren.

### **William H. Eldridge, Commissioner**

William H. Eldridge, serving his first term on the Commission, was appointed in 1993 and served as Chair in 1995.

Commissioner Eldridge was a Union County Freeholder from 1986-1988, the Mayor of Berkeley Heights in 1982, and the Deputy Mayor of Berkeley Heights in 1981 and 1985. He was Executive Director of the New Jersey Commission on Capital Budgeting and Planning from 1984-1987. He was Assistant Vice President of Citibank from 1976-1982 and Vice President of the U.S. Trust Company from 1982-1984.

Commissioner Eldridge is a professor of Business Law and Management at Kean College of New Jersey. A graduate of Rutgers, The State University, he holds an M.B.A. from Rider College and a J.D. from Cornell Law School.

A faculty member of the National Conference of State Legislators, Commissioner Eldridge taught graduate and undergraduate courses in Management, Finance, Planning, and Business Law at Fairleigh Dickerson University, Kean College, and Rutgers, The State University.

Commissioner Eldridge has published several articles on management and has counselled small businesses both as a private consultant and in affiliation with the Kean College Small Business Development Center. Moreover, he recently published a book on business law.

Commissioner Eldridge has won a variety of awards for his work with physically and mentally challenged citizens and children from the U.S. Jaycees and other organizations.

### **Michael Chertoff, former Commissioner**

Michael Chertoff, former United States Attorney for New Jersey, was named to the Commission in 1995. After unanimous approval by the State Senate in May, Mr. Chertoff served for a four-month period.

Mr. Chertoff had worked as the United States Attorney for New Jersey between 1990 and 1994. Prior to serving in that capacity, he was the first Assistant United State Attorney for New Jersey.

A graduate of Harvard College Magna Cum Laude in 1975 he graduated from Harvard Law School Magna Cum Laude in 1978. He is a partner in the Newark office of the law firm of Latham and Watkins.

Married to Meryl Justin Chertoff, the couple have two children. Former Commissioner Chertoff has won several awards, including the Department of Health and Human Services Inspector General Prosecutive Leadership Award, the Anti-Defamation League Distinguished Public Service Award, the Department of Justice John Marshall Award for Trial of Litigation, and the Legal Award of the Association of Federal Investigators.



### **Frederick M. Herrmann, Ph.D., Executive Director**

Frederick M. Herrmann has been the Executive Director of ELEC for over a decade. In 1993, he was the recipient of the prestigious Annual Award of the Council on Governmental Ethics Laws (COGEL) for his continued efforts to promote the highest level of ethical conduct among governmental officials and candidates for public office in the international arena.

Executive Director Herrmann has an A.B. from the University of Pennsylvania and earned a doctorate in American Political History from Rutgers, The State University. He is the author of many publications about history and government and is a frequent speaker at various forums inside and outside of New Jersey. The executive director has been a guest on numerous television and radio programs too. Currently, he is the book review editor of The Guardian, a COGEL publication; a member of the Peer Review Board of the Ethics Section of Spectrum: The Journal of State Government, a Council of State Governments' (CSG) publication; and on the editorial board of Public Integrity Annual published by CSG and the American Society for Public Administration (ASPA).

Once a teacher at Rutgers, The State University and Kean College, Dr. Herrmann has also served on CSG's Organizational Planning and Coordinating Committee (OPACC) and has been the President of COGEL as well as a member of its Steering Committee. He was instrumental in building the Northeastern Regional Conference on Lobbying (NORCOL) and served twice as its chair.

### **James P. Wyse, Counsel**

James P. Wyse was selected to be the Commission's new Counsel in 1994 and began serving in that capacity in January, 1995.

Mr. Wyse is a partner in the Morristown law firm of Schenck, Price, Smith and King, where he specializes in the areas of corporate and commercial law, real estate, environmental law, and estate planning.

Mr. Wyse, admitted to practice in New Jersey and before the United States Court of Appeals for the Third Circuit, has argued cases in that Court and before the New Jersey Supreme Court.

As Counsel for a number of national, State, and local land trust organizations, Mr. Wyse has developed special expertise regarding conservation and agricultural easements and innovative land preservation techniques.

Mr. Wyse received a B.A. degree from Bucknell University and J.D. degree with honors from the Rutgers University School of Law.

Appointed General Counsel to the New Jersey Conservation Foundation, he also advises the Junior League of Morristown, the Morris Shelter, Inc., and the Deiche O'Brien Child Advocacy Center. Married to Pamela Paxton, he serves on the Board of Trustees of the Morris Parks and Land Conservancy.

## CHAIR'S MESSAGE

*1995 Annual Report*

*May 1996*

**By Ralph V. Martin**

During its 22nd year, the New Jersey Election Law Enforcement Commission (ELEC) built upon its reputation as one of the outstanding disclosure agencies in the nation.

While continuing to enhance its record for excellence in research and analysis, the Commission proved to be a proactive force in other ways, most notably by prosecuting some of the most important cases in its history and by highlighting issues of public concern through its series of hearings on campaign finance reform.

As part of its ongoing effort to analyze trends in campaign finance, an effort that has been recognized throughout the nation as distinctive, the Commission published its tenth in a series of White Papers, this one entitled, Nonconnected, Ideological PACs in the Garden State and authored by Deputy Director Jeffrey M. Brindle. It also produced press releases, which analyzed the financial activity of candidates in this year's Assembly general election.

The Commission was extremely active and energetic in pursuing enforcement actions in 1995. A number of major cases were prosecuted last year, an effort that was accompanied by the imposition of some of ELEC's largest fines ever. Legal Director Gregory E. Nagy and his staff deserve special recognition for these accomplishments.

During September and October, the Commission conducted public hearings, which culminated in the release of several recommendations for modifying and improving the law governing campaign financing in New Jersey. These recommendations include: (1) a guaranteed base budget of \$2 Million adjusted annually for inflation, (2) a lengthening of Commissioner terms to seven years, (3) a reduction of contribution limits, and (4) the raising of filing thresholds for candidates and committees spending little money. The Commission also reiterated its call for gubernatorial public financing reform to preserve public money, for a ban on corporate and union contributions, and for broader discretion in issuing higher penalties. The public, in participating in these hearings, played a very important role in helping the Commission to formulate them.

The Commission's veteran Executive Director, Frederick M. Herrmann, further bolstered his national reputation as an expert in campaign finance and as a tireless advocate of greater disclosure through adequate budgets for ethics agencies and improved technology. He was named in 1994 to the first editorial board of a new, national journal, Public Integrity Annual, and produced two publications: The NORCOL Lobbying Handbook and The COGEL Campaign Financing and Lobbying Bibliography.

As noted above, enforcement activity was particularly strong in 1995. Last year, the Legal Section issued 155 complaints and the Review and Investigation Section closed 42 investigations, a number of which, as indicated above, resulted in the imposition of some of the highest fines in Commission history. Moreover, the Legal Section prepared 13 advisory opinions and drafted regulatory changes that reflected provisions of the new Campaign Act.

The Commission's Compliance Section continued its impressive record in 1995 as well. With the help of the Section's Compliance Assistance Program, candidates again complied at a rate of over 90 percent. This achievement in part is due to the telephone and in-person assistance provided by the Section's professionals as well as to its educational training forums.

Besides the effort by Compliance staff to assist filers directly with requests for information, staff also processed 23,747 reports and photocopied 182,984 pages of reports. The Compliance staff produced press releases and continued to update manuals as well.

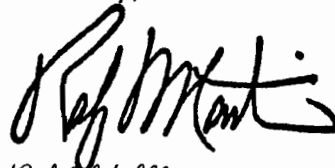
Finally, the Commission took significant steps toward the realization of one of its most important goals -- to upgrade its computer system. The Commission has made plans to purchase a new platform, convert existing software to a new language, and provide electronic reporting for general election 1997 gubernatorial candidates. More than symbolic of this progress, the 1995 Annual Report is ELEC's first publication using its recently acquired desktop publishing capability. My personal thanks must go to Executive Secretary Elbia Zeppetelli for her outstanding, creative efforts using this exciting new tool.

In terms of its budget, the Commission's funding was increased to \$1,417,000 in FY-1996. Thanks to the Governor and Legislature, it appears that the Commission will continue to receive funding at these levels in FY-1997.

Despite difficult times fiscally, support for the Commission and its mission remain strong.

On this note, and on behalf of the members of the New Jersey Election Law Enforcement Commission, it is with pride that I present this annual report cataloging the important achievements of the Commission to the Legislature.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph V. Martin". The signature is stylized and cursive.

