



ELEC-TRONIC

An Election Law Enforcement Commission Newsletter

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"Furthering the Interest of an Informed Citizenry"

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Website:

www.elec.state.nj.us

Comments from the Chairman Ronald DeFilippis

With the primary and general election for Assembly and various local races looming, it is important to review the so-called 90-day rule.

The 90-day rule, or the political communication regulation, is effective under the following conditions:

1. When the communication is made within 90-days of any election involving the candidates;
2. When the recipients are substantially comprised of individuals eligible to vote for the candidates;
3. When the communication refers to the governmental objectives or achievements of the candidate; and,
4. When the communication is done with the cooperation or consent of the candidate.

In the majority of cases, the rule has applied to communications produced by a governmental body such as a municipal, county, or state government agency.

If the above conditions are met, the cost of producing and disseminating the communication would be an in-kind contribution from the governmental body to the candidate.

This expenditure would be required to be disclosed by the candidate as an in-kind contribution.

While the Commission is authorized to enforce disclosure of this activity, it does not, however, have jurisdiction over the issue of the legality of using taxpayer funds for this purpose.

As with any law or regulation there are exceptions. For example, there is no requirement to report a communication by an incumbent officeholder seeking re-election if the communication is in writing and is made to a constituent in direct response to a prior communication from the constituent.

Further, there is no requirement to report a communication that is broadcast or circulated for the limited purpose of requiring constituents to make

applications or take other actions before the date of the election, or providing information involving a public emergency.

Finally, there is no requirement to report a communication by a candidate running in the primary if the candidate is unopposed.

The 90-day rule applies to all candidates running for public office, including fire district and school board candidates.

The Commission's staff is available to assist with questions related to the 90-day rule. Staff can be reached at 1-888-313-3532.

Requests for advisory opinions can be submitted in writing to the Commission at ELEC, P.O. Box 185, Trenton, NJ 08625.

Information is also available at www.elec.state.nj.us.

Public Hearing Date Changed **Annual Registration Fee for** **Governmental Affairs Agents** **N.J.A.C. 19:25-20.20.**

Executive Director Jeffrey M. Brindle announced that the New Jersey Election Law Enforcement Commission (Commission) is changing the date of the public hearing to be held concerning the proposed annual registration fee for governmental affairs agents, increasing the annual registration fee for governmental affairs agents to \$575.00, see N.J.A.C. 19:25-20.20.

The original hearing date was May 19, 2015; the new hearing date is Tuesday, May 26, 2015.

The hearing time and location are unchanged. The Commission will conduct a hearing to elicit public comment concerning the proposal **on Tuesday, May 26, 2015 at 11:00 A.M.**

The Commission invites participation in this hearing and requests that any testimony be limited to no more than ten minutes. Persons wishing to testify at the May 26, 2015 hearing are requested to reserve time to speak by contacting Administrative Assistant Elbia L. Zeppetelli at (609) 292-8700 no later than **Friday, May 22, 2015**.

Executive Director's Thoughts **Jeff Brindle**

The Ever Persistent Political Custom of Money and Hardball Politics

Reprinted from politickernj.com

The Revolutionary War was a bloody battle for independence from a mother country that sought to oppress the liberties of American colonials.

Nevertheless, Americans derived many of their traditions and constitutional values from Great Britain.

Among them are the common law tradition and an abiding thirst for liberty. But these traditions also include a penchant for money in politics and bare-knuckle campaigns.

John Dickenson, a law student in England in 1754, wrote that "Over £1,000,000 pounds had been spent to manipulate the general election" according to Bernard Bailyn, in *Ideological Origins of the American Revolution*.

He then said, "The starting price for the purchase of votes in one northern borough was 200 guineas."

Pamphlets, poetry, satire, and to an extent newspapers, carried the exchanges between politicians in 18th century Britain.

In one famous incident, John Wilkes, a radical Member of Parliament and journalist, wrote a pornographic poem, satirizing John Montague, 4th Earl of Sandwich, whose mistress was the courtesan Fanny Murray.

The House of Lords declared the poem blasphemous and it was the end of Wilkes' career.

This political custom of money and hardball exchanges quickly took root in early America.

The story of several businessmen who supported George Washington for the Virginia House of Burgesses illustrates the important place of money in colonial politics. These businessmen purchased ale for all the men who were about to vote in the election.

A few decades, later money was no less important. In the presidential election of 1860, Abraham Lincoln spent \$100,000, or \$2.9 million in today's dollars, during the campaign.

Newspapers and pamphleteers carried the arguments and polemics of dirty politics in early America as well.

