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# ELEC-Tronic

**AN ELECTION LAW ENFORCEMENT COMMISSION NEWSLETTER**

"Furthering the Interests of an Informed Citizenry"

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## Comments from the Chairman Ronald DeFilippis

Recently, legislation was enacted that prohibits the solicitation of campaign contributions on public property.

The legislation, sponsored by State Senator Raymond J. Lesniak, District 20 in Union County, also prohibits individuals from making contributions while on public property.

Passed during the lame duck session of 2010-2011, the legislation passed by 38-0 in the State Senate and 73-0 in the Assembly.

Governor Chris Christie then signed the bill into law.

The legislation was long overdue. Prior to its enactment, prohibitions on soliciting campaign funds only applied to property owned by the State.

Now the ban extends to property owned or leased by any county, municipality, board of education of a school district, fire district, authority, or other State or local entity district or instrumentality.

Under the bill, officeholders, candidates for elective office and/or their representatives, are banned [directly or indirectly] from soliciting contributions while on any publicly owned property.

This means as well that no equipment, such as telephones, personal computers, fax machines, e-mail, etc., owned by a public entity may be used for the purpose of soliciting campaign funds.

Similarly, no person, while located on any property owned or leased by the State or any of the other aforementioned entities may make a contribution [directly or indirectly] to an officeholder or candidate while on public property.

A promise of a contribution while over the phone or via e-mail, etc., to an officeholder or candidate who is on public property is likewise prohibited.

While the law is very comprehensive it does contain one exception to the rule. It states:

In the event property exclusively owned or leased by the State, or any agency of the State, or by any county, municipality, board of education of a school district, fire district, authority, or other State or local entity, district or instrumentality, or part thereof, is made available, through rent, reservation or otherwise, for the exclusive use of any group for a non-governmental purpose as a meeting location, the prohibition in subsection b. of this section shall not apply and the solicitation or making of contributions or funds of any nature from any or among or by the members of the group during the time the group is using the property made available as a meeting location is permitted.

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## Comments from the Chairman Ronald DeFilippis

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In other words, organizations renting public property for non-governmental purposes may solicit or accept contributions during the time of the event.

The New Jersey Election Law Enforcement Commission (ELEC) is charged with the responsibility of enforcing the provisions of the law.

The legislation did not contain an appropriation and requires ELEC to enforce the law with existing resources.

## Executive Director's Thoughts Jeff Brindle

### [Texting Donations to Political Campaigns](#)

There was a time when teens needed a chaperone to date. Now, not only are there no chaperones, but teens can sit in their cars and text their date when they've arrived.

Texting is about to have an impact on campaign fundraising as well. Fundraising used to be a straight-forward transaction between donor and candidate. It is about to get more complicated.

Though not yet authorized, new technology permits contributions sent via text messages. Just as parents are adjusting to new dating realities, regulators also will have to adapt to the changing fundraising landscape.

[In a column](#) last August, I first wrote about this latest wrinkle in fundraising. At the time the Wireless Association had asked the Federal Election Commission (FEC) whether contributions could be raised via text messages.

Since then the FEC has said no. But the issue is far from over.

The Wall Street Journal reported recently that two political consulting firms, one Democratic, one Republican, "are pushing a bipartisan plan to make online giving even easier by letting cellphone users make small donations with a single text."

Texting of contributions presents campaign finance regulators with a myriad of problems.

First, there is a typical 30-day cellphone billing period that would create problems with pre-election disclosure, particularly during the month preceding the election.

Second, it makes contribution limits harder to enforce.

Third, in states like New Jersey, which has a pay-to-play law that seeks to restrict contributions by public contractors, texting of contributions may constitute another avenue for evading the law.

Fourth, the typical arrangement whereby a middleman serving as a clearing house collects and aggregates the texted contributions, receives a fee, and turns the remaining money over to the campaign, presents further problems with enforcing the contribution limits and getting accurate disclosure.

On the other hand, there are positives associated with texting of contributions.

First, it may widen political participation by encouraging small donations.

Second, it gives fundraisers another tool for helping their candidates run effective, adequately-financed campaigns.

Third, as noted in the Wall Street Journal, it may be "an easy way to bring in money at rallies on university campuses and other places where people are likely to be carrying cellphones."

Campaign finance regulators will need to weigh the good against the bad in deciding whether to allow texting of contributions. My guess is that the practice is inevitable. So it behooves regulators to begin preparing.