*Ralph V. Martin*  
*Chair*

# COMMISSION STAFF

1995 Annual Report

May 1996



## Executive

Frederick M. Herrmann, Ph.D.	Executive Director
Jeffrey M. Brindle, M.A.	Deputy Director
Gregory E. Nagy, Esq.	Legal Director
Elbia L. Zeppetelli	Executive Secretary
Steven Kimmelman, M.A.	Research Assistant

## Administration

Barbra A. Fasanella	Director
Donna D. Margetts, M.A.	Personnel Officer/Lobbying Auditor
Elaine J. Salit	Fiscal Officer
Debra A. Kostival	Senior Receptionist
Irene Comiso	Associate Receptionist

## Compliance and Information

Evelyn Ford, Esq.	Director
Kimberly Key	Associate Compliance Officer
Andrew Mersel	Assistant Compliance Officer
Christopher Guear, M.A.	Assistant Compliance Officer
Barbara Counts	Secretarial Associate
Monica Triplin-Nelson	Clerk
Barbara Swantko	Clerk
Elizabeth A. Michael	Clerk
Samira Wood	Messenger

## **Computer**

Carolyn Neiman

Systems Administrator

Brenda A. Brickhouse

Associate Systems Administrator

Shirley R. Bryant

Senior Data Entry Operator

Nelly R. Rosario

Associate Data Entry Operator

## **Legal**

Nedda Gold Massar, Esq.

Deputy Legal Director

Irene Szedlmayer, Esq.

Assistant Legal Director

## **Review and Investigation**

Carol Hoekje, Esq.

Director

Shreve E. Marshall, Jr.

Associate Director

Brett Mead

Associate Report Examiner

Ruth Ford

Secretarial Associate

## **Gubernatorial Public Financing**

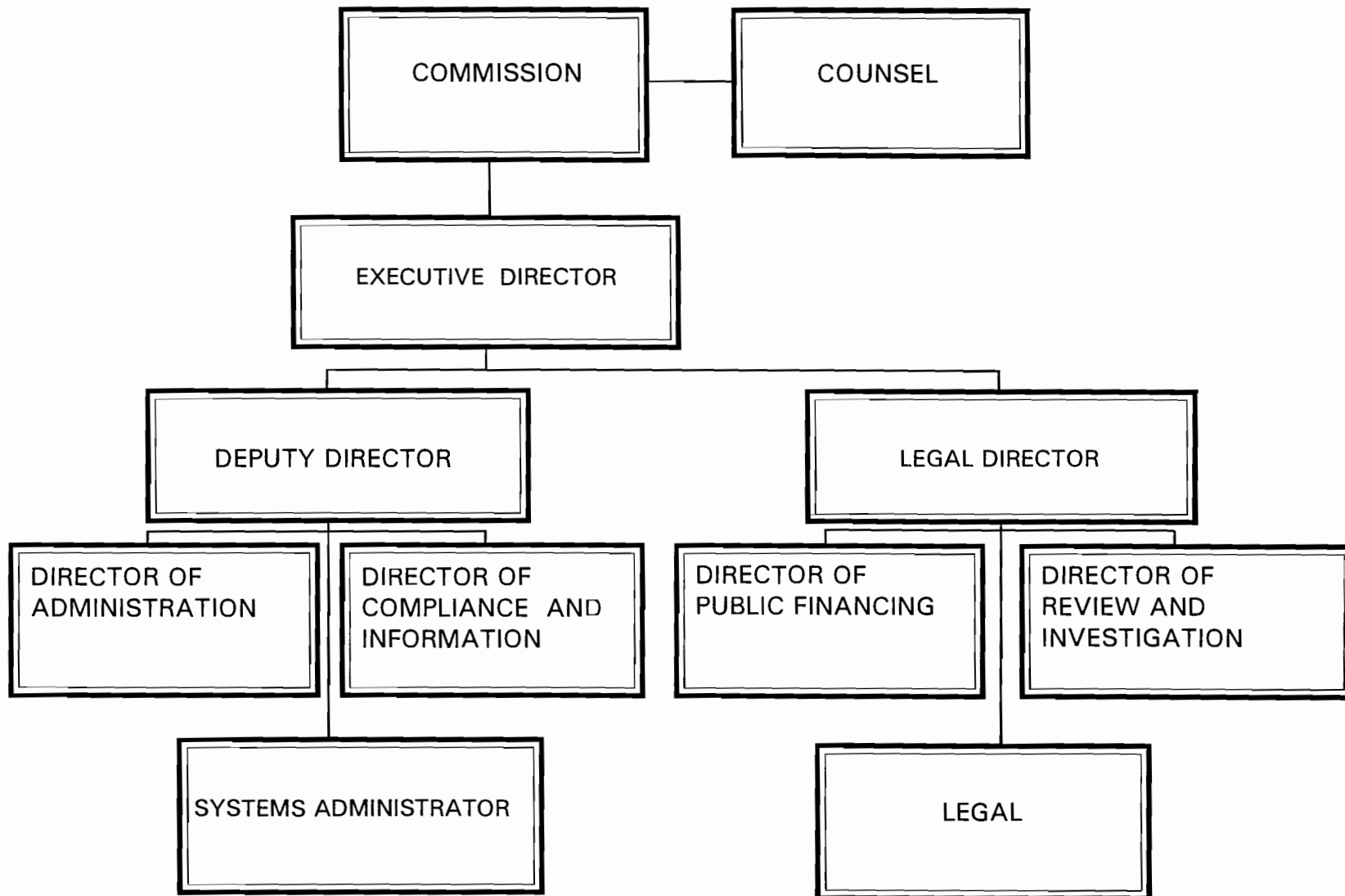
Nedda Gold Massar, Esq.

Director

Nedda Gold Massar serves as Deputy Legal Director and also as Director of Public Financing. There was no public financing staff during 1995.

# NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

## Table of Organization





## EXECUTIVE DIRECTOR'S REMARKS

*1995 Annual Report*

*May 1996*

**By Frederick M. Herrmann, Ph.D.**

One of the first telephone calls that I received over a decade ago when I became Executive Director of the New Jersey Election Law Enforcement Commission (ELEC) was from a midwestern Secretary of State. In the course of a conversation about the accessibility of data, he remarked that "having 20,000 reports sitting in the office is not the same thing as having 20,000 reports available for use by the media and the public." His point clearly was that the data in the reports had to be organized so that it could be utilized. At the end of the Twentieth Century, vast amounts of data should be computerized to make comprehensive analysis possible and timely.

The Commission is a small agency with a large mission. It is responsible for the collection and disclosure of financial data from candidates, political action committees (PACs), and political party committees throughout the State. ELEC also oversees the registration of lobbyists and the disclosure of their lobbying activities and finances. The Commission administers the gubernatorial public financing program as well, regulating millions of dollars of private as well as public funds. Finally, ELEC monitors the personal financial disclosure of candidates for gubernatorial and legislative office. Taken all together, the Commission is confronted with an enormous workload.

ELEC's numbers tell this story even better. Each year the Commission processes 600,000 pieces of paper! The staff annually reviews up to 25,000 reports filed by over 6,000 candidate committees. It handles about 13,000 public requests for information and photocopies close to 200,000 pages of reports needed by the public. The Commission oversees the activities of 600 lobbyists, 1,100 political party committees, and 300 PACs. At the same time that ELEC is afloat in this sea of paperwork, it is in danger of being weighted down and drowned by an obsolete and inadequate, decade-old computer system.

The data collection and disclosure functions of the Commission should be thoroughly automated through current computer technologies. These modernistic tools have the potential to ease greatly the storage of filed data and its rapid dissemination to the public and media. Electronic filing of reports is an option that will aid filing entities as well as ELEC. It will enable the distribution of forms to filers on computer diskettes and the receipt back of their data on the same diskettes, which can then be loaded electronically into a database. High

technology also has the ability to provide the public with remote access to all of the Commission's stored data. With a terminal and a modem, members of the public and the media could review reported data not only in ELEC's public room but also in a county or municipal library, an office, or a home.

Recomputerizing the Commission will benefit not only ELEC but also those who file as well as the public and the media. The Commission will be able to: reduce its workload in collecting and disclosing data; relegate its clerical tasks to machines allowing better use of limited staff resources; eliminate the need to process, store, and duplicate hundreds and thousands of pieces of paper; enter and analyze more of the data it receives; and improve its service to those who file and the public and media by meeting their demands in a much more acceptable timeframe. Candidates, committees, and lobbyists will be offered a filing method that will reduce their burden in providing information to ELEC, while they will also benefit by accessing data remotely so they can easily view all of the information that has been collected. The public and the media will benefit by obtaining information in a much shorter period of time and by taking advantage of a remote access system to review much more simply the Commission's database.

The big question is, however, how to pay for a new computerized infrastructure. Certainly, ELEC's current operating budget, which is insufficient for the optimal performing of its current duties, will not cover all of the costs involved with a timely transition. Over the years, the Commission has suggested various approaches for "paying the piper." A guaranteed base budget adjusted annually for inflation appears to be the soundest approach to assuring that ELEC can properly play its part in maintaining the integrity of the democratic process in New Jersey.

