



# 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](http://www.elec.state.nj.us)

## Comments from the Chairman Ronald DeFilippis

During the year, and leading up to the November election, I have highlighted various provisions in the Campaign Contributions and Expenditures Reporting Act.

In this column I will discuss the 48-hour notice rule.

Besides the requirement for campaign treasurers to file reports 29 and 11 days before an election, filings are required when contributions are received or expenditures made immediately before an election.

A campaign that receives a contribution or a loan of more than \$1,400 between the 13<sup>th</sup> day before an election and Election Day is required to report that contribution within 48-hours to the Commission.

The time period includes the 13<sup>th</sup> day prior to election and Election Day itself.

Filed on a Form C-1, the report must contain the following information:

1. the name of the candidate committee or joint candidates committee receiving the contribution;
2. the date the contribution was received;
3. the amount of the contribution;
4. the name and mailing address of the contributor; and,
5. in the case of an individual, his or her occupation and the mailing address of his or her employer.

Likewise, when an expenditure is made amounting to more than \$1,400 by a candidate or joint candidates committee between the 13<sup>th</sup> day prior to an election and up to and including Election Day, the candidate committee must report the expenditure to the Commission within 48-hours.

The rule only applies, however, when an expenditure is made to support or defeat a candidate for a different office than the one the candidate is running for. It does not apply when the candidate makes an expenditure to support his own candidacy (or members of his joint candidate committee) or to defeat his opponent running for the same office.

The 48-hour notice rule applies to public questions as well.

Filed on a Form E-1, the following information is required:

1. the name of the candidates or joint candidates making the expenditure;
2. the name of the person, firm, or organization to whom or which the expenditure was paid; and,
3. the amount and purpose of the expenditure.

The C-1 and E-1 forms can be obtained on the Commission's website at [www.elec.state.nj.us](http://www.elec.state.nj.us) and may be faxed to the Commission.

Disclosure during this period immediately before the election helps to make the campaign financing aspect of elections as transparent as possible. Failure to do so is harmful to the public interest and subject to civil penalties.

## Executive Director's Thoughts Jeff Brindle

### ERA OF UPHEAVAL CONTINUES AS NEW LEGAL CHALLENGE EMERGES TO FEDERAL CAMPAIGN FINANCE

Reprinted from [politickernj.com](http://politickernj.com)

To say that campaign finance law is in a state of flux is an understatement.

Much of the legal upheaval stems directly from the Bi-partisan Campaign Reform Act (BCRA) of 2002.

Otherwise known as McCain/Feingold, the reform law spawned a steady stream of lawsuits- the most recent coming just last month – that have whittled away at the foundation of the reform law.

The key problem stems from the fact that BCRA banned soft money donations to national political parties. Unlike other funds raised by candidates and parties, the amount of soft money contributions were not subject to limits. Parties were restricted in how they spent the funds.

Critics warned about the potentially corrupting effect of the large checks. Yet, there was one factor that worked to check any improper influence- the big contributions

were fully and regularly reported by both national parties until the law banned them.

Another controversial BCRA provision placed limits on ads by organizations independent of candidates. A blackout period within 30 days of a primary and 60 days of a general election was imposed on broadcast advertising.

The result of these reforms was immediate and dramatic.

First, soft money was shifted from regulated political parties to largely unregulated groups operating outside the direct control of parties or candidates. Their number and spending exploded.

Just between 2002 and 2008, two years before the Citizens United v. FEC Supreme Court decision in 2010, this independent spending grew by more than 1,000 percent. After that ruling, which allowed unlimited corporate and union independent spending, it accelerated.

Second, BCRA led to constant challenges to once settled campaign finance law.

The latest was filed July 28, 2015.

Republican Party of Louisiana v. FEC was submitted by Indiana Attorney Jim Bopp, who has filed more than 150 lawsuits aimed at scaling back campaign finance regulation, often with success.

