



# ELEC *tronic*

An Election Law Enforcement Commission Newsletter

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## Comments from the Chairman Ronald DeFilippis

It seems like a simple requirement: placing political identification statements on political advertising.

Yet, it is a requirement that is sometimes overlooked.

The law requires that candidate committees, political committees, PACs, political parties, legislative leadership committees, and groups making independent expenditures disclose their identities on their advertising.

The purpose of the law is to allow citizens to know upfront who is paying for a particular political ad, be it TV, radio, direct mail, or other forms of advertising such as web, newspaper, or digital billboard.

The disclaimer of advertising provides this valuable information to help voters evaluate the merits of the ad from the perspective of who is paying for the ad.

This in turn helps voters better assess the candidate, enabling them to make a more informed decision when they enter the voting booth.

Whenever a political ad that is printed or aired promotes the nomination, election, or defeat of any candidate, the ad is required to state the name and business or residence address of the person or entity paying for the advertisement.

Likewise, whenever a political ad is financed to promote or defeat a public question, the ad is required to contain a disclaimer providing the name and business or residence address of the person or entity underwriting the ad.

Those subject to the disclaimer law are individuals or groups, candidate committees, joint candidate committees, continuing political committees (PACs), political party committees, political committees, and legislative leadership committees.

It should also be pointed out that the law applies to ads run or displayed in connection with school board elections and write-in candidates.

This requirement is in place despite the fact that school board candidates are not required to file A-1 reports if they do not raise or spend \$5,100.

It would seem that this provision would be readily complied with, and in most instances it is. But, despite the high compliance with this law, the Commission does come across far too many entities that ignore the law or are unfamiliar with it.

This has led to the Commission penalizing those who violate the disclaimer law in a proportion way out of balance with the provision's simplicity and straightforwardness.

New Jersey's disclaimer law is a valuable tool in bringing transparency to the electoral process.

As part of the Commission's series of training sessions, staff will redouble its efforts to make sure the word gets out that entities participating in the political and electoral processes must make every effort to provide this important, upfront, information to the public.

**"Furthering the Interest of an Informed Citizenry"**

### COMMISSIONERS:

Ronald DeFilippis, Chairman

Edwin R. Matthews, Legal Counsel

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## Executive Director's Thoughts

### Jeff Brindle

## New Fed Court Ruling Should Encourage NJ Lawmakers Seeking More Disclosure

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

On November 4, 2016, the United States District Court for the District of Columbia struck another blow on behalf of disclosure.

In *Independence Institute v. FEC*, the Court rejected the organization's claim that disclosure requirements under the Bipartisan Campaign Reform Act (BCRA) should not apply to its planned advertising campaign.

The Institute, a 501(c)(3) charitable organization, planned to run radio advertisements urging Colorado Citizens to contact two federal lawmakers to support a particular piece of legislation.

Arguing that the ads are issue ads, the Institute maintained that they should be exempt from BCRA's electioneering communication disclosure provisions.

The federal rules, as well as similar rules in about two dozen states (not including New Jersey), require groups that run such ads to fully disclose their campaign contributions and expenditures. Voters are better informed because they get to see who is behind the ads and exactly how they are spending their money. An electioneering communication is any broadcast, cable or satellite communication that mentions a "clearly identified federal candidate,"

is made within 30 days of a primary or 60 days of a general election, and is broadcast to the relevant voting public.

The Institute claimed that by applying BCRA's provision to issue advocacy, the Federal Election Commission (FEC) would be violating the First Amendment.

As the plaintiff, the Institute held that in regards to its planned radio advertisements, BCRA's requirements were overbroad. It argued that the Act's large-donor disclosure requirements were unconstitutional as applied to a 501(c)(3) tax exempt organization.

Initially, on October 6, 2014, the D.C. District Court refused to call a three-judge panel and dismissed the case.

It found that U.S. Supreme Court precedent prevailed.

Upon appeal to the U.S. Court of Appeals for the District of Columbia, the district court's decision to not convene a three-judge panel was reversed.

The Appellate Court remanded the case back to the district court, ordered a three-judge panel, and instructed the Court to consider the merits of the case.