Six years ago, in 1990, I testified before the Rosenthal Commission, which was studying how to improve New Jersey's ethics laws, that I could not "emphasize too much the need for computerization." It was my contention then as it is now "that you really can't have disclosure without a sophisticated computer system." In 1992, ELEC called for recomputerization in a White Paper entitled Technology in the Future: Strengthening Disclosure. Two years after that, in 1994, a study requested by the Commission and produced by the Office of Telecommunications and Information Systems (OTIS) in the Department of the Treasury corroborated the findings of the White Paper. ELEC's workload,

according to OTIS, had become unmanageable with its current technological resources and its obsolete computer was referred to as "expensive to maintain and even more costly to modify and repair." The Commission's Chair in 1993, Owen V. McNany, ably summed up the situation for the press when he was quoted as saying "spending money for new technology will enable ELEC to save money in the future while guaranteeing that ELEC will be able to continue its mission for providing open and honest government."

Sincerely,

A handwritten signature in black ink, appearing to read 'F. M. Herrmann', with a long horizontal flourish extending to the right.

*Frederick M. Herrmann, Ph.D.*

*Executive Director*

# ELEC OVERVIEW

*1995 Annual Report*

*May 1996*

## COMMISSIONERS

1973	Frank P. Reiche, Chair Judge Sidney Goldmann, Vice Chair Judge Bartholomew Sheehan, Commissioner Florence P. Dwyer, Commissioner
1974-1979	Frank P. Reiche, Chair Judge Sidney Goldmann, Vice Chair Josephine Margetts, Commissioner Archibald S. Alexander, Commissioner
1980-1981	Judge Sidney Goldman, Chair Josephine Margetts, Vice Chair Andrew C. Axtell, Commissioner M. Robert DeCotiis, Commissioner
1982-1983	Andrew C. Axtell, Chair M. Robert DeCotiis, Vice Chair Justice Haydn Proctor, Commissioner Alexander P. Waugh, Jr., Commissioner
1984-1986	Andrew C. Axtell, Chair Alexander P. Waugh, Jr., Vice Chair Justice Haydn Proctor, Commissioner Owen V. McNanny, III, Commissioner
1987-1988	Judge Stanley G. Bedford, Chair Owen V. McNanny, III, Vice Chair Andrew C. Axtell, Commissioner David Linett, Commissioner

**COMMISSIONERS** CONTINUED

1989-1990	Judge Stanley G. Bedford, Chair Owen V. McNany, III, Vice Chair David Linett, Commissioner S. Elliott Mayo, Commissioner
1991-1992	Owen V. McNany, III, Chair Judge Stanley G. Bedford, Commissioner David Linett, Commissioner
1993-1994	Owen V. McNany, III, Chair William H. Eldridge, Vice Chair David Linett, Commissioner
1994-1995	William H. Eldridge, Chair Owen V. McNany, III, Vice Chair David Linett, Commissioner Michael Chertoff, Commissioner

**EXECUTIVE DIRECTORS**

1973-1975	David F. Norcross
1976-1981	Lewis Thurston, III
1981-1984	Scott A. Weiner
1984-present	Frederick M. Herrmann

**COUNSELS**

1973-1994	Edward J. Farrell
1994-present	James P. Wyse

**STATUTORY HISTORY OF ELEC**

- ➔ Commission created by P.L. 1973, c.83 (N.J.S.A. 19:44A-1 et seq.) - "The New Jersey Campaign Contributions and Expenditures Reporting Act" - effective date: April 24, 1973
- ➔ Gubernatorial Public Financing Program started by P.L. 1974, c.26 (N.J.S.A. 19:44A-27 et seq.) - effective date: May 6, 1974
- ➔ Personal Financial Disclosure Program started by P.L. 1981, c.129 (N.J.S.A. 19:44B-1 et seq.) - effective date: May 1, 1981
- ➔ Lobbying Program started by P.L. 1981, c.150 (N.J.S.A. 52:13C-18 et seq.) - effective date: May 22, 1981
- ➔ Continuing Political Committee (PACs) Quarterly Reporting started by P.L. 1983, c.579 (amendment to N.J.S.A. 19:44A-1 et seq.) - effective date: January 17, 1984
- ➔ Lobbying Reform established by P.L. 1991, c.243 (amendments to N.J.S.A. 52:13C-18 et seq.) - effective date: January 1, 1992
- ➔ Campaign Finance Reform established by P.L. 1993, c.65 (amendments to N.J.S.A. 19:44A-1 et seq.) - effective date: April 7, 1993
- ➔ Street Money Reform Law established by P.L. 1993, c.370, (codified as N.J.S.A. 19:44A-11.7) - effective date: January 7, 1994.
- ➔ Uniform Recall Election Law established by P.L. 1995, c. 105, (codified as N.J.S.A. 19:27A-1 et seq.) - effective date: May 17, 1995
- ➔ Political Identification Law established by P.L. 1995, c. 391, (codified as N.J.S.A. 19:44A-22.2 and 22.3) - effective date: February 1, 1996

# LEGISLATIVE REVIEW

1995 Annual Report

May 1996



"Legislature"

Four legislative initiatives introduced in the 206th Legislature and directly affecting ELEC were passed by the Legislature and signed into law by Governor Christine Todd Whitman.

Approved by the Governor on May 17, 1995, as Chapter 105 of the Laws of 1995, the "Uniform Recall Election Law" (hereafter, the Recall Act) provides procedures for New Jersey elected officials to be subject to recall elections. The Recall Act authorizes the creation of recall committees to finance efforts to recall an elected officeholder and recall defense committees to finance an officeholder's defense against a recall effort.

Under the provisions of the Recall Act, the Commission is responsible for administering campaign reporting, committee registration, contribution limits, and other requirements for recall committees and recall defense committees. The Commission is not responsible for administration of the process for circulating recall petitions or for holding recall elections, which responsibilities are assigned exclusively to the officials authorized by law to receive nominating petitions for New Jersey elective offices.

Regulations to implement the Recall Act and to clarify the reporting obligations of recall committees and recall defense committees were proposed and adopted by the Commission during 1995. (See discussion of 1995 regulatory activity in the Legal Section.)

Another new law, signed into law at the close of the 206th Legislature, was a bill which reinstated identification requirements on campaign literature. A 1995 decision of the United States Supreme Court, McIntyre v. Ohio Elections Commission, \_\_ U.S. \_\_ (1995), invalidated the provisions of New Jersey law which required that identification of the person paying for campaign materials be printed on all such literature. The legislation signed by Governor Whitman established the requirement for entities subject to the New Jersey Campaign

Contributions and Expenditures Reporting Act (hereafter, the Campaign Act) to include disclosure on campaign materials of the individual or entity paying for them (Chapter 391 of the Laws of 1995). This legislation also transferred to the Commission from the Offices of the New Jersey Attorney General and the county prosecutors the responsibility for enforcement.

In another legislative change, the requirement in the Campaign Act that the name of a campaign or organizational bank account must contain the phrase "Election Fund of" was eliminated with the Governor's approval of Chapter 178 of the Laws of 1995 on July 11, 1995. The Commission supported this change because it did not affect the requirement that candidates and committees specifically disclose and identify their campaign and organizational depositories on reports filed with the Commission.

The fourth legislative initiative concerned the 1993 amendments to the Campaign Act which limited candidates to participation in only two committees, a candidate committee and a joint candidates committee. However, the amendments prohibited county-wide and municipal-wide candidates for different elective offices from forming joint candidates committees. The Commission recommended in its 1994 Annual Report that this prohibition be removed. During 1995, the Senate and Assembly passed and Governor Whitman signed legislation (Chapter 194 of the Laws of 1995) permitting candidates for county executive and freeholder and candidates for mayor and municipal governing bodies to participate in joint candidates committees.

A total of 55 bills relating to the Campaign Act, the Gubernatorial Public Financing program, the Legislative Activities Disclosure Act, and the Gubernatorial Legislative Disclosure Statement Act were introduced in the Senate and Assembly during the two years of the 206th Legislative session as follows:

- Thirty-three bills that would have amended the Campaign Act. Proposed legislation included bills to increase penalties for certain violations of the Campaign Act, prohibit contributions by certain entities, abolish legislative leadership committees, and require inclusion of political identification on literature circulated by candidates and committees filing reports with ELEC.



- Thirteen bills would have affected the Gubernatorial Public Financing program. These bills included legislation to reduce the maximum amount of public funds that could be received by a candidate, increase the number of televised debates required for a candidate receiving public matching funds, increase the amount a taxpayer can contribute to the Gubernatorial Elections Fund, and provide for public financing of legislative campaigns.
  
- Six bills would have amended the Legislative Activities Disclosure Act. Among the proposals were bills to require reporting of expenditures for grassroots lobbying activities and to require notice to a recipient of a benefit received from a lobbyist or legislative agent.
  
- Three bills concerned the filing of personal financial disclosure statements by gubernatorial and legislative candidates pursuant to the Gubernatorial Legislative Disclosure Statement Act.

Forty-eight additional bills introduced in the 206th Legislature, which may have had an impact upon the campaign process and therefore upon ELEC, were monitored by staff.

### **Proposed Legislation**

In September and October, 1995, the Commission conducted public hearings to encourage discussion about campaign financing issues, including the impact of the 1993 amendments to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1, et seq. (hereafter, the Campaign Act). The forums were intended to assist the Commission in developing recommendations to improve existing campaign financing disclosure in New Jersey.

Interested individuals were encouraged to offer testimony and comments on the following topics:

- efforts to strengthen the independence and role of the Commission;
- recommendations to make New Jersey's gubernatorial public financing program financially secure; and,
- the adequacy of contribution limits enacted in 1993.

Testimony was heard from ten individuals, candidates, and representatives of citizens' groups. The Commission discussed all responses received and proposed the following seven recommendations for modifying the Campaign Act:

1. The Commission should have a guaranteed base budget of \$2 million, adjusted annually for inflation. The gubernatorial public financing program budget should continue to receive a separate appropriation.
2. Commissioner terms should be lengthened from three to seven years, subject to reappointment. Upon the expiration of a current term of a commissioner, the Governor shall renominate the commissioner or appoint a replacement within 90 days, or the commissioner serving in the holdover status shall automatically retain his or her commissionership for another term.
3. Contribution limits should be reduced. However, a thorough analysis of contribution limits will be undertaken by the Commission to determine the best level at which to set the limits.
4. Filing thresholds for candidates and committees spending little money should be raised. Local candidates and committees will primarily benefit. Thresholds for filing detailed reports should be doubled. Two thresholds instead of three would apply to candidate committees and joint candidates committees, \$4,000 and \$8,000 respectively.
5. Corporate and union contributions should be banned.

6. The Commission should be given the authority to impose current statutory penalties or a fine equal to the amount of missing information, whichever is greater.
7. The Gubernatorial Public Financing Program recommendations of May, 1994 should be retained:
  - reduce the primary and general election public funds caps from \$1.6 million to \$1 million and \$3.9 million to \$2 million respectively, adjusted for inflation;
  - lower the general election matching fund ratio of public-to-private dollars from two-for-one to one-for-one;
  - increase the income tax check-off; and,
  - require three debates of publicly-financed candidates in each election instead of two.

The Commission also determined to undertake a white paper research project to examine Leadership PACs.

# LEGAL

1995 Annual Report

May 1996



The Legal Section has significant responsibility for the implementation of new and extensive requirements added to the Campaign Contributions and Expenditures Reporting Act (hereafter, the Act) by the comprehensive amendments adopted in 1993, and by a new law providing for recall elections. Interpreting and implementing these new additional requirements as well as continued effective enforcement of existing reporting requirements was the principal task of the Section in 1995, and will be for several years in the future.

## **Regulations**

The Commission has been most active in using its rulemaking authority to clarify and provide guidance to filing entities and the public in regard to the new requirements created by recent legislation. Rulemaking activity included:

***Contribution Limits:*** On January 17, the Commission proposed detailed regulations setting forth the extensive requirements of contribution limit legislation. The regulations included a simple chart displaying different types of contributors and the types of candidates and committees that may receive contributions and showing the applicable per election or calendar year limit. Also, the regulations explained application of equal attribution requirements for purposes of applying contribution limits to contributions made to a joint candidates committee. After a public hearing, the regulations were adopted on April 17.

***Expenditure Reporting:*** On June 5, the Commission proposed regulations covering expenditure reporting, including requirements based on new legislation mandating that "street money" and other payments to individuals must be made by check. Also included were rules concerning political party committee notification to candidates for expenditures made on their behalf which those candidates had to report as "in-kind" (that is, non-cash) contributions. The rules also addressed reporting of independent expenditures, that is expenditures undertaken without coordination or consultation with any candidate. After a public hearing, the regulations were adopted on August 21.

**Reporting by Facsimile:** The Commission proposed regulations permitting notices that have to be filed within 48 hours of the receipt of a contribution or making of an expenditure that exceeds \$500 to be accomplished by facsimile (i.e., fax) transmission rather than delivery of hard copy to the Commission offices. This proposal was suggested by various filing entities who experienced difficulty in arranging for delivery of their notices to the Commission offices within the 48-hour period prescribed by the statute. The proposal was adopted on May 15.

**Readoption of Regulations:** At least once every five years, each State administrative agency must review all of its existing regulations, determine which ones may no longer be suitable or may need to be revised, and readopt those regulations that remain necessary, reasonable, and proper. The Commission undertook that process, and on July 3 proposed some technical amendments and readoption without change of the great majority of its rules. The readoption was completed on September 18.

**Recall Elections:** On September 18, the Commission proposed new rules to implement legislation enacted in 1995 to permit the holding of recall elections. The regulations concern reporting and contribution limit requirements for recall committees and recall defense committees, but do not address administration of the process of circulating recall petitions or holding recall elections which are the responsibilities of other State and local election officials. After a public hearing, the regulations were adopted by the Commission on January 2, 1996.

**Contributions by Partnerships:** On December 4, the Commission proposed regulations prohibiting contributions from partnership entities from being accepted by candidates or committees. A public hearing on the proposal was held in January, 1996.

### **Advisory Opinions**

Issues concerning the application of contribution limits and other restrictions on candidate financial activity established by the 1993 comprehensive amendments to the Act dominated questions presented to the Commission in requests for formal advisory opinions. Any person subject to the requirements of the Act may ask the Commission to rule on whether or not a given set of prospective activities might violate the Act, and the Commission must provide a ruling within 10 days,

or within some other agreed upon period. A total of 13 requests were received in 1995.

On the subject of transferring candidate funds at the termination of a candidacy, one member of the State Assembly who had begun raising funds for his anticipated 1995 primary election candidacy for reelection asked whether or not he could transfer those funds to his subsequent candidacy in a 1995 special primary election for State Senate, and how the contribution limit restrictions would apply. The Commission ruled that this candidate could make such a transfer provided that the candidate applied contribution limits so that they would be applicable to any person who gave to either candidacy. Therefore, a contributor who was an individual, for example, and who had contributed \$1,000 to the candidate's 1995 primary election candidacy for State Assembly could contribute no more than an additional \$500 to the candidate's 1995 special primary election candidacy for State Senate to stay within the maximum \$1,500 contribution limit applicable to an individual (A.O. 06-1995). Similarly, another candidate who had raised funds in anticipation of a 1995 primary election candidacy for reelection to the General Assembly and who subsequently decided to terminate that candidacy and retire was advised that any additional funds raised for closing costs or remaining officeholding duties would continue to be subject to her 1995 primary election contribution limits (Advisory Opinion 07-1995). Also, a candidate who was terminating a candidacy and leaving elected office was advised that he could not transfer the funds contributed to his candidate committee to a continuing political committee under his control without violating provisions prohibiting a candidate from controlling any campaign finance fund other than a candidate committee or a joint candidates committee. The candidate was advised that once he was no longer in office and he had distributed his candidate committee's funds in accordance with the limitations in the Act on the permissible uses of candidate funds, he would no longer be deemed a candidate and could establish a continuing political committee (A.O. 09-1995).

The statutory restrictions on the permissible uses of candidate funds also generated opinion requests. One candidate was advised that he could not use his candidate committee funds to pay his expenses to campaign for political party office because seeking office in a political party committee was not an "ordinary and necessary" expense of holding public elected office (A.O. 04-1995). Another candidate was advised that he could not use his candidate committee

funds to purchase a television and a cable television subscription for use in his legislative district office because of the prohibition against use of those funds for the "furnishing, staffing or operation" of an elected official's office. (A.O. 02-1995). However, three legislators were advised they could use their candidate funds to provide emergency charitable assistance to a constituent in the absence of any familial or financial interest of the legislators in that constituent (A.O. 01-1995). Also, a legislator was advised that he could use his candidate funds to defray legal expenses in his representation before the Joint Legislative Committee on Ethical Standards (A.O. 13-1995, issued January 4, 1996).

In another request concerning restrictions on candidate activities, an entity that had been established under federal law to participate in federal elections asked whether or not the Governor, as an elected officeholder under the Act, was barred from participating in it. The Commission ruled that since the federal entity was not participating in New Jersey elections and was not required therefore to report under the Act, the federal committee was not subject to the restriction against participation by State candidates subject to the Act (A.O. 12-1995).

