



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

JERRY FITZGERALD ENGLISH
Chair

PETER J. TOBER
Vice Chair

ALBERT BURSTEIN
Commissioner

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PUBLIC SESSION MINUTES

November 29, 2007

Chair English, Vice Chair Tober, and Commissioner Burstein participated by telephone. Executive Director Herrmann, Deputy Director Brindle, and Acting Legal Director Hoekje were present. Counsel Wyse did not participate.

1. Open Public Meetings Statement

Chair English called the meeting to order and Executive Director Herrmann announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., notice of the telephonic meeting of the Commission had been filed at approximately 10:00 a.m. on November 28, 2007, with the Secretary of State's Office and distributed to the entire State House Press Corps. It was also posted on the Commission's website.

Executive Director Herrmann stated that the special meeting is being held pursuant to N.J.S.A. 10:4-9 and is necessary to deal with an urgent matter of importance and of concern to the public interest about the application of the pay-to-play laws to nonprofit entities. A delay for the purpose of providing adequate notice might result in harm to the public interest. The Commission could not have foreseen the need for this meeting at a time when adequate notice could have been provided. The special meeting will be limited to discussion of the matter of importance.

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission voted to authorize the holding of the special Commission meeting for the purpose of dealing with a request from the State Senate for a delay in requiring nonprofit entities to file under the Pay-to-Play requirements.

The meeting convened at 11:00 a.m. in Trenton.

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2. Discussion of application of the pay-to-play laws to nonprofit entities in light of proposed legislation to amend such laws.

The Commission received a request from Leon Sokol, Esq., representing the New Jersey Senate, informing the Commission that legislation to amend the pay-to-play statutes in order to exempt not-for-profit entities has been prepared for introduction and consideration when both Houses of the Legislature convene in December. Mr. Sokol respectfully requested that the Commission delay the filing deadline of November 30, 2007, applicable to non-profit entities and their officers and directors, to January 15, 2008, the date of a scheduled Commission meeting, in order to give the Legislature sufficient time to consider such legislation.

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission considered the request.

Commissioner Burstein stated that he would support an extension of the filing requirements to January 15, 2008, to allow the Legislature time to clarify its intent regarding nonprofit disclosure under pay-to-play. He said that he thought the request was reasonable given the state of confusion over the rules.

Vice Chair Tober stated that he is disappointed that this situation has arisen because the Commission has already granted an extension to nonprofits in terms of filing reports. He said, however, that in lieu of the stated legislative intent to exempt nonprofits from filing he would agree with Commissioner Burstein on extending the deadline. Vice Chair Tober added that if the Legislature does not pass clarifying amendments then filing should be required in January.

Chair English stated that the Commission has had the benefit of two reasoned opinions, one from the Attorney General and the other from the Commission's Counsel. She said that by a vote of the members, the Commission opted to include nonprofits.

Chair English noted that the Legislature has determined to clarify the issue and the Commission should give the Legislature the opportunity to express its intent. The Chair said that this approach is preferable to having a court decide the matter. Chair English expressed hope for legislative history which was not available to the Commission.

Chair English indicated that she believed not-for-profits covered a large group of organizations, large and small, charitable ones, hospitals, large institutions, and foundations. She said that she would urge the Senate to examine the fact that there are different types of nonprofits and that many receive no-bid contracts. She expressed concern over allowing no-bid contracts to be granted to many organizations without the advantage of transparency.

Commissioner Burstein said that he would only add that it is his hope and expectation that issues involved in reporting will be fully examined by the Legislature, and that the result will not be a simple bill just exempting all nonprofits. He said that this would not be in the best interests of the public.

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Vice Chair Tober reiterated the sentiments of Commissioner Burstein.

Chair English said that the letter from Leon J. Sokol, Esq. sent on behalf of the State Senate, should be part of the public record.

Chair English opened the meeting to the public. No member of the public wished to speak. She thanked the public for helping the Commission become educated about this important issue.

On a vote of 3-0, the motion to extend to January 15, 2008 the deadline for nonprofits filing was passed by the Commission.

3. Resolution to go into Executive Session

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss personnel matters.

4. Adjournment

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission voted to adjourn at 12:15 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz