



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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October 21, 1988

Donald T. DiFrancesco, Trustee  
Citizens for Fiscal Responsibility  
P.O. Box 1020  
Trenton, New Jersey 08606

Re: Advisory Opinion No. 13-1988

Dear Senator DiFrancesco:

Your letter dated October 17, 1988 to the New Jersey Election Law Enforcement Commission requesting an advisory opinion has been considered by the Commission and I have been directed to issue this response.

Citizens for Fiscal Responsibility intends to sponsor television announcements supporting non-binding referenda in 17 of the 21 counties of this state, on a proposal to require state funding for all new state mandated local government programs, which you have described as "state mandate/state pay". The television announcements will feature Assembly Speaker Hardwick who will be portrayed on the screen, using his official state title and discussing issues relevant to the state mandate/state pay referenda. The announcements will be aired between November 1, 1988 and November 8, 1988, and will not be aired thereafter.

You have advised the Commission that Speaker Hardwick is not now a candidate for governor, and that he is the prime sponsor of the legislation underlying the proposal. This legislation has passed the assembly and presently awaits action by the senate. You have further advised the Commission that his participation is not "intended to assist an individual in assessing the feasibility of possible candidacy", nor will it "take on a partisan political quality which would indicated that the decision has been made to seek nomination for election".

Based on the facts available to the Commission relating to your letter of October 17, 1988, the Commission is satisfied that the airing of television advertisements in support of the state mandate/state pay referenda will not result in a determination by the Commission that either Citizens for Fiscal Responsibility or Speaker Hardwick is engaged in testing the waters within the meaning of the regulations of the Commission, or is engaged in gubernatorial election activity on behalf of Speaker Hardwick.

In reaching this conclusion, the Commission considers certain of the facts set forth by you to have particular significance. First, the referenda involve a significant public question, which is the subject of pending legislation and is on the ballot in 17 of the 21 counties in the coming election. The fact that Speaker Hardwick is the prime sponsor of that legislation is sufficient to permit the conclusion that his involvement with Citizens for

Fiscal Responsibility is in fact in support of the referenda, and is not activity on behalf of a candidate for nomination or election for the office of governor.

Second, and most significantly, the activity is being carried on within a time frame appropriate to the referenda, and well in advance of the dates for the primary and general election for the office of governor. The Commission expresses no opinion as to the effect of activities, purportedly in support of a public question, by a public official not yet a declared candidate for nomination for the office of governor, and within the time frame of the active primary campaign for the office of governor.

Very truly yours,

NEW JERSEY ELECTION LAW  
ENFORCEMENT COMMISSION

By   
Edward J. Farrell  
Counsel

EJF:dc

bc: Honorable Stanley G. Bedford  
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