

# The 'Guardian Angel' of Campaigns

by Jeffrey M. Brindle

*Deputy Director, N.J. Election Law Enforcement Commission*

**W**ITHOUT the New Jersey Election Law Enforcement Commission, elected officials throughout the state would be less accountable to the public than they are now. The financial activities of candidates for the offices of local government through Governor are regulated by the Commission, which works to publicize the role of money in politics.

Among the proudest of New Jersey traditions is home rule. Basic to this tradition is democracy that works and is responsive at the local level; government closest to the people accountable to the greatest degree possible. The New Jersey Election Law Enforcement Commission (ELEC) is an integral part of the effort to insure that local officials are accountable to their local constituencies.

Conceived in the aftermath of Watergate, the Commission was established as part of the movement to reform electoral politics in the state and to reduce the influence of money over governmental decision making. To insure that campaigns are honest and government accountable on all levels, the Commission's authority begins with the state's highest office, Governor, and extends through campaigns for the Legislature down through races for local office, including school boards. Candidates for federal offices, however, do not fall under the Commission's jurisdiction.

Established in 1973, the Election Law Enforcement Commission was organized to administer "The New Jersey Campaign Contributions and Expenditures Reporting Act." Through the years the Commission's responsibilities have expanded and its staff has grown.

## **Authority Broadened**

Whereas originally the Commission was responsible for monitoring the spending activities of candidates for state, county and municipal office, the Commission's authority has broadened significantly to include disclosure of lobbyist activity and PAC spending, and disclosure of legislative and gubernatorial candidates' personal financial information. In addition, the Commis-

sion assumed responsibility for administering New Jersey's Gubernatorial Public Funding Program for Primary and General Elections. Paralleling these responsibilities was an increase in staff, with permanent employees now numbering approximately 25.

The Commission consists of four members, all of whom are appointed by the Governor, with the advice and consent of the Senate. The current members are: Andrew C. Axtell, Chairman; Alexander P. Waugh, Jr., Vice Chairman; Haydn Proctor and Owen V. McNany III. By law, no more than two members may belong to the same political party, assuring a strict bipartisan approach toward policy making.

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For purposes of organization the Commission is placed in the Department of Law and Public Safety. In practice, however, the Commission operates independent of that department or any other entity of state government. The day-to-day operation of the Commission is conducted by the Executive Director, Frederick M. Herrmann. Edward J. Farrell, senior partner in a Morristown law firm, is on retainer as the Commission's general counsel.

From its inception, the Election Law Enforcement Commission required candidates for state, county and municipal office, including school boards, to file contribution and expenditure reports at its Trenton office. It also required political party committees at the county and local levels to submit contribution and expenditure information.

## **Regulatory Authority Increased**

Through the years the Commission's

regulatory authority has steadily increased. In 1974, for instance, the Legislature amended the Campaign Contributions and Expenditures Act and established the Gubernatorial Public Financing Program. To be sure, the Commission was designed to administer this program. Hailed at the time by then Governor Brendan Byrne as a "first giant step toward removing the evil of the large, private contributions from gubernatorial campaigns," the program lived up to its advance billing. Indeed, it is still supported today by our current governor, Thomas H. Kean.

Designed to insure that gubernatorial campaigns remain free from improper influence and to enable individuals of limited financial means to seek the governorship, the program has provided over \$17 million in public funds to gubernatorial candidates since 1977.

At first, public funds were available to candidates only in the General Election. In 1977, Republican challenger Raymond A. Bateman and incumbent Democratic Governor Byrne received a combined total of almost \$2.1 million in public funds. But in 1981, due to an amendment of the Public Financing Law, candidates in the Primary Election also gained access to public funds. Altogether, 16 candidates took advantage of the new law, receiving over \$6.3 million. In the General Election of that year, U.S. Representative James Florio, Democrat, and Thomas H. Kean, Republican, received almost \$2.4 million in public money. Support for the program continued in 1985 as candidates in the Primary and General Elections received more than \$6.1 million.