In considering the Institute's argument, the three-judge panel acknowledged that the electioneering provision does not directly regulate issue advocacy.

However, it maintained that the provision does cover communications within a certain time frame before a federal election that "clearly identify federal candidates."

The District Court panel noted that in *McConnell v. FEC*, the Supreme Court rejected an apparent challenge to the constitutionality of BCRA's provision and did not distinguish between express advocacy and issue advocacy for purposes of disclosure.

Further, the Court concluded that the electioneering communication provision advances an important governmental interest and that tax-exempt status is no guarantee against compliance with disclosure requirements.

Thus, the District Court, citing the fact that the Supreme Court on two occasions upheld the electioneering communication provision in BCRA and made no exceptions for issue advocacy, rejected *Independence Institute's* challenge and once again upheld disclosure.

This decision should strengthen those who advocate for disclosure by independent groups in New Jersey.

Recently, Assembly Minority Leader John Bramnick and Democratic Assemblyman Troy Singleton each introduced bills that would require registration and disclosure by independent groups such as Super PACs and 501(c) groups.

The recent ruling in *Independence Institute v. FEC*, which again strongly endorses disclosure, will hopefully embolden the Legislature to pass this legislation and enhance transparency in the State's electoral process.

## Gubernatorial Public Financing Debates Legal Guidance

The Chairman of the New Jersey Election Law Enforcement Commission, Ron DeFilippis, has asked legal staff to provide guidance on selecting debate sponsors for the gubernatorial public financing debates as well as the disbursement of public funds.

“The inability of the Commission to hold a meeting due to the vacancies on the Commission has led to an unprecedented situation in terms of the Gubernatorial Public Financing Program,” said DeFilippis.

“In the past, the Commission has selected debate sponsors at a public meeting and has been informed of the disbursement of public funds,” he said.

“Given this unprecedented situation, it is critical that all the t’s are crossed and the i’s dotted,” added DeFilippis. “The Gubernatorial Public Financing Program is a national model that dates back to 1977.”

DeFilippis said that he and Executive Director Jeff Brindle just want to make sure that the proper legal steps are followed as decisions are made regarding public financing going forward.

Chairman DeFilippis is the lone remaining member on the Commission. Attorney Eric Jaso and retired Judge Stephen Holden have been nominated to be on the Commission and are awaiting confirmation by the Senate Judiciary Committee.

With only one member, the Commission has not been able to hold a meeting since last April.

## County Parties 2016 Totals

Fundraising by New Jersey’s county political parties averaged \$8.2 million annually during the first seven years of the decade, an analysis by the New Jersey Election Law Enforcement Commission (ELEC) shows.

According to the report, these totals represent a 50 percent decrease in comparison to the last seven years of the previous decade. Between 2003 and 2009 county party receipts averaged \$16.6 million per year.

The same pattern emerged when comparing average spending between the two periods. From 2010 through 2016, county parties spent an average \$8.3 million compared with \$16.6 million during the last seven years of the previous decade, for a 50 percent drop.

“This steep and unprecedented decline in county party financial activity raises a red flag,” said Jeff Brindle, Executive Director of the Commission. “Without a shadow of a doubt, the party system in New Jersey is in deep trouble and needs to be restored.”

According to Brindle, the breakdown of the party system followed the passage of a complicated scheme of pay-to-play laws in 2005 and worsened when independent group spending increased following the “Citizens United decision in 2010.”

“The proof is in the pudding,” said Brindle. “During the four years prior to pay-to-play, party receipts averaged \$22 million annually. From 2006, when pay-to-play went into effect, the

four-year annual average dropped to \$12.5 million.”

The report further shows that during the first seven years of this decade, following the U.S. Supreme Court decision in Citizens United, financial activity by the county parties, as noted, dropped even further.

“The pay-to-play law is overly complicated and confusing,” said Brindle. As a result, money flowed away from the parties and into newly created special interest PACs designed to get around the law.”

Brindle added, “Citizens United then made the situation worse, serving as a stimulus to the growth of spending and influence by outside, independent groups in New Jersey, further draining money from the parties.

