



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

It's that time again. Labor Day, that mystical start to the campaign season, is upon us.

Therefore, it is time for campaign treasurers to refresh themselves on the ins and outs of the state's campaign finance law.

While there is no contest for Governor or Legislature this year, thousands of candidates for municipal and county office will be facing off in November.

Treasurers are encouraged to attend ELEC sponsored training sessions that are conducted both in Trenton and off-site at locations throughout the State.

If in person training is not possible, treasurers can avail themselves of two interactive training videos, one dealing with reporting guidelines and the other with forms.

For information about these training opportunities, treasurers should check out the schedule printed on page seven of this newsletter.

In addition, treasurers may access the Compliance manual by keying into the Commission's website at www.elec.state.nj.us.

In any event, the following represents important information for all individuals signing on to assist campaigns as treasurers this fall.

First, any candidate raising money must establish a campaign committee bank account. All funds raised must be deposited into the account and all expenditures must be drawn from the account.

Information involving the account is required to be filed with the Election Law Enforcement Commission on a form D-1.

The D-1 requires the following to be disclosed:

1. The name of the candidate committee;
2. The name, mailing address, and telephone number of the person appointed chairperson;
3. The name, mailing address, and telephone number of the treasurer;
4. The name, mailing address, and telephone number of the bank depository; and,
5. The name, mailing address, and telephone number of persons authorized to sign checks.

Throughout the campaign detailed records of all financial transactions must be maintained by the treasurer.

Campaigns are required to report their financial activity 29 and 11 days before the election, 20 days after the election and then quarterly until the campaign account is zeroed out and closed.

All contributors who make in the aggregate donations amounting to more than \$300 must be identified on the reports. Contributions of \$300 or less are reported as a lump sum, though the identity of those donors must be maintained by the campaign.

Expenditures must be reported as well as loans to the committee. All loans, except those personally made by the candidate, are subject to contribution limits.

In spending for the campaign, candidates and treasurers must be aware of the fact that there are guidelines as to the proper use of those funds.

Campaign funds can be used in connection with the campaign. In addition, they can be used for administrative purposes, for contributing to other candidates, and for charity. Funds may be returned to contributors on a pro rata basis, and for an officeholder's ordinary and necessary expenses of holding public office.

Campaign funds cannot be used for personal use or for defending in a criminal matter.

The foregoing is a snapshot view of the guidelines for reporting and managing the financial aspects of a campaign.

Executive Director's Thoughts Jeff Brindle

Supreme Court Makeup Could Have Big Impact on Campaign Finance Law.

Reprinted from politickernj.com

Lost in the chaos over history's most unconventional presidential campaign is the issue of the U.S. Supreme Court.

Specifically, who will name the replacement for the late Justice Antonin Scalia and perhaps for other current justices.

Whoever wins, the selection of Supreme Court justices is important for the whole nation. It will have special resonance in the field of campaign finance law.

A review of decisions dating to the landmark case Buckley v. Valeo in 1976 demonstrates the importance of the High Court to the direction the nation takes in this area of public policy.

Enacted February 7, 1972, the Federal Election Campaign Act (FECA) required disclosure of contributions and expenditures by federal candidates. It also established a presidential public financing program.

The Act was amended three years later. The amendments placed limits on contributions and expenditures and created the Federal Election Commission (FEC).

Around the same time, the Warren Burger Court, comprised of moderate justices, was in the process of transitioning from the liberal legacy of the Earl Warren Court.

In 1976, the U.S. Supreme Court made its first ruling on the Act. In Buckley v. Valeo, the Supreme Court upheld contribution limits. The Court also upheld the presidential public financing program and disclosure.

It permitted groups to engage in independent spending, requiring disclosure only when they expressly supported or opposed candidates.

Corporations and unions remained banned from contributing to federal candidates, but expenditure limits were unconstitutional.

On the heels of *Buckley v. Valeo*, from 1980-2001, were several decisions, mostly involving political parties.

With the exception of *FEC v. Colorado Republican Campaign Committee* (2001), which allowed restrictions on expenditures coordinated with candidates, the High Court rulings tended to strengthen political parties.

One major case did not involve political parties, however. In *Austin v. Michigan Chamber of Commerce* (1990), the Court upheld a state's authority to restrict campaign expenditures by corporations even if they were independent.

Other than in *Austin*, the Supreme Court seemed to take a middle-of-the road approach. It balanced the need for regulating campaign money with the need to safeguard free speech rights.