An unopposed candidate for reelection in the 1995 primary election was advised that as long as no opponent filed a petition for nomination for election in that primary election the candidate could make certain communications to constituents within 90 days of the date for the primary election without having those communications deemed as reportable political communications (A.O. 05-1995). Also, a treasurer of a political party committee was advised that holding political party office did not bar him from becoming a candidate for elected office (A.O. 03-1995).

In separate requests, two corporate entities wishing to make contributions to State candidates asked whether or not they were subject to the statutory prohibition against certain corporations from making contributions. Since this statute is not part of the Act, the requests were referred to the Office of the Attorney General. In one opinion, the Attorney General ruled that ownership of not more than 50 per cent of a cogeneration firm did not bar the corporate owner from contributing (A.O. 08-1995). Another request, concerning non-regulated subsidiaries of regulated holding companies is pending (A.O. 10-1995).

One request concerning application of the Legislative Activities Disclosure Act was received. The Commission advised a membership organization composed of individual local government housing officials and local housing authorities that it was not exempted from lobbying registration and reporting requirements. The organization had contended that the exemption for acts of an officer or employee of the government of the State or its political subdivisions was applicable, but the Commission held that in the absence of a statute mandating participation by local authorities the exemption was not applicable (A.O. 11-1995).

### **Civil Complaints**

The Commission is authorized to initiate civil complaints against candidates, committees, treasurers, or other persons it alleges may have violated any of the laws it administers, and to impose monetary penalties for such violations. Any person charged by the Commission may request a full hearing before an Administrative Law Judge, but in the great majority of cases such hearings are voluntarily waived.

In 1995, the Commission issued 155 complaints for alleged violations of the Act. Of these, 39 were the result of Commission investigations while the remainder resulted from identification of candidates who failed to file reports. Non-filing candidates are identified by a comparison of nominating petition records and ELEC filings.

The total number of complaints issued and the number of investigative complaints issued in 1995 represent increases of 45 percent and 50 percent, respectively, over the comparable 1994 figures. The productivity of the legal staff, however, is not portrayed by these numbers alone. Many of the investigative complaints issued during 1995 were more complex, as measured by the number and type of alleged violations, and of greater magnitude, as measured by the proposed penalties, than complaints issued in prior years. The greater number of complaints issued, the larger average number of violations alleged in each complaint, the increased penalties provided by the 1993 amendment to the Act, as well as payment of the largest penalty in the Commission's history, are reflected in the total penalties collected by the Commission in 1995. Penalty payments in the amount of \$89,367 were received



by the Commission in 1995, an increase of 115 percent over the \$41,639 collected in 1994, and an increase of 152 percent over the \$35,452 collected in 1993.

Complaints issued by the Commission also generated substantially more requests for hearings. In 1995, eighteen complaints generated hearing requests, as compared to six complaints in 1994. However, no plenary hearings were actually held in 1995 because staff settlements were reached by the parties before the hearings were conducted. Respondents often settled a case when they realized the strength of the documentary evidence relied upon by the Commission to issue the Complaint and available to prove the allegations. The Commission's policy to reduce penalties when, as a result of the Complaint non-filing violations have become late-filing violations, provides further inducement to settle. Each settlement included an admission by the Respondent of the violations of the Act and the Respondent's consent to pay the penalty.

The most significant case concluded in 1995 involved a continuing political committee affiliated with an incumbent mayor and the organizational treasurers which failed to file quarterly reports from 1988 through 1994. The penalty of \$41,000 was the largest penalty ever levied by the Commission and included the statutory maximum penalty for each quarterly report not filed. A major case against a state committee of a political party for late filing and failure to file information relevant to "street money" expenditures in the 1993 general election was also concluded.

Several significant cases were commenced in 1995 for which Final Decisions are pending. Eight of these involve the candidate committee of an incumbent mayor, or a continuing political committee that was affiliated with an incumbent mayor. For example, a continuing political committee and the organizational treasurer were the subjects of a nineteen-count complaint for failure to file contributor information, failure to file quarterly reports in which the opening balance of one report equaled the closing balance of the previous report, and failure to file a Designation of Treasurer and Depository as well as late filing of quarterly reports and late filing of contributor information. In another case, a candidate committee and its treasurers were the subject of a complaint covering three separate elections in 1991, 1992, and 1993. The Complaint alleged late filing of "street money" recipient information, non-filing of street money information, and late filing of expenditure information relevant to

outstanding obligations which were required to be reported on the 29-day and 11-day preelection reports and the 20-day and 60-day postelection reports.

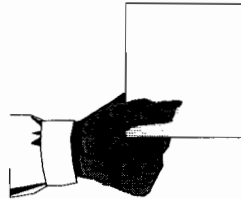
Also, complaints were issued against the candidate committees of a candidate for State Senate in the 1993 general election and for Mayor in the 1995 municipal election and against two continuing political committees that were created or controlled by the candidate. The violations included late filing of election-cycle reports and late filing of quarterly reports, which were filed as a result of the Commission's investigation. Two continuing political committees received complaints for late filing of quarterly reports and contribution and expenditure information which was required to be disclosed in the quarterly reports and failure to file certain contributor information. As a result of the Complaints, the missing information, including the occupation and employer of individual contributors of more than \$200, has now been reported and Final Decisions are pending.

The Commission anticipates continued efforts to investigate and prosecute cases involving substantial reporting and contribution limit violations.

# COMPLIANCE AND INFORMATION

1995 Annual Report

May 1996



During calendar year 1995, the Compliance and Information Section implemented numerous aspects of the comprehensive campaign financial disclosure reforms enacted from 1993 through 1995.

Despite a burgeoning workload, the Compliance and Information Section did an exemplary job in meeting its goals by adhering to its priorities and implementing cost-effective management initiatives.

## **Compliance**

In the Spring of 1993, "The Campaign Contributions and Expenditures Reporting Act" (the Reporting Act) was substantially reformed. Additional reforms were added during 1994 and 1995. These reforms presented new challenges for the Compliance and Information Section since basic filing and disclosure requirements were changed. The year 1995 was one in which the entire General Assembly was re-elected, and the first year when candidates for General Assembly completed an "election cycle" under the new law. Approximately 24,000 disclosure reports were filed during 1995, which represents a 15 percent increase over the number of reports filed during 1994. When compared to 1989, a similar election year, the increase in the number of disclosure reports filed rises to 32 percent. Candidates and committees continued to file lengthier reports as a result of the additional disclosure required by the new law (disclosure of occupation and employer, etc.) and because more money is being spent each election year.

The Compliance and Information Section continued to provide all the necessary support and assistance to enable candidates and treasurers to comply with the reforms. A new compliance manual for use by treasurers of continuing political committees, political party committees and legislative leadership committees was published and distributed in 1995. This comprehensive manual contained a revised set of report forms, as well as a body of text to enable treasurers to meet their filing obligations under the new law.

One of the changes to the Reporting Act required that continuing political committees and legislative leadership committees register with the Commission. A PAC Registration Program was initiated and completed during 1995 for the affected PACS. New PAC Registration Statements were drafted for this purpose and issued to these PACS. The Compliance and Information staff provided assistance to the PAC treasurers who were required to complete these Statements. The PAC Registration Statements provide enhanced disclosure to the public concerning the purpose and activities of these PACS and has been of great public interest.

Also during 1995, the "Uniform Recall Election Law" was passed, providing for the recall of elected officials in New Jersey. As a result, the Compliance and Information Section developed materials and forms to enable recall committees, and officeholders who are being recalled, to comply with this law.

In 1995, there were numerous local elections, as well as a legislative election. Accordingly, there was a rise in the total number of entities filing during 1995 (6,206) over 1994 (5,167). To enhance compliance with the law, the staff of the Commission conducted informational seminars both in Trenton and in other locations in the State. These seminars provided a great source of guidance to candidates and treasurers and are cost-effective since many filers are serviced at one time. New in 1995, a seminar was conducted for the purpose of creating a videotape. The videotape is available to be viewed at the Commission's office in Trenton for any candidate or treasurer who cannot attend the live seminars, or for those who wish to view a seminar in their home or office. The Commission has a videotape recorder and a television monitor to enable interested persons to view the seminar at any time during the business day. Copies of the videotape became available for loan in 1995, to enhance convenience.

Other initiatives, new in 1995, improved compliance with the filing laws. The Compliance and Information Section routinely mails compliance materials to candidates, treasurers, and legislative agents. These mailings are critical in assuring that filing requirements are met. Reminder letters and materials were mailed to over 6,000 candidates, 1,345 PAC treasurers, and 576 legislative agents. Non-filer and delinquent letters were sent after each filing date. However, for the first time, all materials began to be stamped with a "Dated

Material-Open Immediately" notice to alert filers to review the Commission's mailing immediately. Many candidates and treasurers who filed for the first time need this seemingly simple notice to assure that deadlines will be met. Finally, candidates and treasurers were permitted, for the first time ever, to file certain reports (48-hour notices) by facsimile. Two additional facsimile machines were put into operation for "fax" reporting, resulting in faster, more efficient filing and disclosure.