Independent groups spent \$28 million on ballot questions in 2016, \$11.6 million on Assembly contests in 2015, and \$41 million on the gubernatorial and legislative elections of 2013.

The analysis grew out of a report on county party financial activity during 2016.

Between January 1, 2016 and December 31, 2016, county party committees reported raising \$8.4 million and spending \$8.1 million, with cash-on-hand amounting to a little over \$2.2 million.

These figures represent a 12 percent decline in fundraising from 2008, when county parties raised \$9.6 million. The 2016 spending totals declined by 15 percent from 2008, when expenditures reached \$9.5 million.

2008 was a similar election year to 2016.

In 2016, Democratic county party committees reported raising \$5.3 million and spending \$4.7 million while Republican county party committees raised \$3.1 million and spent \$3.3 million.

Democratic committees have cash-on-hand of \$1.6 million compared to Republican committees, which have \$595,685 left.

“A weak party system is not in the interest of the public, particularly when political party activities are dwarfed by independent, often anonymous groups, and special interest PACs,” said Brindle.

The Commission has put forward proposals that would strengthen political parties, offset independent groups, and simplify and strengthen pay-to-play. These proposals include: raising contribution limits for contributions made to parties, excluding parties from pay-to-play, allowing state parties to participate in gubernatorial campaigns, allowing parties to give to each other, and loosening federal rules on state party accounts. They also include registration and disclosure of independent groups, one State pay-to-play law, an end to fair and open provision, and special interest PACs under pay-to-play.

**TABLE 1  
COUNTY PARTY AVERAGE  
FINANCIAL ACTIVITY**

YEARS	AVERAGE	
	RAISED	SPENT
2003 - 2009	\$16,640,061	\$16,601,581
2010 - 2016	\$ 8,239,415	\$ 8,261,295
<b>PERCENT</b>	<b>-50 %</b>	<b>-50%</b>

**TABLE 2  
COUNTY PARTY FUNDRAISING AND SPENDING  
2001-2016 TOTALS**

YEAR	RAISED	SPENT	MAJOR STATE ELECTION?
2001	\$ 21,952,725	\$ 21,872,999	Yes†
2002	\$ 21,578,971	\$ 19,918,454	No
2003	\$ 27,180,067	\$ 28,110,780	Yes
2004	\$ 20,481,002	\$ 19,548,718	No
2005	\$ 18,893,472	\$ 19,009,467	Yes
2006	\$ 11,977,748	\$ 12,392,107	No
2007	\$ 14,582,167	\$ 14,341,683	Yes
2008	\$ 9,511,311	\$ 9,502,015	No
2009	\$ 13,854,662	\$ 13,306,296	Yes
2010	\$ 7,591,065	\$ 8,712,802	No
2011	\$ 8,600,478	\$ 8,696,067	Yes
2012	\$ 6,407,139	\$ 5,885,971	No
2013	\$ 9,908,851	\$ 10,069,188	Yes†
2014	\$ 7,617,324	\$ 7,526,250	No
2015	\$ 9,161,877	\$ 8,883,225	Yes
2016	\$ 8,389,170	\$ 8,055,559	No

†Elections with both legislative houses and gubernatorial candidates running.

**TABLE 3**  
**CAMPAIGN FINANCE ACTIVITY OF DEMOCRATIC COUNTY PARTY COMMITTEES**  
**JANUARY 1, 2016 THROUGH DECEMBER 31, 2016**