## Executive Director's Thoughts Jeff Brindle

*Continued from page 2.*

First, any regulatory scheme should limit texting of contributions to small amounts- perhaps \$50 - \$75 per month.

Second, it should require all funds to go first to campaigns. The campaigns, in turn, will use campaign checks to pay any fees owed to middlemen.

Finally, an arrangement must be developed whereby the campaign can disclose texted contributions in a timely, pre-election setting.

Undoubtedly, there are other measures that can be taken to assure accountability and transparency. But at the very least, thought should be given to how texting contributions will be dealt with.

## Brindle makes National Radio Appearance

Executive Director Jeff Brindle discussed the current outlook for campaign finance regulation during a June 7 interview on national radio.

Brindle was interviewed for about 15 minutes by national political correspondent Charles Ellison on Sirius radio's POTUS channel. The POTUS channel is geared towards followers of national politics.

## Advisory Opinion No. 01-2012 [Realtors Request on Independent Expenditures](#)

The NJ Election Law Enforcement Commission (ELEC) has approved its first advisory opinion of 2012 in response to a request from the National Association of Realtors.

In March, the Chicago-based Association informed the Commission it anticipates making independent expenditures in New Jersey in upcoming state or local elections.

The Association asked whether it would have to file as a political committee if it makes those expenditures. It also asked whether the Commission would voluntarily waive state contribution limits if it was required to file as a political committee.

The Association said other states have waived their limits in the wake of *Citizens United vs. FEC*, a January 2010 Supreme Court ruling that decided regulators cannot limit the amount corporations and unions can spend on independent campaign activities.

Political committees are temporary committees formed to participate in just one election. They are subject to state contribution limits and must register and report their contributions and expenditures. They often are set up to make direct contributions to candidates. But they also can make expenditures "on behalf of," or independently of, candidates.

Another section of New Jersey law allows entities that spend more than \$1,200 on independent expenditures that seek the outright election or defeat of candidates to file reports with ELEC detailing their expenditures. Those reports are not required to disclose contributions. And the receipts of these filers are not subject to state contribution limits.

## Advisory Opinion No. 01-2012

### Realtors Request on Independent Expenditures

*Continued from page 3.*

At its June 19<sup>th</sup> meeting, the bipartisan Commission unanimously advised the Association to file reports as an entity making independent expenditures in New Jersey, not as a political committee.

"In this case, the National Association of Realtors fund, filing as an entity making an independent expenditure, would be required to report expenditures but would not be subject to limits on contributions received, nor to registration and reporting requirements applicable to a political committee," the advisory opinion states.

In anticipation of an increase in independent spending, the Commission has urged the Legislature to amend the law so that entities filing independent spending reports also can be required to divulge their contributions.

The Commission also wants these groups to report funds spent on so-called electioneering ads- ads that do not explicitly call for the election or defeat of candidates but still are obviously intended to influence campaigns.

**The full text of the advisory opinion is available on the Commission's website under "Legal Resources."**

## Public Hearing

### Proposed New Rules and Amendments to ELEC Regulations: Public Financing for the Offices of Governor and Lieutenant Governor

The New Jersey Election Law Enforcement Commission is proposing new rules and amendments to ELEC regulations regarding public financing for the offices of Governor and Lieutenant Governor. The gubernatorial and lieutenant gubernatorial candidates run as a single candidate.

The proposed amendments and new rules were published in the New Jersey Register on May 21, 2012, and are available on the Commission's website at [www.elec.state.nj.us](http://www.elec.state.nj.us). Copies of the Commission's proposal may also be obtained by calling the Commission at (609) 292-8700.

The Commission will conduct a hearing to elicit public comment concerning the proposals. The hearing will be held on **Tuesday, July 17, 2012, at 11:15 a.m.**

The Commission invites participation in this hearing and requests that any testimony be limited to no more than ten minutes. Please contact Administrative Assistant Elbia Zeppetelli by Friday, July 13, 2012, at (609) 292-8700 to reserve time to speak.

Written comments should be submitted to Associate Legal Director Michelle R. Levy, Esq. by July 20, 2012.

## 2012 Cost Index Report

Contributors could give a maximum of \$3,800 per election to gubernatorial candidates in 2013 under new inflation-adjusted limits and thresholds established today by the New Jersey Election Law Enforcement Commission.

Also under the changes required by law every four years, gubernatorial candidates who qualify for public funding could spend a maximum of \$5.6 million in primary elections, and \$12.2 million in general elections.

They could receive up to \$3.5 million in public funds for primary elections, and \$8.2 million for general elections, under the Gubernatorial Public Financing Program that began in 1977.