Compliance efforts through telephone assistance were on the rise in 1995, with an average of 847 telephone calls per month being processed. In 1994, the average was 700 telephone calls per month. As the new law continues to be implemented, affected filers find that personal assistance with Commission staff is a requisite to solving individual filing problems. The Compliance and Information Section is happy to continue to provide immediate personal assistance to candidates, treasurers, and legislative agents who request help.

The Section's support and assistance to filers through seminars, mailings, telephone contact, and comprehensive explanatory materials resulted in an impressively high compliance rate during 1995.

### **Information**

Since campaign financial disclosure reforms were in place and since 1995 was a year in which the entire General Assembly was re-elected, there was heightened interest in the reports filed with the Commission. To accommodate this interest, the Commission began to release information to the public at 10 a.m., instead of at 12 noon, on the election release dates. Accordingly, the press and public had more time to view reports in the pre- and postelection settings.

Also, since staffing levels in the Compliance and Information Section began to improve in 1995, the policy of limiting requests for information to the current election was discontinued. Requests for information relating back to prior years were processed along with the requests for the 1995 elections, thereby enhancing disclosure. The number of photocopies provided to the public, not surprisingly, increased 15 percent over 1994 levels (182,984 in 1995 to 159,560 in 1994.) When compared to 1989, a similar election year, the increase in the number of photocopies jumped 225 percent (182,984 in 1995 to 56,238 in 1989.)

The Compliance and Information Section published numerous press releases during 1995 announcing upcoming Commission meetings and public disclosure dates for reports, as well as analytical releases.

In the fall of 1995, two comprehensive analyses of the General Assembly race were released in the pre- and postelection settings. The analyses provided "bottom-line" fundraising and spending by candidates for the General Assembly, along with receipt and expenditure rankings. These releases provided an invaluable tool used by television networks, radio stations, and the print media for assessing the fundraising and spending trends in the 1995 races.

Lobbying activity continued to be a topic of great interest during 1995. Each quarter, a voluminous report was submitted to the Governor and Legislature concerning activity by lobbyist organizations and legislative agents to influence legislation and regulations. In addition, a report reflecting the data submitted on the annual financial reports of lobbyists and agents was available in the latter part of the year. Detailed information concerning legislative agents and their clients was formatted to provide a useful overview of the financial activity of the lobbying community at large.

Since reports filed by PACS were revised to reflect the reforms of the new law, fundraising and spending by PACS were profiled with greater clarity. Accordingly, there was an increased demand for these reports. During 1995, a "Pacronym List" was developed to assist the public with identifying the various PACS filing with the Commission. This list contained the full name of any PAC approved to use an acronym, and the complete name of the PAC. Each quarter, when the Compliance and Information staff released current PAC information, an updated Pacronym List was provided.

During 1995, numerous cost-effective initiatives instituted during the 1990's were continued. Use of "flex" time by Compliance and Information Staff assured that a maximum number of staff worked during critical time periods. Since most reports filed with the Commission arrived late in the day, maintaining high staff levels in the pre- and post-business day enabled the Commission to meet its workload without costly overtime. Also, the Compliance and Information staff continued to remind the press and public to use portable photocopiers when massive amounts of reports were requested. The use of portable photocopiers created huge savings by both the staff and the requestor and is increasing in popularity.

## **Conclusion**

The passage of sweeping campaign financial disclosure reforms from 1993 through 1995 created a workload challenge for the Compliance and Information staff. The demand for assistance and support from candidates and treasurers remained high throughout 1995, as did the interest in the enhanced disclosure required by the reforms. The Compliance and Information Section is very proud of the high levels of candidate and treasurer compliance achieved in 1995 and of its record of providing timely public disclosure while implementing cost-effective initiatives at all levels.

# REVIEW AND INVESTIGATION

1995 Annual Report

May 1996

## INVESTIGATIONS



The Commission's investigations involved a number of complex and significant issues, in part because of requirements imposed by the 1993 Amendments, and in part because the Commission, in reviewing requests for investigation, has determined to focus on requests that present significant and/or novel issues. The Commission received from outside sources 110 requests for investigation in 1995, including five referrals from state and/or local agencies. The Commission staff completed 42 investigations during 1995, and nine investigations remained open at the end of the calendar year. The Commission determined to open 26 new investigations during calendar year 1995.

In 21 of 42 investigations, the Commission approved issuance of complaints. In three investigations, the Commission approved the issuance of both a complaint and a letter of correction. In ten investigations, the Commission approved issuance of letters of correction, and in eight investigations, the Commission determined to take no further action.

Investigations involved such issues as: failing to report contributions and expenditures, including "in-kind" (that is, other than cash) contributions; failing to identify contributions in excess of \$200.00; late filing or non-filing of reports; failing to report detailed information for credit card disbursements; failing to report outstanding obligations; failing to report required detailed information for "street money" expenditures; exceeding the Form A-1 expenditure threshold; failing to properly establish a depository account; and filing obligations of entities allegedly engaged in election advocacy. Issues arising out of the 1993 Amendments to the Reporting Act included the requirement to report occupation and employer information for individuals contributing more than \$200.00 in the aggregate, the requirement to dissolve all candidate-controlled political committees and continuing political committees, the alleged "personal use" of campaign funds, and the new 48-hour notice reporting requirement for expenditures in excess of \$500 in the aggregate made by a political committee or a continuing political committee immediately before an election.



The staff concluded an investigation into the alleged failure by a State political party committee to report ultimate recipient information for two "street money" disbursements totaling \$625,000.00 during the 1993 general election. Staff recommended the issuance of a three-count complaint against the political party committee and its organizational treasurer for late filing (during the investigation) of "street money" recipient information for \$63,015.00; for failing to report the ultimate recipients of "street money" disbursements totaling \$284,048.36; and for failing to make and maintain a written record for "street money" disbursements totaling \$284,048.36.

In another investigation involving the alleged failure to report outstanding obligations as well as the failure to report "street money" recipient information, the staff found that prior campaign reports filed by a candidate for municipal as well as state legislative office may have overstated outstanding obligations by \$22,000. These outstanding obligations were then used to determine an amount of net liability against which the candidate could accept contributions in excess of the statutory limits. Because these were reporting errors that had occurred in 1991 and 1992, prior to the enactment of the 1993 Amendments, the Commission determined to issue a letter of correction to the candidate and his campaign treasurer, and to authorize the reassigning of up to \$22,000 to the candidate's 1997 mayoral account, subject to the condition that the contributors being reassigned consent to the reassignment in writing, and that no contribution being reassigned result in an excessive contribution. In the same investigation, however, staff also recommended issuance of an eight-count civil complaint for late reporting of outstanding obligations relevant to the 1993 municipal election, totaling \$330,137.59, over four separate report periods; and for late reporting of \$4,000.00 in "street money" recipient information relevant to the 1991 general election, and \$31,150.00 in "street money" recipient information relevant to the 1992 general election, and failure to report \$4,250.00 in "street money" recipient information relevant to the 1992 general election, and \$7,690.00 in "street money" recipient information relevant to the 1993 municipal election.

In another case, staff examined joint fundraising activity between a candidate for federal office and a county political party committee. Staff found that the county political party committee had failed to file with the Commission a Form D-3 for each additional depository engaging in the receipt of contributions and making of expenditures for state activity and had filed late "street money" recipient information totaling \$2,469.99.

The staff also recommended as a result of an investigation a civil complaint action against a candidate for municipal office and his campaign treasurer for failing to report the receipt of three contributions totaling \$475,000 from a civic association on campaign reports relevant to the 1990 municipal election. The names of individuals who had contributed to the civic association were reported on the campaign reports instead.

In another investigation, staff examined the alleged failure to file quarterly reports by a continuing political committee and its organizational treasurer. As a result of the allegation, the continuing political committee filed in July, 1994, quarterly reports for calendar years 1993 and 1994. Staff recommended an eleven-count complaint against the continuing political committee and its organizational treasurer for late reporting of information relevant to: \$12,221.14 in credit card transactions; cash-on-hand (opening balances); the receipt of contributions, including \$51,734.10 in contributions in amounts greater than \$200 that were first reported during the investigation; the failure to report occupation and employer information relevant to the receipt of contributions from individuals in excess of \$200.00 in the aggregate; and for failing to make and maintain records for occupation and employer information relevant to contributions from individuals in excess of \$200 in the aggregate.

In an investigation of the filing obligations of a municipal candidate, who had filed a Form A-1 (Sworn Statement) indicating that no more than \$2,000 would be expended for his 1992 municipal election candidacy, the staff's investigation showed that the candidate had expended a total of \$7,884.31, including \$5,148.46 at the time he filed his Form A-1. Staff recommended a three-count complaint against the candidate, who subsequently filed campaign reports (Forms R-1) during the investigation.