Obviously, the Gubernatorial Public Funding Program is a valuable addition to the electoral process in New Jersey. By distributing public funds to candidates who choose to participate in the program, ELEC provides many qualified individuals, who otherwise would lack the means to run for Governor, with the opportunity to serve in the state's highest office. Moreover, as the result of an \$800 limit on contributions, the program substantially reduces the influence of big money over gubernatorial candidates. Needless to say, both of these factors promote our democratic way of life and help to preserve the sanctity of the electoral

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*New Jersey Municipalities, April 1986*

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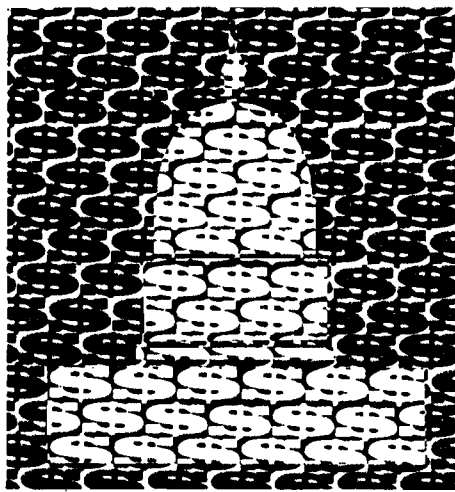
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process. Throughout its brief history the program has maintained an excellent reputation, which in itself is a testament to the manner in which the Election Law Enforcement Commission has administered the Public Financing Law.

While the Public Financing Program constitutes a major responsibility of the Commission, it does not represent the only change of ELEC's role. In 1981, the Commission began to administer the law that requires every candidate for the governorship and for the legislature to file personal financial disclosure statements. These statements are then made available to the general public. Moreover, in 1984, the Commission undertook to improve its monitoring of campaign finance by creating a new reporting entity, Continuing Political Committees, (CPCs). CPCs covered political party committees and Political Action Committees (PACs). Needless to say, the steady proliferation of PACs makes this change quite significant, tremendously increasing the workload of the Commission's staff. Finally, after a long and drawn out court battle, the Commission took responsibility for regulating lobbyists. As a result of a New Jersey Supreme Court decision, which upheld the constitutionality of financial disclosure reporting by lobbyist and legislative agents, the Commission began to receive lobbyist reports in 1982.

## Major Reorganization

In order to keep pace with these new responsibilities, Director Herrmann recently undertook a major reorganization. The Commission is now organized into five logically consistent sections: administration; compliance and information; legal; public finance, and review and investigations. These sections are headed by five able, professional directors, who report directly to the deputy director, who in turn reports to the executive director. The executive director, by contrast, reports to the four member Commission. Whereas in the past, approximately 75 percent of the staff had reported to one manager, the current structure allows for considerable delegation of authority. Already this new approach to management is paying dividends. During the past year, for instance, compliance with election disclosure laws stood at 94 percent. Over 44 percent more complaints were closed out in 1985 as compared to 1984, and a total of \$19,547 in fines and reprimands were imposed during the year just ending. In addition, the Commission's comprehensive computer project was recently completed. This com-



puter capacity greatly enhances disclosure and substantially improves ELEC's ability to provide election related information to the public. Finally, the establishment of an administrative section has helped to improve personnel relations and to make the Commission's fiscal operations more professional and effective.

## Functional Authority

While the Commission has always had compliance, investigation, and enforcement functions, these different, yet in certain ways related functions, have never before been divided into separate sections. Under the new organizational setup, there are clearly defined lines of authority. This also permits the public to be better served because it is now easier for candidates, lobbyists, political party officials, reporters, members of the general public, and so forth to determine to whom it is they should speak in order to resolve a certain question or problem.

By definition, the compliance and information section does just what the name suggests. Through seminars, workshops, and targeted mailings, this section makes a strong effort to ensure that candidates, political committees, continuing political committees, lobbyists, and legislative agents comply with reporting laws to the highest degree possible. During 1985, for instance, the Commission held 12 forums throughout the state. It provided further information to reporting entities by mail and telephone. Also, the Commission provided direct technical assistance to reporting entities upon their request.

Moreover, the compliance staff has worked directly with county and municipal clerks in the past, and plans, as part of its renewed efforts in the area of compliance, to work even closer in the future. Municipal and county clerks, for instance, attach a campaign reporting notice to candidate petitions, notify the Commission of pending elections,

distribute ELEC compliance booklets to candidates, and provide the Commission with candidate lists.

As a result of the Compliance and Information section's efforts to educate reporting entities, compliance continued to be high in 1985. Furthermore, the new computer system, a greater emphasis on forums, and the planned for simplification of forms and compliance booklets, should greatly improve compliance in the future.

## Enforcement

The other side of compliance is enforcement. Indirectly, of course, enforcement impacts upon compliance, and the Commission leaves no stones unturned in its efforts to insure that financial disclosure laws are enforced. Two sections have a role in enforcement. The Review and Investigation section reviews thousands of reports each year. When a possible violation is discovered by staff, or brought to its attention by a member of the public, investigators conduct field reviews of the financial records of candidates, political committees, continuing political committees, lobbyists, and legislative agents, to ensure that appropriate disclosure has been made. If a violation is found, it is forwarded to the Commission through the Executive Director, and then to the Legal section for enforcement. A major change instituted in this process by Director Herrmann is that the Executive Director and Deputy Director no longer have a role in investigating cases. During the past three years approximately 250 cases have been completed and closed.