The bi-partisan Commission unanimously agreed to accept the report at today's meeting. Following a public hearing, it must by December adopt regulations implementing the changes.

The following chart shows the adjustments proposed for contribution limit and thresholds for the Gubernatorial Public Financing Program.

**Table 1**  
**2013 Gubernatorial Cost Index Adjustments**

Limit/Threshold	2009 Amount	2013 Amount
Contribution Limit	\$ 3,400	\$ 3,800
Qualification Threshold	\$ 340,000	\$ 380,000
Amount Not Matched	\$ 109,000	\$ 122,000
Primary Public Fund Cap	\$ 3,100,000	\$ 3,500,000
Primary Expenditure Limit	\$ 5,000,000	\$ 5,600,000
General Public Fund Cap	\$ 7,300,000	\$ 8,200,000
General Expenditure Limit	\$ 10,900,000	\$ 12,200,000

Executive Director Jeffrey Brindle said the Gubernatorial Public Financing Program has received national praise for its effectiveness.

"Since its inception, 67 candidates have received \$105.2 million in public matching funds. That amounts to just \$4.98 per vote cast in those elections," he said. "In exchange, New Jersey gubernatorial elections have been issue-oriented and scandal-free."

The program, he said, has enabled three Democrats and three Republicans to win the office of Governor, and, in some cases, helped them win reelection.

"One of the original purposes of public funding was to help persons of limited financial means seek election to the state's highest office," Brindle said. "Judged by that standard, it is a resounding success."

One reason for the program's success, he said, is that contribution limits and thresholds are adjusted every four years for inflation.

New Jersey is believed to be the only state that makes the cost of advertising a major part of its inflation formula.

"We believe this better reflects the real world cost pressures faced by candidates," said Brindle, who developed the formula.

In addition to adjusting the contribution limits and thresholds for gubernatorial candidates, the Commission also adjusts thresholds for non-gubernatorial candidates.

The revised non-gubernatorial thresholds are listed on the following page.

**Table 2**  
**2013 Adjustments for Non-Gubernatorial Candidates and Committees**

<b>Reporting Thresholds and Fines</b>	<b>2009 Amount</b>	<b>2013 Amount</b>
Political Committee Reporting Threshold	\$ 2,100	\$ 2,400
CPC Reporting Threshold	\$ 4,900	\$ 5,500
Contribution Reporting Threshold (P.L. 2004, c.28)*	\$ 300	\$ 300
48-hr Notice Contribution Threshold	\$ 1,200	\$ 1,400
48-hr Notice Expenditure Threshold	\$ 1,200	\$ 1,400
JCC Thresholds - 2 candidates	\$ 7,600	\$ 8,500
JCC - 3 or more candidates	\$ 11,000	\$ 12,300
Form A-3 Threshold	\$ 4,900	\$ 5,500
Form A-1 & School Board/Write-in Threshold	\$ 4,000	\$ 4,500
Independent Expenditure Threshold	\$ 1,200	\$ 1,400
Section 20.1 Penalties (P.L. 2004, c.32)		
<b>First Time</b>	\$ 6,800	\$ 7,600
<b>Subsequent</b>	\$ 13,600	\$ 15,200
Section 22 Penalties (P.L. 2004, c.32)		
<b>First Time</b>	\$ 6,800	\$ 7,600
<b>Subsequent</b>	\$ 13,600	\$ 15,200
Pro Rata Return of Contributions**	\$ 300	\$ 300

\*Frozen at \$300 pursuant to P.L. 2004, c.28

\*\*Frozen by regulation to conform to contribution reporting threshold pursuant to P.L. 2004, c.28

The law further requires that by July 1<sup>st</sup> each year, the Commission must issue a report that includes recommended increases in contribution limits for non-gubernatorial candidates. The report must be transmitted to the Legislature by July 15<sup>th</sup>.

In table 3 below, the recommended 2013 non-gubernatorial contribution limit adjustments are displayed. The Commission derived the 2013 recommended amounts by applying the cost multiplier to the contribution levels from 2005, the last year when adjustments were made.

**Table 3**  
**Recommended 2013 Non-Gubernatorial Contribution Amount Adjustments**

<b>2005 Contribution Limit</b>	<b>2013 Contribution Limit</b>
\$ 2,600	\$ 3,000
\$ 7,200	\$ 8,100
\$ 8,200	\$ 9,200
\$ 25,000	\$ 28,000
\$ 37,000	\$ 42,000
\$ 72,000	\$ 81,000

The Legislature now must decide whether to accept these revisions.