In another case, the Commission determined to issue a letter of correction to a continuing political committee and to a state legislator concerning the legislator's participation as a member of the committee's board of trustees that had voted jointly to support certain candidates for local office. The Commission advised the continuing political committee and the legislator, who had subsequently resigned as a member of the Board, of the statutory prohibition set forth in Section 9(h) of the 1993 Amendments to the Reporting Act, on the direct or indirect participation by a candidate in the management of a continuing political committee.

As a result of staff's review of amended reports filed by a continuing political committee for the calendar years 1991, 1992 and 1993, the staff recommended a 19-count complaint against the committee and its organizational treasurer for late filing of quarterly reports for calendar years 1991 and 1992, for failing to report information relevant to \$125,906.15 in contributions of more than \$100, and for failure to make and maintain a written record of contributions of \$100 or less.

### **Requests for Investigation**

Any person may request that the Commission undertake an investigation by submitting a written statement setting forth an allegation that constitutes a potential violation of the Campaign Reporting Act. The staff reviews every request for investigation, determining first whether or not it presents an allegation that falls within the Commission's jurisdiction. The staff next identifies the potential, violation(s) presented, the reporting period and entity/entities involved, and locates and reviews within the Commission files relevant reports that may be at issue. If necessary or warranted, the staff contacts the complainant for additional information. In some instances, the request involves allegations that are not yet "ripe" for review because they concern future elections and/or reporting periods that have not been concluded. Staff also assesses whether or not the allegation can be resolved by a relatively minor reporting adjustment, by issuance of a letter of correction, or if an investigation should be opened. All requests for investigation that come within the Commission's jurisdiction that cannot be resolved administratively by the staff, are presented to the Commission for its consideration. The Commission did not have jurisdiction over 37 of the 110 total requests presented in calendar year 1995. Eleven additional requests were resolved by the staff with the complainant, one request was referred to the Compliance and Information Section for further action, one request was anonymous and lacked sufficient specific information upon which to proceed, one request had been twice previously submitted and denied by the Commission and three requests were premature because they involved elections for which reporting dates were not yet complete. The Commission also initiates investigations as a result of staff review of reports filed with the Commission. The Commission considered 57 total requests for investigation.

## **Subpoenas**

The Review and Investigation Section issued eight subpoenas in calendar year 1995, in three investigations for records necessary to complete the investigation, and in one investigation to witnesses for testimony as well as for records.

## **Prosecutorial Assistance**

The Review and Investigation Section is also responsible for generating complaint recommendations for those candidates or filing entities that did not file campaign, quarterly, or personal financial disclosure reports with the Commission. In order for the Commission to identify these entities, staff must undertake a review of its files of campaign reports, and compare those files against the computer-generated checklist which identifies those entities that have not filed with the Commission as of a specific date. The complaint recommendation process is conducted with painstaking thoroughness so that complaints are recommended only in cases where both the report files and the checklist agree that no report was filed. In addition, staff also reviewed the annual reports of lobbyists and legislative agents for compliance with the provisions of the Legislative Activities Disclosure Act.

The section staff also assists in the preparation of cases for hearings before the Office of Administrative Law. The investigators first prepare a chronology of the filing events that constitute the alleged violation. This chronology identifies documents such as bank statements, deposit slips, cancelled checks, and other financial records that may result in a request for discovery by the Legal Section for additional information prior to the date of the hearing. In 1995, staff prepared 13 such chronologies in anticipation of hearings. The investigators also assist in the preparation for the presentation of the Commission's case at the actual hearings, including testifying as witnesses for the Commission. In 1995, the Associate Report Examiner prepared testimony for two hearings and testified as a witness at one of these hearings. The Director also substituted as attorney in two cases, appearing for the Commission at one hearing.

The Review and Investigation Section also completed resident address checks for the Legal Section to determine the current and correct address for a respondent whenever a county sheriff advises ELEC that personal service could not be accomplished at the address provided in election records.

### **Fine Collection**

The Review and Investigation Section is also responsible for maintaining a fine collection program in cases where penalties remain unpaid for 90 days after issuance of Final Decisions. During 1995, staff issued 51 fine collection letters. Staff also issued press releases in January and November, 1995, to identify the names of respondents who did not make payments in response to fine collection letters. Staff efforts resulted in the collection of \$4,921.72 in unpaid fines in 1995.

### **Other Activities**

In addition to investigations and prosecutorial assistance, the Review and Investigation Section also provided public assistance during 1995 for telephone calls or in-office contacts with candidates, treasurers, or other persons seeking information on reporting requirements. The staff also provided supplemental assistance to the Compliance and Information Section with telephone coverage and filing-related activities during the 29-day and 11-day preelection report periods for the 1995 primary and general elections.

The staff also provided technical assistance and input into the drafting of Commission regulations and into the issuance of new compliance manuals and forms. Staff members provided assistance to the Legal Director in the preparation of advisory opinions, including background information on the filing status of requesting entities, and suggested appropriate technical solutions for reporting questions. The staff continued to provide report review assistance on the contributor coding project for the 1993 general election.

The investigative staff found the installation of personal computers of great assistance in the preparation of investigative reports. The staff anticipates in the future using computers to organize and analyze data from campaign and quarterly reports to assist in report review.

During the year, Senior Investigator Anthony Scocozza of the Executive Commission on Ethical Standards conducted a training session for the investigative and legal staff on investigative techniques.

Associate Director Shreve Marshall assisted the Compliance and Information Section in responding to a request to resolve a net debt question arising out of the prior candidacies of the inquirer. Associate Director Marshall also served as liaison to investigative counterparts in other state, local, and federal agencies in giving assistance in a number of investigative inquiries.

### **Staffing**

The Review and Investigation Section was staffed by two investigators, one secretary, and the Director, during 1995. The Commission looks forward in the coming year to providing more assistance and responding to more requests for investigation and implementing a more enhanced review process.

# GUBERNATORIAL PUBLIC FINANCING

1995 Annual Report

May 1996

In order to maintain the high regard that past New Jersey Gubernatorial Public Financing Programs have enjoyed, the Commission must undertake periodic reexamination of all facets of the program. Following each publicly-funded gubernatorial election, Commission regulations are carefully reviewed and internal staff procedures are examined to promote the goals of increased disclosure to the public and improved efficiency in operations. This intense scrutiny is an on-going process which occurs largely during the years between gubernatorial elections. Therefore, Commission staff took steps during 1995 to lay the foundation for innovations during the 1997 public financing program.

## Computer Initiative



"Electronic" filing

The hallmark of New Jersey's gubernatorial public financing program has been the thorough compliance review of all contributions prior to the award of any public matching funds based upon those contributions. Contributor data is derived from voluminous matching fund submission documents required to be filed by the gubernatorial campaigns. Contribution transactions are reviewed by the Commission's temporary public financing analyst staff, and the data is then keyed into the ELEC database. Once the Commission has approved the award of public matching funds to a candidate based upon this review, a computer-generated contributor list is made available to the public. This disclosure of contributors is therefore accomplished in a preelection timeframe.

At hearings conducted at the conclusion of the 1993 gubernatorial public financing program, the Commission received a suggestion that it consider streamlining this compliance process by making available to publicly-financed candidates the capability to file public matching fund documents and other reports on computer diskette. "Electronic" filing of contributor information would eliminate the time-consuming step of duplicate data entry of contribution transactions into the agency database which have already been entered into a candidate's database and would ultimately permit candidates to receive public funds more efficiently, permit the public to have faster access to contributor data, and save taxpayer dollars on repetitive data entry tasks.

Commission staff therefore devoted considerable time during 1995 to review of software and hardware currently being used in other jurisdictions to permit candidates to file campaign financial information "electronically." Staff concluded that a gubernatorial public financing "electronic" filing pilot project should be undertaken for the 1997 gubernatorial general election. A request was therefore included in the Commission's public financing administration budget for FY 1997 to underwrite the cost of software development and hardware purchases to support the pilot program in the 1997 general election.

This "electronic" filing initiative is an exciting prospect. The public will be able to access and search gubernatorial contributor data on computers located in the Commission's public room or by remote access to the database. Interested individuals will therefore no longer have to wait for paper copies of contributor reports to be made and mailed to them. Gubernatorial campaigns will no longer have to process multiple copies of lengthy reports as part of the matching fund process and duplicate data entry of contribution information will be largely eliminated. It is expected that the time necessary for the Commission's compliance review of matching fund documents will also be shortened. If funds are appropriated for this pilot project, Commission staff will begin implementation during 1996. Experience gained in this process will benefit the Commission as a whole as it moves to upgrade and modernize its overall computer capability.