With the onset of the new millennium, this approach took a definite tilt toward the free speech side of the spectrum.

In 2002, Congress passed the Bipartisan Campaign Reform Act (BCRA), known as McCain/Feingold.

The Act placed contribution limits on donations to the national political parties. Wealthy interests could no longer give unlimited "soft money" dollars for party building.

BCRA placed restrictions on independent advertising as well. Ads were prohibited 30 days prior to the primary and 60 days prior to the general election.

The soft money ban caused an almost immediate growth in spending by independent groups.

There was over 1,000 percent increase in outside group spending between 2002 and 2008, two years before *Citizens United*.

Not only did BCRA set off a brush-fire of independent organization spending, but it unleashed a flurry of court challenges against the reform law.

In *McConnell v. FEC* (2003), the William Rehnquist Court upheld BCRA, finding the soft money ban on advertising and electioneering restrictions constitutional.

However, this would not last long. The Court would soon begin to whittle away at BCRA's provisions.

In 2005, Justice O'Connor retired, Chief Justice Rehnquist died, and John Roberts replaced him. The court would lean conservative on campaign finance matters until Justice Scalia died in 2016.

A ruling in 2007, *FEC v. Wisconsin Right to Life*, modified BCRA by allowing issue ads, or those that do not expressly support or oppose candidates, to be aired during the heretofore blackout periods.

In 2006 in *Randall v. Sorrell*, the Supreme Court struck down Vermont's contribution and expenditure limits and in *Davis v. FEC*, 2008, the Court found the "level playing field" millionaires amendment unconstitutional.

Then in a series of cases beginning with *Citizens United v. FEC* in 2010 and culminating with *McCutcheon v. FEC* in 2012, the Court defended the First Amendment Free Speech rights while strongly endorsing disclosure.

Presently, there are a number of potentially significant campaign finance cases that hold out the possibility of being taken up by the Supreme Court.

With a 4-4 divide on the Court in terms of campaign finance law, the replacement for the late Justice Scalia will either pivot the court toward tightening restrictions on campaign financing or continue the trend toward a further loosening.

Depending on one's point of view, this adds to the importance of this year's presidential contest.

COUNTY PARTIES - 2ND QUARTER 2016

In 2012, county committees representing both parties reported their worst fundraising in more than a decade. Totals of both parties have trended upward ever since that year and the latest quarterly fundraising numbers reconfirm that trend. One thing should not be forgotten, however- today's totals still pale in comparison to early numbers in the last decade.

A new ELEC analysis provides one explanation for the recent surge- declared and potential contenders for the 2017 gubernatorial election have contributed \$2.1 million to county parties since 2012, said Jeff Brindle, Executive Director of the Election Law Enforcement Commission (ELEC). It also found nearly 70 percent of the contributions were made since the last gubernatorial election in 2013.

**TABLE 1
CONTRIBUTIONS BY POTENTIAL 2017
GUBERNATORIAL CANDIDATES TO COUNTY PARTIES**

PARTY	2012	2013	2014	2015	2016 (THROUGH JUNE 30)	TOTALS 2012-2016	TOTALS 2012-2013	TOTALS 2014 TO DATE	% SINCE 2014
Democrats	\$ 52,567	\$164,574	\$443,000	\$687,600	\$61,250	\$1,408,991	\$217,141	\$1,191,850	85%
Republicans	\$ 73,584	\$328,416	\$126,303	\$100,680	\$37,007	\$ 665,990	\$402,000	\$ 263,990	40%
TOTALS	\$126,151	\$492,990	\$569,303	\$788,280	\$98,257	\$2,074,981	\$619,141	\$1,455,840	70%

The possible Democratic field has funneled \$1.4 million into Democratic party war chests since 2012- nearly 6.3 percent of all Democratic county party fundraising since that year. Most of the money- 85 percent- was provided since 2014. On the Republican side, the \$665,990 in GOP contributions made up nearly 5 percent of total county coffers since 2012. Just 40 percent of those checks arrived since 2014.

"There are many reasons people make campaign contributions. But in the past, we have seen potential candidates give more to county parties before a gubernatorial election. A similar pattern seems to be happening now, at least on the Democratic side," Brindle said.

It is not uncommon for candidates, especially legislative leaders, to work with county officials on various campaigns. But Brindle said it also makes sense that would-be candidates need to build support among county party leaders since party officials influence the ballot position during primary elections.

County party officials this month jointly reported the best second quarter fundraising total since 2009 along with the largest cash reserve since that same year.

In a year without gubernatorial or legislative elections, county parties combined have raised \$2.8 million during the first six months of 2016. In 2009, they raised about the same amount. Both gubernatorial and legislative candidates were running in 2009.

County party committees also reported a combined total of \$2.1 million in cash reserves- also the most since at least 2009.

**TABLE 2
CAMPAIGN FINANCE ACTIVITY OF COUNTY
PARTIES THROUGH SECOND QUARTER - 2009-2016**

YEAR	RAISED	SPENT	CASH-ON-HAND	STATE ELECTION?
2009	\$2,829,837	\$3,044,906	\$1,713,660	Governor, Assembly
2010	\$2,070,581	\$2,327,162	\$1,746,121	No
2011	\$2,617,165	\$2,374,567	\$1,444,408	Senate, Assembly
2012	\$2,115,739	\$2,186,873	\$1,036,375	No
2013	\$2,647,728	\$2,560,856	\$1,627,287	Governor, Senate, Assembly
2014	\$2,379,387	\$2,316,264	\$1,492,059	No
2015	\$2,597,718	\$2,365,487	\$1,706,465	Assembly
2016	\$2,811,365	\$2,409,239	\$2,088,607	No

ELEC looked deeper into fundraising trends to try to explain why county fundraising has ticked upward.

For purposes of analysis, ELEC included the one announced candidate (Phil Murphy) and 14 other Democrats and Republicans who have openly expressed an interest in a run or who are considered contenders and haven't ruled it out.

So far this year, contributions from potential gubernatorial candidates are small though six months remain. The most substantial contributions were made during the past two years. Democrats gave the most.

Last year, contributions by Democrats made up 11.3 percent of all contributions received by county parties. In 2014, the percentage among Democrats was 9 percent.

"Both were big increases from the two previous years. And they have given the party committees a boost," said Brindle.

**TABLE 3
CONTRIBUTIONS BY POTENTIAL DEMOCRATIC
GUBERNATORIAL CANDIDATES 2012-2016 TO COUNTY PARTIES***

POTENTIAL CANDIDATES	2012	2013	2014	2015	2016 (THROUGH JUNE 30)	TOTAL
Former Ambassador and Goldman Sachs Partner Phil Murphy	\$ -	\$ -	\$ 201,500	\$ 299,000	\$ 18,350	\$ 518,850
Senate President Stephen Sweeney	\$ 9,167	\$ 106,667	\$ 149,500	\$ 224,000	\$ 1,000	\$ 490,334
Jersey City Mayor Steven Fulop	\$ -	\$ 5,000	\$ 49,100	\$ 124,000	\$ 28,000	\$ 206,100
Senator Ray Lesniak	\$ 21,000	\$ 20,000	\$ 21,200	\$ 1,400	\$ 5,300	\$ 68,900
Assemblywoman Shavonda Sumter	\$ 4,500	\$ 15,500	\$ 6,600	\$ 28,500	\$ 2,500	\$ 57,600
Assemblyman John Wisniewski	\$ 12,000	\$ 10,117	\$ 12,500	\$ 10,700	\$ 6,100	\$ 51,417
Essex County Executive Joseph DiVincenzo	\$ 5,500	\$ 1,000	\$ 2,000	\$ -	\$ -	\$ 8,500
State Investment Council Chairman Tom Byrne	\$ 200	\$ 6,000	\$ 500	\$ -	\$ -	\$ 6,700
Montclair Councilman Robert Russo	\$ 200	\$ 290	\$ 100	\$ -	\$ -	\$ 590
TOTALS	\$ 52,567	\$ 164,574	\$ 443,000	\$ 687,600	\$ 61,250	\$ 1,408,991
Democratic County Party Fundraising Total	\$3,934,301	\$5,889,643	\$4,943,216	\$6,075,026	\$1,596,778	\$22,438,964
Percent of Total Party Fundraising	1.3%	2.8%	9.0%	11.3%	3.8%	6.3%

*In cases where candidates used joint committees to donate to county parties, the amount was divided by the number of joint committee members.

While potential candidates for the 2017 Republican gubernatorial nomination gave a respectable sum since 2012 (\$665,990), the bulk of their contributions came in 2013. It should be noted that Lieutenant Governor Kim Guadagno, a potential candidate, cannot make contributions to county parties because she has no individual fundraising committee apart from the governor's campaign committee.