By December 15<sup>th</sup>, the Commission must report to the Legislature all of its final adjustments for gubernatorial and non-gubernatorial candidates.

A copy of "2013 Cost Index Report" is available at ELEC's website ([www.elec.state.nj.us](http://www.elec.state.nj.us)).

## TRAINING SEMINARS

Please provide the information requested below and return the **entire reservation form** to ELEC. Since space is limited, you must reserve a seat in order to attend. The seminars listed below will be held at the Offices of the Commission, located at 28 West State St., Trenton, NJ. Please select your choice **by circling one of the dates** below:

BUSINESS ENTITY PAY-TO-PLAY TRAINING	TRAINING DATE	TIME
<a href="#">Pay-To-Play Reservation Form*</a>	September 14, 2012	10:00 a.m.
	November 16, 2012	10:00 a.m.

TREASURER TRAINING FOR CANDIDATES AND JOINT CANDIDATES COMMITTEES	TRAINING DATE	TIME
<a href="#">Treasurer Training for Candidates Reservation Form**</a>	September 11, 2012	10:00 a.m.
	September 24, 2012	10:00 a.m.
	October 2, 2012	10:00 a.m.

TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS	TRAINING DATE	TIME
<a href="#">Treasurer Training for Political Parties Reservation Form**</a>	September 28, 2012	10:00 a.m.
	December 12, 2012	10:00 a.m.

R-1 ELECTRONIC FILING SOFTWARE (REFS) TRAINING	TRAINING DATE	TIME
<a href="#">REFS Training Reservation Form**</a>	July 25, 2012	10:00 a.m.
	September 19, 2012	10:00 a.m.
	October 3, 2012	10:00 a.m.

\* You may mail the form back to ELEC, Special Programs Section, P.O. Box 185, Trenton, NJ 08625-0185 or you may fax the form to ELEC at (609) 292-4238. For directions, contact the Special Programs staff.

\*\* You may mail the form back to ELEC, Compliance and Information Section, PO Box 185, Trenton, NJ 08625-0185. Or, you may fax the form to ELEC at (609) 633-9854. For directions, contact the Compliance and Information staff.

## DATES TO REMEMBER

### Reporting Dates

ELECTION	48 HOUR START DATE	INCLUSION DATES	FILING DATE
<b>RUNOFF (JUNE)**</b>	5/30/12		6/12/2012
29-day Preelection Reporting Date		No Report Required for this Period	
11-day Preelection Reporting Date		4/25/12 - 5/29/12	6/1/2012
20-day Postelection Reporting Date		5/30/12-6/29/12	7/2/2012

<b>PRIMARY*** (90 DAY START DATE: 3/7/12)</b>	5/23/12		6/5/2012
29-day Preelection Reporting Date		Inception of campaign* - 5/4/12	5/7/2012
11-day Preelection Reporting Date		5/5/12 - 5/22/12	5/25/2012
20-day Postelection Reporting Date		5/23/12 - 6/22/12	6/25/2012

<b>GENERAL*** (90 DAY START DATE: 8/8/12)</b>	10/24/12		11/6/2012
29-day Preelection Reporting Date		6/23/12 - 10/5/12	10/9/2012
11-day Preelection Reporting Date		10/6/12 - 10/23/12	10/26/2012
20-day Postelection Reporting Date		10/24/12 - 11/23/12	11/26/2012

<b>RUNOFF (DECEMBER)**</b>	11/21/12		12/4/2012
29-day Preelection Reporting Date		No Report Required for this Period	
11-day Preelection Reporting Date		10/24/12 - 11/20/12	11/23/2012
20-day Postelection Reporting Date		11/21/12 - 12/21/12	12/24/2012

<b>PACS, PCFRS &amp; CAMPAIGN QUARTERLY FILERS</b>			
1st Quarter		1/1/12 - 3/31/12	4/16/2012
2nd Quarter****		4/1/12 - 6/30/12	7/16/2012
3rd Quarter		7/1/12 - 9/30/12	10/15/2012
4th Quarter		10/1/12 - 12/31/12	1/15/2013

\* Inception Date of Campaign (first time filers) or from January 1, 2012 (Quarterly filers).

\*\* A candidate committee or joint candidates committee that is filing in a 2012 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 12, 2012 for Primary Election Candidates and June 15, 2012 for Independent General Election Candidates.

\*\*\*\* A second quarter report is needed by Independent General Election candidates if they started their campaign before 5/9/2012.