His complex complaint essentially contends that state political parties that are spending independently of candidates on federal campaigns should not be restricted in how much money they can raise and from whom.

"In an era when Super-PACs can solicit unlimited contributions and spend enormous amounts to influence political races, political parties are constitutionally entitled to compete equally with them with their own independent campaign activity," Bopp told Bloomberg BNA on August 5, 2015. "Political parties are an important part of our political system and success in this case will help empower them again."

Political parties were one of the main victims of BCRA. Independent groups not only are diverting millions of dollars annually from them, but they are increasingly taking over functions traditionally overseen by the parties, including get-out-the-vote, preparation of voter registration lists, polling and opposition research.

Professor Rick Hasen, a campaign finance expert with the University of California, believes the U.S. Supreme Court will eventually take up the new case and could render a judgment that Bopp and supporters of his legal crusade think will reinvigorate the parties. "This is a big one," he said August 4 on his national election law blog.

BCRA was challenged almost immediately after its enactment on First Amendment grounds and on the question of whether Congress has authority to regulate elections under the Constitution.

In McConnell v. Federal Election Commission (FEC) in 2003, the law was attacked on the basis that it was overbroad in placing restrictions on issue ads- ads that do not explicitly urge voters vote for or against candidates- and in curtailing soft money to political parties.

By a 5-4 vote, the U.S. Supreme Court upheld BCRA. The Court viewed the limitations on free speech as inconsequential and said the restrictions were justified in order to prevent "actual corruption" or the "appearance of corruption."

Support for the reform law did not last long, however.

In 2007, the U.S. Supreme Court, in FEC v. Wisconsin Right to Life, modified the "electioneering" provision in BCRA that prohibited ads within 30 and 60 days of a primary and general election, respectively, by abolishing those blackout periods.

Ads that specifically, or expressly, endorsed or opposed candidates were still banned during those blackouts after Wisconsin Right to Life.

Next, came Citizens United v. FEC in 2010. In this ruling, the Supreme Court found unconstitutional the ban on corporate and union independent expenditures. The court at the same time ended advertising blackout periods faced by those groups.

At the same time, the Citizens United decision upheld the prohibition on direct contributions to candidates by corporations and unions and strongly supported disclosure.

On the issue of disclosure, the ruling went so far as to indicate that issue ads that went even beyond the "functional equivalent" of express advocacy were ripe for disclosure of contributions and expenditures.

Following Citizens United, the D.C. Court of Appeals in Speech Now, 2010, allowed unlimited contributions to political action committees (PACs) as long as their spending was independent.

The Court of Appeals, likewise, upheld disclosure and registration by these committees.

A year later in 2011, the D.C. District Court in Carey v. FEC, further clarified Speech Now and paved the way for the super PAC phenomenon.

It held that corporations and unions could make unlimited contributions to super PACs. The Court ruled, though, that these funds must be segregated and used for independent expenditures only.

The Carey decision came out strongly for disclosure as well.

Finally, in McCutcheon v. FEC, the U.S. Supreme Court upended aggregate contribution limits as applied to donations made to federal candidates, parties, and PACs.

Though subject to regular federal contribution limits that apply to these entities, they were freed from a second, long-standing limit on the amount they could give overall to federal campaigns.

The above rulings are but a smattering of the decisions that have taken place since BCRA was enacted. The foregoing are among the most significant, however.

Yet, throughout the myriad of court renderings, a clear trend has emerged. First, that freedom of speech is of priority importance to the U.S. Supreme Court, and, second, that disclosure of campaign activity is supported by the Court and held to be constitutional.

## White Paper No. 26

### Legislative Elections 2013: Big Spending, Little Change Plus a History of Self-Financing by Legislators and Others

An unprecedented wave of independent special interest spending drove the cost of the 2013 legislative general election to \$53.3 million, the most ever without adjusting for inflation, according to a new analysis by the Election Law Enforcement Commission (ELEC).