George Washington was called the corrupter of a washerwomen's daughter; Jefferson an atheist and French agent; John Quincy Adams a supplier of young women to a lust-crazed czar; and later Lincoln a monkey.

By these standards, a Super PAC ad in the last presidential election accusing Mitt Romney of causing the death of a woman who died of cancer seems mild in comparison.

Not much has changed in American politics and elections over the last two centuries.

The politics of personal destruction, hard-hitting exchanges between candidates, and the use of money to influence elections are as much a part of today's electoral politics as in 18th century Britain and early America.

Pamphleteers may have been replaced by bloggers and direct mail, Jonathan Swift by John Stewart, and newspapers by social media and broadcast advertising, but the results are similar.

So much has remained the same. However, there is one difference between then and now. It is the means by which the messages are delivered and the manner by which they are underwritten.

Super PACs and other 501(c) independent groups are increasingly taking over the electoral field. And these independent groups are often financed by super rich individuals as well as well-heeled corporations and unions.

This trend is not only happening at the federal level (soon to be evidenced in the next presidential election) but in New Jersey and throughout the states as well.

As noted in previous columns, independent groups totally dwarfed political parties and candidates in the last legislative and gubernatorial elections in New Jersey in 2013. They spent \$41 million to \$14 million spent by the political party entities.

The issue is not the money. Money has always been a factor in elections; all the way back to 18th century Britain and early America.

Moreover, it is not that these independent groups are participants in the electoral process. Candidates have always had surrogates whose purpose was to attack and define their opponents. And independent groups are protected by the First Amendment.

It is simply that so much money is being directed toward independent groups and away from more accountable political parties and candidates.

So what can be done to bring balance back into the process? First, these independent groups, which often operate in secret, should be treated just like political parties and candidates.

While limits on contributions provided to independent groups cannot be limited, outside groups can be required to register and to disclose their contributions and expenditures. Registration and disclosure has been endorsed by the U.S. Supreme Court decision in Citizens United and by the D.C. Court of Appeals in SpeechNow.

State Senator James Beach (D-6) has introduced legislation (S-938) that would require disclosure by these groups. It is hoped that the Legislature will pass this legislation.

Second, New Jersey's political parties should be strengthened. By increasing the limit on contributions permitted to be made to them, by exempting parties from Pay-to-Play, and by allowing state party entities to participate in gubernatorial campaigns, the influence of independent groups can begin to be offset.

Finally, PACs should be included in the Pay-to-Play law and contributions to independent groups by public contractors should be flagged for disclosure purposes.

Money has always been and will always be a factor in elections. But where it flows and how it is disclosed is a critical part of insuring transparency and integrity in the process.

The above reforms will begin to change the electoral landscape, redirecting the flow of money back to more accountable parties and candidates and away from often-anonymous independent groups. It is in the best interest of the public for the Legislature to take action to curb the influence of independent groups by strengthening the political parties and candidates.

Training Seminars 2015

The seminars listed below will be held at the Offices of the Commission, located at 28 West State St., Trenton, NJ. Please visit ELEC's website at www.elec.state.nj.us for more information on training seminar registration.

TREASURER TRAINING FOR CANDIDATES AND JOINT CANDIDATES COMMITTEES	
April 23, 2015	10:00 a.m.
September 17, 2015	10:00 a.m.
September 29, 2015	10:00 a.m.
TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS	
June 17, 2015	10:00 a.m.
September 15, 2015	10:00 a.m.
December 16, 2015	10:00 a.m.
R-1 ELECTRONIC FILING SOFTWARE (REFS) TRAINING	
July 28, 2015	10:00 a.m.
September 24, 2015	10:00 a.m.
September 30, 2015	10:00 a.m.

Lobbying Reporting Dates

Lobbying Quarterly Filing	INCLUSION DATES	ELEC DUE DATE
2 nd Quarter	4/1/2015 - 6/30/2015	July 10, 2015
3 rd Quarter	7/1/2015 - 9/30/2015	October 13, 2015
4 th Quarter	10/1/2015 - 12/31/2015	January 11, 2016

Contractor Checks Down but More Go to Outside Groups

Contributions by public contractors in 2014 fell 15 percent to \$9.1 million in a year when no state officials were running for reelection, according to an Election Law Enforcement Commission (ELEC) analysis of annual disclosure reports filed recently.