**TABLE 4
CONTRIBUTIONS BY POTENTIAL REPUBLICAN
GUBERNATORIAL CANDIDATES 2012-2016 TO COUNTY PARTIES***

POTENTIAL CANDIDATES	2012	2013	2014	2015	2016 (THROUGH JUNE 30)	TOTAL
Assembly Minority Leader Jon Bramnick	\$ 21,445	\$ 180,733	\$ 65,400	\$ 58,905	\$ 4,300	\$ 330,783
Senate Minority Leader Tom Kean	\$ 28,200	\$ 105,383	\$ 34,700	\$ 32,900	\$ 1,350	\$ 202,533
Assemblyman Jack Ciattarelli	\$ 23,939	\$ 42,300	\$ 23,503	\$ 8,875	\$ 31,537	\$ 129,974
Evesham Mayor Randy Brown	\$ -	\$ -	\$ 2,700	\$ -	\$ -	\$ 2,700
Lt. Governor Kim Guadagno	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Businessman Joseph Rullo	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal	\$ 73,584	\$ 328,416	\$ 126,303	\$ 100,680	\$ 37,007	\$ 665,990
GOP COUNTY FUNDRAISING TOTAL	\$2,472,838	\$4,019,208	\$2,690,708	\$3,086,851	\$1,214,687	\$13,484,292
Percent of Total Party Fundraising	3%	8.2%	4.7%	3.3%	3%	4.9%

*In cases where candidates used joint committees to donate to county parties, the amount was divided by the number of joint committee members.

Brindle noted that despite the evident windfall from some gubernatorial candidates, county fundraising pales compared to the early 2000s. Tight restrictions on public contractor contributions took a big bite out of their fundraising after 2005, and Corzine and Forrester ended their contributions.

"Democratic county committees raised \$6.1 million in 2015, a healthy jump from when party coffers bottomed out at \$3.9 million in 2012. But last year's receipts are miniscule compared to the \$18.8 million Democratic committees received 2003, their peak years," said Brindle.

"Likewise, Republican fundraising has grown from \$2.5 million in 2012 to \$3.1 million last year. However, GOP county committees raised \$8.4 million in 2001, their top year," he said.

Brindle has recommended legislation that might help strengthen parties by boosting their coffers. The proposal would eliminate the quagmire of state, county and municipal pay-to-play laws by combining them into a single state law. It would raise the basic contribution limit for contractors from \$300 to \$1,000 but require disclosure of more contracts. Legislators from both parties have introduced bills to achieve these changes.

Looking solely at the first six months this year, Democrats raised and spent more money than Republicans and also reported larger cash-on-hand. Republicans reported a larger net worth, meaning cash-on-hand adjusted by debts owed to or by the committee.

Both Democrats and Republicans raised and spent more than they did four years ago. Both reported an increase in cash reserves though Democrats showed the largest percentage gain.

**TABLE 5
SUMMARY OF CAMPAIGN FINANCE ACTIVITY BY COUNTY COMMITTEES
JANUARY 1 THROUGH JUNE 30-
2012 VERSUS 2016**

	RAISED-2016	SPENT-2016**	CASH-ON-HAND-2016	NET WORTH-2016*
Democratic County Party Committees	\$ 1,596,678	\$ 1,440,208	\$ 1,286,379	\$ 973,719
Republican County Party Committees	\$ 1,214,687	\$ 969,031	\$ 802,228	\$ 1,689,000
TOTAL-BOTH PARTIES	\$ 2,811,365	\$ 2,409,239	\$ 2,088,607	\$ 2,662,719
	RAISED-2012	SPENT-2012**	CASH-ON-HAND-2012	NET WORTH-2012*
Democratic County Party Committees	\$ 1,145,486	\$ 1,387,514	\$ 616,727	\$ 141,005
Republican County Party Committees	\$ 970,253	\$ 799,358	\$ 419,647	\$ 780,993
TOTAL-BOTH PARTIES	\$ 2,115,739	\$ 2,186,873	\$ 1,036,375	\$ 921,997
Difference 2016 versus 2012				
Democratic County Party Committees	39%	4%	109%	591%
Republican County Party Committees	25%	21%	91%	116%
TOTAL-BOTH PARTIES	33%	10%	102%	189%

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

**Spending may exceed fundraising due to reserves carried over from previous year.

TRAINING SEMINARS

The seminars listed below will be held at the Offices of the Commission, located at 28 West State St., Trenton, NJ. Since space is limited, you must reserve a seat in order to attend. Please visit ELEC's website at <http://www.elec.state.nj.us> for more information on training seminar registration.