“In the 2013 fall election, at least \$10 million was spent outside the direct control of parties and candidates. That’s a staggering five times more than the 2011 total. It is most likely low due to current limits on disclosure,” said Joseph Donohue, ELEC’s Deputy Director and the author of the study.

**Table 1**  
**Total Fundraising and Spending**  
**in Legislative Elections\***

YEAR	RAISED BY LEGISLATORS	SPENT BY LEGISLATORS	BOTH HOUSES?	INDEPENDENT SPENDING	TOTAL SPENDING	TOTAL SPENDING ADJUSTED FOR INFLATION
2003	\$47,911,008	\$44,990,255	Yes	\$ 4,857	\$44,995,112	\$58,152,514
2005	\$25,081,696	\$23,713,193	No	\$ 3,476	\$23,716,669	\$28,878,354
2007	\$50,797,317	\$47,231,847	Yes	\$ 165,000	\$47,396,847	\$54,360,463
2009	\$20,457,342	\$18,584,098	No	\$ 15,999	\$18,600,097	\$20,617,404
2011	\$45,656,674	\$44,024,272	Yes	\$ 1,835,000	\$45,859,772	\$48,482,847
2013	\$46,691,108	\$43,446,977	Yes	\$ 9,890,217**	\$53,337,194	\$54,641,563

\*Includes first quarterly reports filed by candidates after the election.

\*\*Excludes \$635,354 in primary spending.

Entitled “White Paper No. 26-Legislative Elections 2013- Big Spending, Little Change Plus a History of Self-Financing by Legislators and Others,” the analysis also found that so-called “outside” groups topped parties and candidates in spending on research and polling and get-out-the-vote. Both were new records.

“Before the recent explosion of independent spending, independent groups mainly focused on political advertising. But with the surge in spending, some of those groups are assuming campaign functions traditionally performed by parties and candidates,” Donohue said.

The latest white paper also includes a first-ever historical review of self-financed candidacies by legislators and other New Jersey candidates. It found that at least 101 legislative candidates since the 1980s have spent at least \$15,000 on their campaigns. The combined outlay- \$9.8 million in inflation adjusted dollars. Among the top 50 self-funders identified by the analysis, 18 were legislative candidates (a few also ran for other offices).

“While some of the most dramatic examples of self-financing have involved gubernatorial elections, most candidates for governor rely on the state’s public financing matching funds along with checks from private contributors,” Donohue said. “In other elections where public financing isn’t available, self-financing is more common. Those include Congressional and legislative campaigns.”

The ten candidates listed below spent the most solely on legislative campaigns.

**Table 2**  
**Top 10 Self-Funding Legislative Candidates**

CANDIDATE	AMOUNT*	OFFICES HELD	CAMPAIGNS WITH SELF-FUNDING
MacInnes, Gordon	\$ 846,009	Assemblyman, Senator	4
Manzo, Louis	\$ 694,659	Assemblyman	3
Mancuso, Peter	\$ 520,838	Not elected	2
Shain, Joel	\$ 398,832	Not elected	1
MacInnes, Blair	\$ 364,462	Not elected	1
Munoz, Eric	\$ 336,434	Assemblyman	4
Genovese, Gina	\$ 269,527	Not elected	1
Oroho, Steven	\$ 244,868	Senator	1
Honig, Barry	\$ 233,282	Not elected	1
Casha, Lawrence	\$ 231,106	Not elected	1

\*Inflation adjusted; does not include repayments.

No candidate spent more of their personal funds on a New Jersey election than former Governor and US Senator Jon Corzine. He sank \$167 million (in 2015 dollars) of his own money into his three campaigns.