The Legal section has the leading role in actual enforcement proceedings. When a violation of disclosure laws is found to exist, the Commission initiates a complaint, which may result in an administrative hearing. These enforcement proceedings are undertaken by the Commission's staff counsel. Authorized to impose civil penalties ranging from a reprimand to a maximum fine of \$1,000 per violation, the staff counsel enforces the Commission's decisions in a fair and impartial manner. During the last three years, disciplinary action was taken in approximately 1,226 cases, while over \$74,000 in fines were collected.

## Delicate Balance Sought

Obviously, the Commission takes seriously its role as a disclosure agency. Yet it is also sensitive to the need to not overregulate. Whether the election is one for local council, county office, the Legislature, or Governorship, the Commission is careful not to serve as a stumbling block to anyone's candidacy. It wants to enhance democracy in New Jersey, and does not want to discourage participation in the electoral process.

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Therefore, it seeks to strike a delicate balance between enforcing the important function of disclosure, and enabling individuals and groups to participate in the process, free of unnecessary and burdensome red tape.

In the past year, this attitude has taken on new importance. Indeed, under Director Herrmann's administration, a key phrase is simplification and clarification. No matter what the procedure or policy, the Commission's staff has been encouraged to challenge and improve, all with an eye toward enhancing the Commission's internal operations as well as its service to the public.

Election-related reports, for instance, have been made more readable and plans are in place for the simplification of ELEC forms and compliance booklets. This effort, along with the first ever ELEC brochure, will contribute to compliance by better acquainting the public with the Commission.

Internal administrative procedures are also coming under close scrutiny. Where a procedure proves to be convoluted, unnecessary, or in some cases counterproductive, the procedure is modified or eliminated. Director Herrmann has instructed his new administrative team to continually work on ways to improve efficiency, and the review of internal procedures is an important part of that process.

In conclusion, there is nothing more important in American political life than preserving the integrity and fairness of the electoral system. In New Jersey, the Election Law Enforcement Commission is the guardian and watchdog over the financial aspect of this process, and it attempts to do so with diligence and impartiality. As with many governmental agencies, the New Jersey Election Law Enforcement Commission continues to grow and evolve. This evolution, however, is an evolution in simplicity and clarity. It is also an effort to insure that the public is well informed about the role of money in campaigns without discouraging people on any level of politics from being involved in this most important aspect of democracy. ●

## IN ESSEX, IT'S INTO THE POOL OF LOW-COST FINANCING

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loan program rather than conventional financing? That of course would depend on the amount of the debt, when it was issued, the bond rating of the issuer and a host of other variables, but let's examine a hypothetical example.

*New Jersey Municipalities, April 1986*

Let's suppose the municipality of Anytown needs an addition to its firehouse for equipment purchased to meet the needs of a housing development soon to be completed. Anytown would have to pay 8.5 percent on general obligation bonds it would issue itself but could get a 5.7 percent interest rate from the pooled loan. Assuming Anytown borrowed \$5 million over a ten-year period, it could expect to save \$748,000 over the life of the loan. That projection assumes the loan was made between July, 1983 and November, 1984 and is based on average interest rates during that period.

The pooled loan program has been greeted enthusiastically by the municipalities in Essex County. To date, 16 towns and four school districts have expressed interest in the program and the demand for funds already totals \$140 million with a projection that the demand will reach \$200 million — double the sum of the present pool of money. Among projects municipalities would like to finance through the pooled loan are schools, municipal buildings, police headquarters, park improvements, water filtration systems, fleets and capital equipment.

The demand for the program has prompted us to consider approaching the New Jersey Local Finance Board about increasing the amount of the pool and also incorporating other changes the

municipalities have requested, such as a longer time period in which to repay the loans (say, 15 or 20 years compared to the present ten).

The pooled loan program obviously can't meet all the capital needs of Essex County municipalities and school boards, nor would it be practical for them to use this program for all their debt even if that were possible. But we believe the pooled loan program will allow for the construction of important capital projects throughout Essex County that otherwise might not have materialized. ●

## HOUSE TAX REFORM BILL

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must be taken prior to the authorization of the issuance of bonds to insure that the purpose for which bonds are to be authorized is not a nonessential function.

### Early Issuance

The House Tax Reform Bill includes new rules to prevent the early issuance of bonds. These new rules concerning early issuance necessitate careful planning of the timing of proposed projects in

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