	RAISED	SPENT	CASH-ON-HAND	NET WORTH
Atlantic	\$ 97,553	\$ 65,740	\$ 34,860	\$ 34,860
Bergen	\$ 784,274	\$ 720,024	\$ 130,042	\$ 64,410
Burlington	\$ 127,261	\$ 126,800	\$ 2,248	\$ (83,719)
Camden	\$ 410,689	\$ 483,432	\$ 137,584	\$ 137,584
Cape May*	\$ 7,497	\$ 11,094	\$ 1,194	\$ 1,194
Cumberland	\$ 125,070	\$ 116,648	\$ 13,611	\$ 13,611
Essex	\$ 415,209	\$ 429,575	\$ 37,023	\$ 37,023
Gloucester	\$ 564,732	\$ 254,110	\$ 327,867	\$ 327,867
Hudson	\$ 238,352	\$ 217,458	\$ 83,244	\$ (55,901)
Hunterdon	\$ 20,140	\$ 19,806	\$ 8,115	\$ 8,115
Mercer	\$ 102,900	\$ 79,642	\$ 72,208	\$ 72,208
Middlesex	\$ 456,307	\$ 464,314	\$ 101,830	\$ 101,830
Monmouth	\$ 854,847	\$ 864,854	\$ 5,773	\$ 5,773
Morris*	\$ 92,674	\$ 62,007	\$ 41,396	\$ 41,396
Ocean	\$ 40,169	\$ 37,618	\$ 14,040	\$ 30,207
Passaic	\$ 651,204	\$ 559,347	\$ 435,213	\$ 435,213
Salem*	\$ 15,530	\$ 7,079	\$ 34,731	\$ 34,731
Somerset*	\$ 102,470	\$ 71,984	\$ 38,164	\$ 38,164
Sussex	\$ 26,296	\$ 30,269	\$ 9,737	\$ 9,737
Union	\$ 116,416	\$ 113,915	\$ 92,221	\$ 83,667
Warren*	\$ 9,292	\$ 11,988	\$ 922	\$ 922
<b>TOTAL</b>	<b>\$5,258,882</b>	<b>\$4,747,704</b>	<b>\$1,622,023</b>	<b>\$1,338,892</b>

\*Cumulative through Third Quarter.

**TABLE 4**  
**CAMPAIGN FINANCE ACTIVITY OF REPUBLICAN COUNTY PARTY COMMITTEES**  
**JANUARY 1, 2016 THROUGH DECEMBER 31, 2016**

	RAISED	SPENT	CASH-ON-HAND	NETWORTH
Atlantic	\$ 46,006	\$ 45,022	\$ 2,519	\$ 2,519
Bergen	\$ 281,098	\$ 400,347	\$ 51,095	\$ 41,095
Burlington	\$ 912,063	\$ 926,253	\$ 3,615	\$ 828,894
Camden	\$ 35,226	\$ 21,438	\$ 19,091	\$ 19,091
Cape May*	\$ 124,278	\$ 111,027	\$ 47,407	\$ 47,407
Cumberland	\$ 73,998	\$ 66,367	\$ 35,921	\$ 35,921
Essex	\$ 23,000	\$ 21,320	\$ 8,357	\$ 8,357
Gloucester	\$ 49,948	\$ 50,360	\$ 7,773	\$ 7,773
Hudson**				
Hunterdon	\$ 95,129	\$ 97,575	\$ 9,703	\$ 4,203
Mercer	\$ 13,970	\$ 14,937	\$ 4,590	\$ 4,590
Middlesex	\$ 67,223	\$ 47,304	\$ 33,680	\$ 33,680
Monmouth	\$ 553,687	\$ 550,805	\$ 9,624	\$ 9,624
Morris	\$ 146,828	\$ 146,239	\$ 23,453	\$ 23,453
Ocean	\$ 119,433	\$ 148,161	\$ 14,446	\$ 14,446
Passaic*	\$ 38,288	\$ 29,364	\$ 9,276	\$ 9,276
Salem	N/A	N/A	N/A	N/A
Somerset	\$ 369,583	\$ 476,781	\$ 232,723	\$ 231,411
Sussex	\$ 52,790	\$ 40,852	\$ 22,624	\$ 22,624
Union	\$ 97,495	\$ 87,148	\$ 52,984	\$ 52,984
Warren	\$ 30,245	\$ 26,555	\$ 6,804	\$ 6,804
<b>TOTAL</b>	<b>\$3,130,288</b>	<b>\$3,307,855</b>	<b>\$ 595,685</b>	<b>\$1,404,152</b>

\*Cumulative through Third Quarter

\*\*Spent less than \$5,500 during calendar year.

N/A not available.