**Table 3**  
**Top 10 Elections Involving  
Self-Funding by New Jersey Candidates**

	CANDIDATE	YEAR	OFFICE	AMOUNT	INFLATION ADJUSTED
<b>1</b>	Corzine, Jon	2000	US Senate	\$60,198,967	\$83,311,920
<b>2</b>	Forbes, Steve	1996	President	\$37,394,000	\$56,878,443
<b>3</b>	Forbes, Steve	2000	President	\$38,675,038	\$53,596,595
<b>4</b>	Corzine, Jon	2005	Governor	\$43,135,570	\$52,711,092
<b>5</b>	Forrester, Doug	2005	Governor	\$29,927,189	\$36,570,627
<b>6</b>	Corzine, Jon	2009	Governor	\$27,460,000	\$30,546,893
<b>7</b>	Lautenberg, Frank	1982	US Senate	\$ 5,100,000	\$12,611,956
<b>8</b>	Forrester, Doug	2002	US Senate	\$ 7,485,000	\$ 9,929,545
<b>9</b>	MacArthur, Tom	2014	House	\$ 5,000,000	\$ 5,115,021
<b>10</b>	Sullivan, Joseph "Bo"	1981	Governor	\$ 1,842,000	\$ 4,836,091

In reviewing the 2013 legislative campaign, there were signs that online advertising is on the rise and may have topped \$1.1 million. "Internet advertising is soaring in national campaigns and we are beginning to see the impact in New Jersey," said Donohue.

All 26 white papers are available on ELEC's website at [www.elec.state.nj.us/aboutelec/whitepapers.htm](http://www.elec.state.nj.us/aboutelec/whitepapers.htm).

## Appearing on “Another Thing”

Jeff Brindle, Executive Director of the NJ Election Law Enforcement Commission (ELEC), was a guest speaker on PMCM-TV “Another Thing with Larry Mendte” on September 11, 2015 at Monmouth University. He spoke about “**Super PACs**” and why it is necessary for ELEC to expand disclosure requirements for independent groups and to simplify pay-to-play laws in the state. He also spoke about the need to strengthen political parties.

## Proposed Amendment and New Rule Sufficient Public Interest for Public Hearings for Commission Rulemaking

The Commission proposed amendments requiring electronic filing for lobbyists under the Legislative and Governmental Process Activities Disclosure Act, N.J.A.C. 19:25-20.1 et seq. The proposed amendments addressed requirements concerning new rule N.J.A.C. 19:25-2.6, to require a public hearing on a rulemaking proposal if sufficient public interest is demonstrated.

A public hearing will be held by the Commission during its regular meeting at 11:15 a.m. on December 15, 2015.

## Training Seminars and Lobbying Reporting Dates

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](http://www.elec.state.nj.us) for more information on training seminar registration.

PAY-TO-PLAY		
November 16, 2015	2:00 p.m.	
TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS		
December 16, 2015	10:00 a.m.	
LOBBYING REPORTING DATES		
Quarterly Filing	Inclusion Dates	ELEC Due Date
3 <sup>rd</sup> Quarter	7/1/2015 - 9/30/2015	10/13/ 2015
4 <sup>th</sup> Quarter	10/1/2015-12/31/2015	1/11/2016

## 2015 REPORTING DATES

		<i>Inclusion Dates</i>	<i>Report Due Date</i>
<b>Fire Commissioner - 2/21/2015</b>			
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			
<b>School Board Election - 4/21/2015</b>			
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			
<b>May Municipal Election - 5/12/2015</b>			
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			
<b>Runoff (June)** - 6/9/2015</b>			
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			
<b>Primary Election*** - 6/2/2015</b>			
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			
<b>General Election*** - 11/3/2015</b>			
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			
<b>Runoff (December)** - 12/8/2015</b>			
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			
<b>PACs, PCFRs &amp; Campaign Quarterly Filers</b>			
1 <sup>st</sup> Quarter		1/1/15 - 3/31/15	4/15/2015
2 <sup>nd</sup> Quarter****		4/1/15 - 6/30/15	7/15/2015
3 <sup>rd</sup> Quarter		7/1/15 - 9/30/15	10/15/2015
4 <sup>th</sup> 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.