TREASURER TRAINING FOR CANDIDATES AND COMMITTEES	
September 14, 2016	10:00 a.m.
September 27, 2016	10:00 a.m.
TREASURER TRAINING FOR POLITICAL COMMITTEES AND PACS	
September 22, 2016	10:00 a.m.
December 14, 2016	10:00 a.m.
R-1 ELECTRONIC FILING SOFTWARE (REFS) TRAINING	
September 15, 2016	10:00 a.m.
September 29, 2016	10:00 a.m.

REPORTING DATES

Inclusion Dates		Report Due Date
Fire Commissioner - 2/20/2016		
29-day Preelection Reporting Date	Inception of campaign* - 1/19/16	1/22/2016
11-day Preelection Reporting Date	1/20/16 - 2/6/16	2/9/2016
20-day Postelection Reporting Date	2/7/16 - 3/8/16	3/11/2016
48 Hour Notice Reports Start on 2/7/2016 through 2/20/2016		
April School Board - 4/19/2016		
29-day Preelection Reporting Date	Inception of campaign* - 3/18/16	3/21/2016
11-day Preelection Reporting Date	3/19/16 - 4/5/16	4/8/2016
20-day Postelection Reporting Date	4/6/16 - 5/6/16	5/9/2016
48 Hour Notice Reports Start on 4/6/2016 through 4/19/2016		
May Municipal - 5/10/2016		
29-day Preelection Reporting Date	Inception of campaign* - 4/8/16	4/11/2016
11-day Preelection Reporting Date	4/9/16 - 4/26/16	4/29/2016
20-day Postelection Reporting Date	4/27/16 - 5/27/16	5/31/2016
48 Hour Notice Reports Start on 4/27/2016 through 5/10/2016		
Runoff (June)** - 6/14/2016		
29-day Preelection Reporting Date	No Report Required for this Period	
11-day Preelection Reporting Date	4/27/16 - 5/31/16	6/3/2016
20-day Postelection Reporting Date	6/1/16 - 7/1/16	7/5/2016
48 Hour Notice Reports Start on 6/1/2016 through 6/14/2016		
Primary (90 day start date: 3/9/2016)*** - 6/7/2016		
29-day Preelection Reporting Date	Inception of campaign* - 5/6/16	5/9/2016
11-day Preelection Reporting Date	5/7/16 - 5/24/16	5/27/2016
20-day Postelection Reporting Date	5/25/16 - 6/24/16	6/27/2016
48 Hour Notice Reports Start on 5/25/2016 through 6/7/2016		
General (90 day start date: 8/10/2016)*** - 11/8/2016		
29-day Preelection Reporting Date	6/25/16 - 10/7/16	10/11/2016
11-day Preelection Reporting Date	10/8/16 - 10/25/16	10/28/2016
20-day Postelection Reporting Date	10/26/16 - 11/25/16	11/28/2016
48 Hour Notice Reports Start on 10/26/2016 through 11/08/2016		
Runoff (December)** - 12/6/2016		
29-day Preelection Reporting Date	No Report Required for this Period	
11-day Preelection Reporting Date	10/26/16 - 11/22/16	11/25/2016
20-day Postelection Reporting Date	11/23/16 - 12/23/16	12/27/2016
48 Hour Notice Reports Start on 11/23/2016 through 12/6/2016		
PACs, PCFRs & Campaign Quarterly Filers		
1st Quarter	1/1/16 - 3/31/16	4/15/2016
2nd Quarter	4/1/16 - 6/30/16	7/15/2016
3rd Quarter	7/1/16 - 9/30/16	10/17/2016
4th Quarter	10/1/16 - 12/31/16	1/17/2017

* Inception Date of Campaign (first time filers) or from January 1, 2016 (Quarterly filers).

** A candidate committee or joint candidates committee that is filing in a 2016 Runoff election is not required to file a 20-day postelection report for the corresponding prior election (May Municipal or General).

*** Form PFD-1 is due on April 14, 2016 for Primary Election Candidates and June 17, 2016 for Independent General Election Candidates.

Note: A fourth quarter 2015 filing is needed for Primary 2016 candidates if they started their campaign prior to 12/9/15.

A second quarter 2016 filing is needed by Independent/Non-Partisan General Election candidates if they started their campaign prior to 5/11/2016.