**TABLE 5**  
**SUMMARY OF CAMPAIGN FINANCE ACTIVITY BY COUNTY PARTY COMMITTEES**  
**JANUARY 1, 2016 THROUGH DECEMBER 31, 2016**

	<b>RAISED</b>	<b>SPENT</b>	<b>CASH-ON-HAND</b>	<b>NETWORTH</b>
Democratic County Party Committees	\$5,258,882	\$4,747,704	\$1,622,023	\$1,338,892
Republican County Party Committees	\$3,130,288	\$3,307,855	\$ 595,685	\$1,404,152
<b>TOTAL OF BOTH PARTIES</b>	<b>\$8,389,170</b>	<b>\$8,055,559</b>	<b>\$2,217,708</b>	<b>\$2,743,044</b>

**TABLE 6**  
**SUMMARY OF CAMPAIGN FINANCE ACTIVITY BY COUNTY PARTY COMMITTEES**  
**JANUARY 1, 2008 THROUGH DECEMBER 31, 2008**

	<b>RAISED IN 2008</b>	<b>SPENT IN 2008</b>	<b>CASH-ON-HAND IN 2008</b>	<b>NETWORTH IN 2008</b>
Democratic County Party Committees	\$6,392,193	\$6,431,897	\$1,703,281	\$1,373,013
Republican County Party Committees	\$3,166,889	\$3,050,374	\$ 273,168	\$ 835,338
<b>TOTAL OF BOTH PARTIES</b>	<b>\$9,559,082</b>	<b>\$9,482,271</b>	<b>\$1,976,449</b>	<b>\$2,208,351</b>
<b>PERCENTAGE DIFFERENCE BETWEEN 2008 AND 2016</b>				
Democratic County Party Committees	-18%	-26%	-5%	-2%
Republican County Party Committees	-1%	8%	118%	68%
<b>TOTAL OF BOTH PARTIES</b>	<b>-12%</b>	<b>-15%</b>	<b>12%</b>	<b>24%</b>

The numbers in this analysis are based on reports filed by noon January 27, 2017. They have yet to be verified by ELEC staff, and should be considered preliminary.

Interested parties are encouraged to review individual reports at ELEC's website ([www.elec.state.nj.us](http://www.elec.state.nj.us)).

## 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.

<b>BUSINESS ENTITY PAY-TO-PLAY TRAINING</b>	
Thursday, March 16 <sup>th</sup>	10:00 a.m.
<b>TREASURER TRAINING FOR CANDIDATES AND COMMITTEES</b>	
Tuesday, April 4 <sup>th</sup>	10:00 a.m.
Wednesday, September 13 <sup>th</sup>	10:00 a.m.
Tuesday, October 3 <sup>rd</sup>	10:00 a.m.
<b>TREASURER TRAINING FOR POLITICAL COMMITTEES AND PACS</b>	
Tuesday, March 14 <sup>th</sup>	10:00 a.m.
Wednesday, June 21 <sup>st</sup>	10:00 a.m.
Tuesday, September 26 <sup>th</sup>	10:00 a.m.
Tuesday, December 12 <sup>th</sup>	10:00 a.m.
<b>R-1 ELECTRONIC FILING SOFTWARE (REFS) TRAINING</b>	
Tuesday, March 28 <sup>th</sup>	10:00 a.m.
Thursday, April 6 <sup>th</sup>	10:00 a.m.
Wednesday, July 26 <sup>th</sup>	10:00 a.m.
Tuesday, September 19 <sup>th</sup>	10:00 a.m.
Wednesday, October 4 <sup>th</sup>	10:00 a.m.
<b>LOBBYING ELECTRONIC FILING SEMINAR</b>	
Wednesday, March 15 <sup>th</sup>	10:00 a.m.