Table 1
Campaign Contributions Reported by Public Contractors in Annual Disclosure Reports

YEAR	AMOUNT	CHANGE-\$	CHANGE-%
2014	\$ 9,115,395	\$ (1,584,306)	-15%
2013	\$ 10,699,701	\$ 2,711,819	34%
2012	\$ 7,987,882	\$ (1,992,564)	-20%
2011	\$ 9,980,446	\$ 254,524	3%
2010	\$ 9,725,922	\$ (1,352,791)	-12%
2009	\$ 11,078,713	\$ (1,042,210)	-9%
2008	\$ 12,120,923	\$ (4,315,116)	-26%
2007	\$ 16,436,039	\$ 1,278,098	8%
2006	\$ 15,157,941		

While total contributions were down, contractors increased the number of checks they sent to political action committees (PACs) and other groups that operate independently of parties and candidates, said Jeff Brindle, ELEC's Executive Director.

Table 2
Contributions to PACs and Independent Groups

YEAR	AMOUNT	CHANGE-%	% OF TOTAL CONTRIBUTIONS
2014	\$1,863,693	16%	20%
2013	\$1,604,014	58%	15%
2012	\$1,017,353	-42%	13%
2011	\$1,746,947		18%

"Even without state elections in 2014, contributions to PACs and independent groups rose to nearly \$1.9 million- the largest amount since ELEC began tracking this activity four years ago," said Brindle. "On a percentage basis, contributions to outside groups represented 20 percent of the total contributions," he said.

One explanation for the increase was contractor involvement in Newark's local elections in 2014, which cost nearly \$12.6 million.

Adjusting for inflation, the Newark election was the second most expensive local election since 1974, according to ELEC White Paper No. 25- "Top Local Elections in New Jersey- A Tale of Two Cities and More." The election was marked by the largest amount of independent spending ever in a local race in New Jersey- \$5.5 million.

The biggest spender, called Newark First, spent \$4.5 million in support of Shavar Jeffries, who lost to Newark Mayor Ras Baraka. Newark First received \$400,000 from contractor Bloomberg Finance LP. Bloomberg also contributed \$15,000 directly to the Jeffries slate.

Two subsidiaries of Hartz Mountain Industries Inc. that are contractors contributed a total of \$12,000 to the Committee for Economic Growth and Social Justice, a federal Super PAC that supported Baraka.

"Independent groups are becoming a major force in politics, both nationally and in New Jersey," said Brindle. "The fact that contractors are contributing to these groups is another sign of the growing significance of independent groups."

Another \$320,050 went from various contractors directly to candidate committees, bringing the total estimated contractor participation in the Newark races to \$732,050.

Statewide, total reported contracts rose nearly \$302 million in 2014 to nearly \$6.9 billion. It was a five percent increase and the third increase in a row.

Table 3
Total Value of Contracts Reported Annually
by Business Entities Subject to Pay-to-Play Law

YEAR	AMOUNT	CHANGE-\$	CHANGE-%
2014	\$ 6,872,020,718	\$ 302,195,403	5%
2013	\$ 6,569,825,315	\$ 616,137,251	10%
2012	\$ 5,953,688,064	\$ 444,848,248	8%
2011	\$ 5,508,839,816	\$ (322,590,939)	-6%
2010	\$ 5,831,430,755	\$ (229,983,148)	-4%
2009	\$ 6,061,413,903	\$ 1,057,944,238	21%
2008	\$ 5,003,469,665	\$ (682,923,351)	-12%
2007	\$ 5,686,393,016	\$ (4,710,365,819)	-45%
2006	\$10,396,758,835		

The top ten contractors ranked by their contributions gave a combined \$2.8 million in 2014, representing 31 percent of all contributions.

Table 4
Business Entities that Made Most Contributions in 2014

BUSINESS NAME	AMOUNT
Bloomberg Finance L.P.	\$422,800
T&M Associates	\$379,150
Alaimo Group	\$376,100
Remington & Vernick Engineers, Inc.	\$359,450
CME Associates	\$323,160
Pennoni Associates, Inc.	\$287,180
Adams Rehmann & Heggan Associates, Inc.	\$200,450
Assured Partners of NJ LLC D/B/A AJM Insurance Management	\$171,525
Pershing Square Capital Management, L.P.	\$151,400
Capehart Scatchard P.A.	\$137,370

While the Newark campaign drew considerable support from contractors, freeholder candidates in Camden, Gloucester, Middlesex and Union Counties also were among the top 10 recipients of contractor contributions in 2014.