### **Public Assistance**

Even though the 1997 gubernatorial election is several months in the future, gubernatorial contributor and expenditure data were of interest to many during 1995. Staff received 56 requests for gubernatorial data and provided 15,650 pages of reports and computer printouts to members of the public and the press. Many telephone inquiries concerning New Jersey's public financing statute and regulations were addressed. New Jersey's unique requirement that gubernatorial candidates participate in debates as a condition of their receipt of public funds was the subject of many inquiries from other jurisdictions. It is expected that the volume of requests for gubernatorial information will increase greatly in 1996 as the next gubernatorial election approaches.



### **Preparation for 1997**

During 1996, the Commission will complete its review of the comprehensive primary and general election public financing regulations. Necessary changes will be identified and proposed for adoption. Public comment will be sought and considered. This process is fundamental to improvement of the highly successful public financing program.

For the second time since enactment in 1989, the Commission will calculate and publish the statutorily-mandated campaign cost index by examining inflationary changes in the costs of campaigns. The campaign cost index will be used to adjust the various limits and thresholds applicable to the gubernatorial public financing program and will for the first time be used to adjust contribution limits for other candidates. The cost index and adjustments will be proposed as changes to Commission regulations in the fall of 1996 and reported to the Legislature in December, 1996.

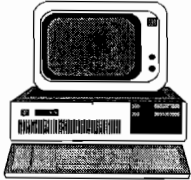
During late 1996, the Commission will hire and train temporary public financing staff in the complex statutory and regulatory requirements of the program. Staff will review and update forms, materials, and manuals for use by 1997 gubernatorial primary and general election candidates and also respond to requests from potential candidates and treasurers for information and guidance.

This on-going critical review and examination will ensure that New Jersey citizens and gubernatorial candidates are well served by New Jersey's gubernatorial public financing program.

## COMPUTER SECTION

1995 Annual Report

May 1996



The Computer Section is basic to managing the Commission efficiently and effectively. The two functional areas comprising this section are data entry and the computer/systems operation.

### **Data Entry**

During 1995, the Data Entry staff entered the names and addresses of candidates running in the various elections. The May municipal and June primary elections were the first elections since the amendments in 1993 to the Campaign Reporting Act, to have candidates filing preelection campaign reports before filing a nominating petition. The Data Entry staff was instrumental in taking care that this information was not duplicated in the system. Moreover, because of the short turn-around time imposed upon legislative candidates to file a Personal Financial Disclosure Statement with ELEC after filing a nominating petition, it was imperative that the Data Entry staff keyed the legislative candidates' names and addresses into the system accurately and as quickly as possible in order to generate labels needed by the Compliance Section to send out reminder notices. In order to accomplish this task, the names and addresses of the 1995 legislative candidates were taken from a form filed directly with the Election Division of the Secretary of State's Office and supplied to the Commission for that purpose. This process was much more efficient and timely than in prior years.

In 1995, the Data Entry staff keyed the summary financial information of receipts and expenditures for candidates running in legislative, county, and local elections. Also keyed was financial information on State, county, and local political party committees, political committees, and special interest PACs.

Moreover, staff keyed the annual lobbyist financial information in addition to the activity data for the lobbyist quarterly reporting system.

In addition to these achievements, the Data Entry staff completed keying in a compilation of contributor information from the 1993 legislative election early in the year. Numerous requests by the public for this statistical data in various formats were completed.

The Data Entry staff also maintains the function of contacting those entities, whether members of the press, public, or other interested parties, who send in requests for information through the Compliance and Information Section, when the requests are completed. During 1995, approximately 1,000 entities were contacted to pick up and purchase requests. Data also maintains an on-going list of those entities who request information and after being contacted several times that the request is completed and ready for pickup, never make arrangements to pay for or pickup the requests.

The Data Entry staff assisted other sections throughout the year with telephone and/or receptionist coverage, mailings, typing, and photocopying requests for information, as well as completing requests for information submitted directly to the computer section.

### **Systems Operations**

The computer/systems operations area has the responsibility for maintaining the system software for the PRIME Information 4150 Operating System as well as overseeing the installation, use, and training of personal computers utilized by staff. Systems Operations also oversees the upgrading, software development, and enhancement of the mini-mainframe.

In 1995, the Systems Operations continued to phase in changes occurring from the 1993 amendments to the Campaign Reporting Act. These changes included continued software modifications to the Campaign Finance module of the system, purchasing new forms design software, adding ten new personal computers, and five laser-jet printers.

The year 1995 was the beginning of what will be many new changes to the Computer/Systems Operations. ELEC met with members of the Office of Telecommunications and Information Systems (OTIS) in the Department of the

Treasury and various vendors to start the process of looking into upgrading the Commission's computer system. With all of the new technology available today, the Commission hopes to create a computer environment mixing new technology with the Commission's current and future needs.

The Computer Section continues to provide support to its end users and to provide the public with timely data in various output formats.

## ADMINISTRATION SECTION

1995 Annual Report

May 1996



During 1995, the Administration Section effectively met the ever-increasing fiscal and personnel demands of the Commission. An essential part of the agency, Administration provides all management services for the Commission.

Since ELEC is "in but not of" the Department of Law and Public Safety, the Department has no administrative responsibility or control over the Commission.

### **Managing the Budget**

In FY-1996, ELEC received an appropriation of \$1,417,000, representing a four percent increase over FY-1995 (\$1,362,000). Part of this operational budget will be used for the first phase of ELEC's recomputerization effort which will consist of two major components. The first component will be to move off the current platform which is a PRIME 4150 system. The second component will be to migrate existing software applications on to the new platform. The Commission, through careful planning, will be able to accomplish all or a significant part of phase one without the need to request additional funding from the Legislature.

### **Other Activities**

Phase two of this recomputerization effort will begin in the next fiscal year through the Gubernatorial Public Financing Program. The Commission has requested \$155,000 in FY-1997 for an electronic filing initiative to occur in FY-1998 for the gubernatorial public financing candidates. These funds will pay for the necessary hardware and software design needed to allow for candidates to file by diskette. It is thought that the gubernatorial general election is the perfect "pilot" program for this initiative in that traditionally there are only two candidates participating, both of whom normally would use computers to prepare their reports.

The third phase of recomputerization would include electronic reporting by legislative candidates if a funding package can be assembled. This phase would also include imaging and scanning technology. These changes will greatly enhance the Commission's ability to respond to the public's requests for

information and reduce physical space requirements in the future. In conjunction with these endeavors, remote and local (public room) access to ELEC's vast warehouse of information may be accomplished through access on the Internet. Phase three will most likely take several fiscal years to accomplish. The need for easy access to public documents is increasing day by day. ELEC is looking to current technologies, such as the Internet, for alternate means of remote access.

### **Looking Forward**

Late in FY-1996 (June), the Commission plans to reorganize itself to maximize the physical space that is available. The Compliance and Information Section will be moved to the 13th floor and the Review and Investigation and Legal staff will be moving to the 12th floor. This reallocation of space will provide for an expanded public room area which is desperately needed for the press and public. In the future, ELEC expects to provide terminals and printers in the public room for easier access to its information.

In FY-1997, ELEC expects a continuation budget of \$1,417,000 and a separate appropriation of \$630,000 for the administration of the Public Financing Program of which \$155,000 would be for phase two of ELEC's recomputerization project.

## BUDGET OVERVIEW

*1995 Annual Report*

*May 1996*

In FY-1997, the Commission anticipates a continuation appropriation of \$1,417,000 based on the Governor's Budget Recommendation.

### Comparison of Fiscal Years 1995 and 1996 Appropriations

	<u>FY 1995 Appropriations</u>	<u>FY 1996 Appropriations</u>
Personnel	\$1,157,000	\$1,212,000
Printing & Supplies	44,000	44,000
Travel	1,000	1,000
Telephone	25,000	25,000
Postage	26,000	26,000
Data Processing	39,000	39,000
Professional Services	40,000	40,000
Other Services	8,000	8,000
OTIS	5,000	5,000
Maintenance/Equipment	2,000	2,000
Central Motor Pool	0	0
Furniture/Equipment	0	0
Commissioner Per Diem	<u>\$ 15,000</u>	<u>\$ 15,000</u>
Total Operational	\$1,362,000	\$1,417,000
Public Financing Administration	0	0
Gubernatorial Public Financing	0	0

## EVALUATION DATA

1995 Annual Report

May 1996

### 1995 Evaluation Data

Disclosure Reports (Total)	23,747
<i>Campaign &amp; Quarterly</i>	20,085
<i>Lobbyist</i>	3,358
<i>Personal Finance</i>	304
Photocopies	182,984
Investigations	42
Civil Prosecutions	155
Public Assistance Requests	12,969
Fine Collection	\$ 89,367
Lobbying Annual Fees	\$172,200