



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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JEFFREY M. BRINDLE
Deputy Director

GREGORY E. NAGY
Legal Director

JAMES P. WYSE
Counsel

PUBLIC SESSION MINUTES

November 18, 2002

All of the Commissioners, Counsel Wyse, Executive Director Herrmann, Legal Director Nagy, and Deputy Legal Director Nedda Gold Massar were present. Deputy Director Brindle was absent.

1. Open Public Meetings Statement

Chair Martin called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., adequate notice of the meeting of the Commission had been filed with the Secretary of State's Office and distributed to the entire State House Press Corps.

The meeting convened at 11:05 a.m. in Trenton, New Jersey.

2. Approval of Public Session Minutes of October 21, 2002

On a motion by Vice Chair Franzese, seconded by Commissioner Lederman and passed by a vote of 4-0, the Commission approved the Public Session Minutes of October 21, 2002.

3. Executive Director's Report

A. National News

Executive Director Herrmann informed the Commission that a new report on campaign fundraising in state elections by the Institute on Money in State Politics found that New Jersey ranked 31st in legislative candidate dollars raised per voter. The report also noted that:

- New Jersey candidates raised \$4.08 per voter in the 1999 election;
- The national average was \$5.92 and Alaska was the national leader with \$15.33;

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- New Jersey political party committees ranked 15th in the nation raising \$6.74 per voter; and,
- In 10 states including New Jersey, party committees outraised candidates.

B. Computer Updates

According to Executive Director Herrmann, a staff member of the Kentucky Legislative Committee studying public financing told Deputy Legal Director Massar that “Bar none, ELEC’s web site was the best of all the state sites that had been reviewed.”

Executive Director Herrmann advised the Commission that the electronic government project of the Eagleton Institute of Politics at Rutgers University has completed an extensive survey of state government web sites. The study suggested that ELEC’s site be better integrated with that of the Division of Elections. The Executive Director stated that staff has already redesigned ELEC’s start and link pages to implement this recommendation.

C. Staff Activities

Executive Director Herrmann reported that on October 28, 2002, a major pipe burst on our roof flooding a good portion of the building including ELEC’s offices on the 12th, 13th, and 14th floors. He mentioned that some damage was sustained in paper supplies and carpeting but overall losses were minor. The Executive Director stated that if the problem had occurred at night it would have been a major disaster. He further stated that since it happened during working hours, the building staff reacted quickly to seal off the pipe. Moreover, said Executive Director Herrmann, ELEC’s staff did a fine job protecting equipment from the water. Particularly, Director of Administration Barbra Fasanella, Director of Systems Administration Carol Neiman, Director of Compliance and Information Evelyn Ford, Deputy Legal Director Massar, and their staffs acted both quickly and effectively. Moreover, said Executive Director Herrmann, the staff of the Executive Commission of Ethical Standards provided essential help on the 14th floor. Consequently, a disastrous situation was averted.

Executive Director Herrmann advised the Commission that on October 29, 2002, Deputy Director Brindle was the featured speaker at a politics forum sponsored by the College of New Jersey’s Political Science Department. The Executive Director mentioned that Deputy Director Brindle’s topic was the 2002 election. He also mentioned that the Deputy Director is an adjunct professor in the Department and a former candidate for the General Assembly in 1977.

Executive Director Herrmann further advised the Commission that on October 29, 2002, Deputy Director Brindle and he met with two representatives from the Rutgers University Trenton Academic Center to discuss a new governmental internship program they are developing. Executive Director Herrmann mentioned that since ELEC has had at least a decade’s experience with interns working on white papers, Deputy Director Brindle and he were able to make a number of useful suggestions.

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Executive Director Herrmann mentioned that it is anticipated that ELEC will participate in the program once it begins. The Executive Director further mentioned that 14-week agency internships are being contemplated along with weekly seminars taught in Trenton by various participating state officials.

According to Executive Director Herrmann, on October 30, 2002, he attended a talk given by Larry Noble, the Executive Director of the Center for Responsive Politics, given at the Nassau Club in Princeton. Executive Director Herrmann said that Noble spoke on the impact of the Bipartisan Campaign Reform Act (BCRA) of 2002. The Executive Director reported that the program was hosted by ELEC's first Chair Frank Reiche, who also served a term on the Federal Election Commission. Executive Director Herrmann said also that in attendance were former Senator Bill Schluter, former Democratic State Commission Chair Tom Byrne, and Senator Leonard Lance.

D. Future Meeting Schedule

- December 18, 2002, at 11:00 a.m. in Trenton, and
- January 13, 2003, at 11:00 a.m. in Trenton.

On a motion by Commissioner Tober, seconded by Commissioner Lederman and passed by a vote of 4-0, the Commission approved the 2003 Commission Meeting Schedule.

4. Public Hearing on Proposed Amendments to Commission Regulations and Proposed New Rule

The proposed amendments to the regulations clarify reporting dates, require reporting entities to maintain copies of reports that have been filed with the Commission, and permit unlimited contributions between candidates for the offices of county executive and freeholder in the same county. The proposed new rule establishes procedures for making expenditures by debit cards. Legal Director Nagy explained that no persons contacted the Commission to indicate that they wished to testify concerning the proposal. A Court Reporter was present to record the public hearing. No persons appeared to offer testimony.

On a motion by Commissioner Lederman, seconded by Commissioner Tober and passed by a vote of 4-0, the Commission voted to close the public hearing.

5. Advisory Opinion Request No. 04-2002

Legal Director Nagy stated that this request for an advisory opinion was received from Kenneth J. Hollenbeck, Esq., on behalf of the Independent Energy Producers of New Jersey (IEPNJ). Mr. Hollenbeck has asked the Commission to seek an advisory opinion from the State Attorney General regarding the possible applicability to IEPNJ members of the statutory prohibition in N.J.S.A. 19:34-45 against political contributions by regulated industries, a statute that is outside the jurisdiction of the Commission.

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According to Mr. Hollenbeck, IEPNJ members are non-utility generators who produce, but do not distribute, electricity, and are therefore not subject to regulation as public utilities. Pursuant to Attorney General Opinion No. 01-0111, electricity cogenerators, who produce but do not distribute electricity, are not subject to the prohibition in N.J.S.A. 19:34-45 on political contributions. Mr. Hollenbeck therefore reasons that N.J.S.A. 19:34-45 should similarly not apply to members of IEPNJ, who do not distribute electricity, and that they should be permitted to make political contributions.

Legal Director Nagy indicated that staff recommended referral of this question to the Attorney General because it raises a question that does not appear to have been previously addressed in prior Attorney General opinions concerning this statute.

On a motion by Vice Chair Franzese, seconded by Commissioner Lederman and passed by a vote of 4-0, the Commission directed staff to refer Mr. Hollenbeck's request for an advisory opinion to the Office of the Attorney General.

6. Public Comment

7. Resolution to go into Executive Session

On a motion by Commissioner Tober, seconded by Commissioner Lederman and passed by a vote of 4-0, the Commission resolved to go into Executive Session to discuss the following matters, which will become public as follows:

- A. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public not later than seven business days after mailing to the named respondents.

8. Return to Public Session

On a motion by Commissioner Lederman, seconded by Commissioner Tober and passed by a vote of 4-0, the Commission voted to return to Public Session.

9. Adjournment

On a motion by Commissioner Lederman, seconded by Commissioner Tober and passed by a vote of 4-0, the Commission voted to adjourn at 11:45 a.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director