Table 5
Top Ten Recipients of Contractor Contributions in 2014

RECIPIENT	AMOUNT
Newark First	\$400,000
Jeffries Team for Newark 2014	\$285,250
Simmons Barnes and Taliaferro for Freeholder (Gloucester County)	\$238,770
Victory 2014 - Estrada Hudak and Wright for Freeholder (Union County)	\$176,395
Steve Sweeney for Senate	\$155,972
EFO Cappelli and McCray for Freeholder (Camden County)	\$140,999
Barrett for Freeholder (Middlesex County)	\$133,750
Tomaro for Freeholder (Middlesex County)	\$124,050
Republican Governors Association	\$100,000
GOPAC	\$ 95,250

The numbers in this report reflect information available to the Commission through April 1, 2015 and should be considered preliminary. Some contractors are likely to submit reports or amendments after that date that could change the totals. Numbers earlier than 2014 reflect these revisions and could differ from those reported in prior press releases. All reports are available at ELEC's website at www.elec.state.nj.us.

“BIG SIX” 1ST QUARTER 2015

With 80 state Assembly seats in contention this fall, the “Big Six” fundraising committees have amassed a combined reserve of \$1.6 million, according to an analysis by the New Jersey Election Law Enforcement Commission (ELEC).

**TABLE 1
FUNDRAISING BY “BIG SIX” COMMITTEES
JANUARY 1 THROUGH MARCH 31 2015**

REPUBLICANS	RAISED	SPENT**	CASH-ON-HAND	NET WORTH*
New Jersey Republican State Committee	\$258,552	\$ 452,579	\$ 359,522	\$ (153,209)
Senate Republican Majority	\$ 27,024	\$ 19,028	\$ 226,084	\$ 226,084
Assembly Republican Victory	\$141,448	\$ 152,561	\$ 211,716	\$ 211,716
Sub Total-Republicans	\$427,024	\$ 624,168	\$ 797,322	\$ 284,591
DEMOCRATS				
New Jersey Democratic State Committee	\$218,006	\$ 204,838	\$ 188,819	\$ 122,576
Senate Democratic Majority	\$ 17,404	\$ 45,669	\$ 151,509	\$ 131,509
Democratic Assembly Campaign Committee	\$311,060	\$ 142,376	\$ 485,900	\$ 455,461
Sub Total-Democrats	\$546,470	\$ 392,883	\$ 826,228	\$ 709,546
Total-Both Parties	\$973,494	\$1,017,051	\$1,623,550	\$ 994,137

*Net worth is cash-on-hand adjusted for debts owed to or by the committee.

**Some spending totals exceed fundraising totals because of reserves carried over from last year.

Jeff Brindle, ELEC’s Executive Director, said the cash total is the smallest first quarter reserve for a legislative election year since at least 2007.

“While there still is plenty of time to raise money, the Big Six committees had bigger cash balances at this point in four previous election years,” said Brindle. “It seems to further confirm our belief that party committee fundraising has been in a steady decline due to several trends.”

Brindle said that by enacting several recommendations set forth by ELEC, this trend may begin to be reversed.

These include combining the myriad of so-called “pay-to-play” contribution restrictions into a single law, allowing public contractors to make larger contributions particularly to parties, adjusting other contribution limits for inflation, and making independent special interest groups abide by the same disclosure laws as parties and candidates.

Brindle noted that the 2015 election is unusual because it is the first time since 1999 that Assembly contests are alone on the fall ballot.

“In all other election years since 1999, Assembly candidates ran with either gubernatorial candidates, Senate candidates, or both,” he said.

Brindle said a comparison of inflation adjusted figures for 1999 compared to 2015 hints at the broader issues pinching party coffers.

“With inflation adjustments, party totals for 1999 all are higher than this year,” he said. “Even without adjusting for inflation, the parties had larger cash reserves and net worth totals 16 years ago.”

TABLE 2
“BIG SIX” 1ST QUARTER CAMPAIGN ACTIVITY
1999 VERSUS 2015

BOTH PARTIES	RAISED	SPENT	CASH-ON-HAND	NET WORTH
1999 (Unadjusted for Inflation)	\$ 946,425	\$ 882,967	\$2,518,684	\$2,432,574
1999 (Adjusted for Inflation)	\$1,344,354	\$1,254,214	\$3,577,676	\$3,455,361
2015	\$ 973,494	\$1,017,051	\$1,623,550	\$ 994,137

“What this means is that parties, because of the broader trends we have noted, haven’t been able to even keep up with inflation. If they had, they probably would be spending more this year,” Brindle said.

Looking at combined first quarter totals dating back to 2007, fundraising and cash-on-hand figures- two key indicators of campaign finance activity- were lower only in non-election years.

One trend that runs against the grain- parties during the first three months of this year spent more than they did in each of the four previous election years.