## Lobbying Reporting Dates

	<b>INCLUSION DATES</b>	<b>ELEC DUE DATE</b>
<b>Lobbying Quarterly Filing</b>		
1 <sup>st</sup> Quarter	1/1/17 – 3/31/17	4/10/17
2 <sup>nd</sup> Quarter	4/1/17 – 6/30/17	7/10/17
3 <sup>rd</sup> Quarter	7/1/17 – 9/30/17	10/10/17
4 <sup>th</sup> Quarter	10/1/17 – 12/31/17	1/10/18
<b>Lobbying Annual Report</b>	1/1/16 – 12/31/16	2/15/17



## Reporting Dates

ELECTION	48-HOUR START DATE	INCLUSION DATES	REPORT DUE DATE
<b>FIRE COMMISSIONER -2/18/2017</b>			
	2/5/2017- through 2/18/2017		
29-day Preelection Reporting Date		Inception of campaign* - 1/17/17	1/20/2017
11-day Preelection Reporting Date		1/18/17 - 2/4/17	2/7/2017
20-day Postelection Reporting Date		2/5/17 - 3/7/17	3/10/2017
<b>APRIL SCHOOL BOARD- 4/25/2017</b>			
	4/12/2017 through 4/25/2017		
29-day Preelection Reporting Date		Inception of campaign* - 3/24/17	3/27/2017
11-day Preelection Reporting Date		3/25/17 - 4/11/17	4/17/2017
20-day Postelection Reporting Date		4/12/17 - 5/12/17	5/15/2017
<b>MAY MUNICIPAL – 5/9/2017</b>			
	4/26/2017 through 5/9/2017		
29-day Preelection Reporting Date		Inception of campaign* - 4/7/17	4/10/2017
11-day Preelection Reporting Date		4/8/17 - 4/25/17	4/28/2017
20-day Postelection Reporting Date		4/26/17 - 5/26/17	5/30/2017
<b>RUNOFF (JUNE)**- 6/13/2017</b>			
	5/31/2017 through 6/13/2017		
29-day Preelection Reporting Date		No Report Required for this Period	
11-day Preelection Reporting Date		4/26/17 - 5/30/17	6/2/2017
20-day Postelection Reporting Date		5/31/17 - 6/30/17	7/3/2017
<b>PRIMARY (90 DAY START DATE: 3/8/2017)***</b>			
	5/24/2017 through 6/6/2017		
29-day Preelection Reporting Date		Inception of campaign* - 5/5/17	5/8/2017
11-day Preelection Reporting Date		5/6/17 - 5/23/17	5/26/2017
20-day Postelection Reporting Date		5/24/17 - 6/23/17	6/26/2017
<b>GENERAL (90 DAY START DATE: 8/9/2017)***</b>			
	10/25/2017 through 11/7/2017		
29-day Preelection Reporting Date		6/24/17 - 10/6/17	10/10/2017
11-day Preelection Reporting Date		10/7/17 - 10/24/17	10/27/2017
20-day Postelection Reporting Date		10/25/17 - 11/24/17	11/27/2017
<b>RUNOFF (DECEMBER)**- 12/5/2017</b>			
	11/22/2017 through 12/5/2017		
29-day Preelection Reporting Date		No Report Required for this Period	
11-day Preelection Reporting Date		10/25/17 - 11/21/17	11/24/2017
20-day Postelection Reporting Date		11/22/17 - 12/22/17	12/26/2017
<b>PACs, PCFRs &amp; CAMPAIGN QUARTERLY FILERS</b>			
1st Quarter		1/1/17 - 3/31/17	4/17/2017
2nd Quarter		4/1/17 - 6/30/17	7/17/2017
3rd Quarter		7/1/17 - 9/30/17	10/16/2017
4th Quarter		10/1/17 - 12/31/17	1/16/2018

\* Inception Date of Campaign (first time filers) or from January 1, 2017 (Quarterly filers).

\*\* A candidate committee or joint candidates committee that is filing in a 2017 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 13, 2017 for Primary Election Candidates and June 16, 2017 for Independent General Election Candidates.

Note: A fourth quarter 2016 filing is needed for Primary 2017 candidates if they started their campaign prior to December 8, 2016. A second quarter 2017 filing is needed by Independent/Non-Partisan General Election candidates if they started their campaign prior to May 10, 2017.

## HOW TO CONTACT ELEC

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

In Person: 28 W. State Street, Trenton, NJ  
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 By Telephone: (609) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)

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