TABLE 3
CAMPAIGN FINANCE ACTIVITY BY “BIG SIX”
AT END OF 1ST QUARTER BY YEAR

BOTH PARTIES	RAISED	SPENT	CASH-ON-HAND	NET WORTH	STATE ELECTIONS
2007	\$1,667,146	\$ 880,509	\$5,365,847	\$5,181,835	Senate and Assembly
2008	\$1,799,469	\$1,010,346	\$1,166,446	\$ 180,217	
2009	\$1,741,580	\$ 754,923	\$2,844,159	\$2,649,177	Governor and Assembly
2010	\$ 885,123	\$ 694,309	\$1,474,272	\$1,290,437	
2011	\$1,738,239	\$ 777,847	\$2,500,926	\$2,191,738	Senate and Assembly
2012	\$1,293,649	\$1,617,192	\$ 704,601	\$ 503,541	
2013	\$1,464,033	\$ 583,756	\$2,564,802	\$2,421,411	Governor and Both Houses
2014	\$ 600,526	\$ 694,221	\$ 750,904	\$ 443,050	
2015	\$ 973,494	\$1,017,051	\$1,623,550	\$ 994,137	Assembly

State Parties and Legislative Leadership Committees are required to report their financial activity to the Commission on a quarterly basis. The reports are available on ELEC’s website at www.elec.state.nj.us. ELEC also can be accessed on Facebook (www.facebook.com/NJElectionLaw) and Twitter (www.twitter.com/elecny).

2015 REPORTING DATES

		<i>Inclusion Dates</i>	<i>Report Due Date</i>
Fire Commissioner - 2/21/2015			
29-day pre-election		Inception of campaign* - 1/20/15	1/23/2015
11-day pre-election		1/21/15 - 2/7/15	2/10/2015
20-day post-election		2/8/15 - 3/10/15	3/13/2015
48 Hour Notice Reports Start on 2/8/2015 through 2/21/2015			
School Board Election - 4/21/2015			
29-day pre-election		Inception of campaign* - 3/20/15	3/23/2015
11-day pre-election		3/21/15 - 4/7/15	4/10/2015
20-day post-election		4/8/15 - 5/8/15	5/11/2015
48 Hour Notice Reports Start on 4/8/2015 through 4/21/2015			
May Municipal Election - 5/12/2015			
29-day pre-election		Inception of campaign* - 4/10/15	4/13/2015
11-day pre-election		4/11/15 - 4/28/15	5/1/2015
20-day post-election		4/29/15 - 5/29/15	6/1/2015
48 Hour Notice Reports Start on 4/29/2015 through 5/12/2015			
Runoff (June)** - 6/9/2015			
29-day pre-election		No Report Required for this Period	
11-day pre-election		4/29/15 - 5/26/15	5/29/2015
20-day post-election		5/27/15-6/26/15	6/29/2015
48 Hour Notice Reports Start on 5/27/2015 through 6/9/2015			
Primary Election*** - 6/2/2015			
29-day pre-election		Inception of campaign* - 5/1/15	5/4/2015
11-day pre-election		5/2/15 - 5/19/15	5/22/2015
20-day post-election		5/20/15 - 6/19/15	6/22/2015
48 Hour Notice Reports Start on 5/20/2015 through 6/2/2015			
90 Day Start Date: 3/4/2015			
General Election*** - 11/3/2015			
29-day pre-election		6/20/15 - 10/2/15	10/5/2015
11-day pre-election		10/3/15 - 10/20/15	10/23/2015
20-day post-election		10/21/15 - 11/20/15	11/23/2015
48 Hour Notice Reports Start on 10/21/2015 through 11/3/2015			
Runoff (December)** - 12/8/2015			
29-day pre-election		No Report Required for this Period	
11-day pre-election		10/21/15 - 11/24/15	11/27/2015
20-day post-election		11/25/15 - 12/25/15	12/28/2015
48 Hour Notice Reports Start on 11/25/2015 through 12/8/2015			
PACs, PCFRs & Campaign Quarterly Filers			
1 st Quarter		1/1/15 - 3/31/15	4/15/2015
2 nd Quarter****		4/1/15 - 6/30/15	7/15/2015
3 rd Quarter		7/1/15 - 9/30/15	10/15/2015
4 th Quarter		10/1/15 - 12/31/15	1/15/2016

* Inception Date of Campaign (first time filers) or from January 1, 2015 (Quarterly filers).

** A candidate committee or joint candidates committee that is filing in a 2015 Runoff election is not required to file a 20-day post election report for the corresponding prior election (May Municipal or General).

*** Form PFD-1 is due on April 9, 2015 for Primary Election Candidates and June 12, 2015 for Independent General Election Candidates.

**** A second quarter report is needed by Independent/Non-Partisan General Election candidates if they started their campaign before 5/5/2015.