



ELEC-TRONIC

An Election Law Enforcement Commission Newsletter

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"Furthering the Interest of an Informed Citizenry"

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Website:

www.elec.state.nj.us

Comments from the Chairman Ronald DeFilippis

An important part of complying with the state's campaign finance laws involves the necessity of keeping accurate records.

First, it is the responsibility of the campaign treasurer of a candidate committee, joint candidates committee, political committee, PAC, political party committee and legislative leadership committee to maintain written records of all funds and contributions.

Information to be retained includes the name and address of the contributor, the amount and date of the contribution, the name of the bank account, and the occupation and employer of an individual contributor.

Second, the treasurer of the above committees is also required to maintain a written record of expenditures made by the committee. The written record should include the name and address of the payee, the amount and date of the expenditure, and the purpose of the expenditure. Treasurers should maintain all documentation related to the financial transaction.

Third, as part of the record, the treasurer should retain information regarding which of the six permissible uses of campaign funds is applicable to the expenditure.

Finally, candidates and Chairs of committees, should take all necessary steps to ensure that the treasurer complies with all record keeping requirements.

While the above primarily addresses contribution and expenditure activity involving financial transactions by check, there are record keeping requirements involving credit card transactions as well.

Record keeping requirements involving credit card transactions include the maintenance of the following information:

1. The name or title of the owner of the card, and the name of the card issuing lending institution;
2. The date of the purchase;
3. The name and address of the vendor from whom the purchase was made;
4. The purpose of the purchase; and
5. The cost and description of the goods and services purchased.

All records are to be maintained for a period of not less than four years following the date of the applicable elections or not less than four years after the transaction was made, whichever is longer.

It is hoped that treasurers will be dutiful in keeping records and complying with the record keeping requirements.

However, from time to time, perhaps because a new group assumes responsibility, records are lost.

In the case of a missing record, the treasurer must submit to the Commission an affidavit stating that a record cannot be produced and the reason why a record is unavailable.

The affidavit must be submitted within 10 days of the request for a record made by the Commission.

In order for the public interest to be served accurately, recordkeeping by candidate committees and all other committees is essential.

Only in this way can compliance with campaign finance laws be assured.



Executive Director's Thoughts Jeff Brindle

How a One Word Change in 1959 Helped Lead to the 'Dark Money' Explosion

Reprinted from politickerni.com

The flap over secret spending by independent groups is traceable to a little known one-word change in an Internal Revenue Service (IRS) rule issued during the Eisenhower administration.

Congress, during the progressive era in 1913, passed legislation that exempted organizations from paying federal taxes if they acted for the common welfare of the community.

These organizations, called civic leagues, could only act in ways that promoted the common good and could not be involved in political activity.

This situation changed in 1959 when Dwight Eisenhower was president. The IRS promulgated a regulation that permitted non-profit civic leagues to participate in politics, as long their participation was minimal.

Previously, the groups had to operate "exclusively" for social welfare. After the change, social welfare had to be their "primary" purpose.

The new rule meant social welfare groups could venture into politics. Technically, these groups are called 501(c) 4 groups based on the section of the IRS code that pertains to the non-profit.

In time, toying with politics metamorphosed due to further IRS tinkering with the regulations. Now as long as 51 percent of a 501(c)4's activity is non-political, the rest, 49 percent may involve political activity.

At first, the changes didn't matter much. There were few campaign finance restrictions before the Watergate scandal that led to contribution limits and far more disclosure in the early 1970s. Some social welfare groups exploited the loophole in the 1980s and 1990s. But not many.

However, after Congress banned large “soft money” contributions to national political parties in 2002 as part of the McCain Feingold reforms, lawyers started looking for other ways to spread campaign money around without bumping into contribution limits.

Social welfare groups had an added advantage since they are not required to disclose their contributors to anyone other than the IRS.

The result? These independent non-profit groups now spend millions attempting to influence the outcome of elections, both at the state and national levels.

According to the Center for Responsive Politics, 501(c) 4 social welfare groups spent just \$2.6 million in 2002. By the 2012 election, the amount had reached \$257 million—nearly 100 times more than a decade earlier.

The long forgotten rule change, in tandem with McCain/Feingold in 2002 and the U.S. Supreme Court decision in Citizens United in 2010, transformed the electoral landscape, allowing independent groups to have an outsized influence over the process.

It has now come to light that the IRS is drafting a regulation that will be more precise in defining what constitutes political activity.

At this time, it is not exactly clear what the IRS has in mind. It is somewhat troubling given recent allegations that the IRS targeted tea party groups in an attempt to delay approval a 501(c)4 tax-exempt organizations.

However, if the draft change is more than an attempt to define more precisely political activity, does not favor one side over the other, does not overly delay approval for groups to participate, and seeks to treat 501(c)4's the same as political parties, PACs, and 527 non-profit groups, the change will be a step in the right direction.

Political parties and PACs, including Super PACs, are subject to registration and disclosure with the Federal Election Commission (FEC). 527 committees are tax-exempt groups that raise money for political activities, including voter mobilization and issue advocacy. They disclose their activities to the IRS. Emily's List is an example of a 527 committee.

In recent years, 501(c)4 groups have had a field day with respect to their political activity. Unlike political parties, PACs, and 527 committees, they are not subject to contribution limits or disclosure. They often operate anonymously.

Moreover, because of this advantage, they have begun to assume the roles traditionally played by political parties.

Besides supporting or opposing candidates, these independent groups produce and air political ads, send direct mail to specially targeted groups and individuals, undertake voter mobilization efforts, polling, opposition research, and effectively use social media.

Not only is their fundraising prowess on the par with more accountable political parties, but is out distancing the political parties in many corners of the country.

In New Jersey, for example, the 2013 legislative and gubernatorial elections witnessed independent groups spending \$41 million to \$14 million by the political parties.

Because some of these groups were 501(c) 4 groups, at least \$11 million was spent with no disclosure of information about contributors or expenses.

Independent spending made a difference in the legislative election in particular, with these groups pinpointing their efforts in targeted districts.

It is not a stretch of the imagination that in the next gubernatorial and legislative elections that \$41 million figure will be more than eclipsed.

Hopefully, the IRS soon will draft fair regulations involving 501(c)4 groups that even the playing field with political parties by applying similar disclosure rules to all entities.

Regulatory activity that accomplishes the above yet does not inhibit any group or individual's right to participate in the electoral process will constitute positive reform.

The New Jersey legislature also needs to enact legislation that requires more disclosure by these groups when they participate in state, county and local campaigns.

Amy Davis Moves to Treasury; Linda White Soon to Retire

Two long-time ELEC employees, Compliance Director Amy Davis and Director of Lobbying Linda White are pursuing new endeavors.

Davis, who worked at the agency 18 years after one year at the Office of Legislative Services, left May 15 to take a job with the Department of Treasury.

Davis, an attorney, will be deputy director of the Contract Compliance and Audit Unit within the Division of Purchase and Property.

White, who is retiring, was employed by ELEC for the last 19 years. She also worked 14 years for the state Division of Gaming Enforcement.

White's last day at ELEC is June 26. She plans to take advantage of her newfound freedom in retirement by traveling more.

Davis and White were well known in the regulated community since they often answered questions posed by candidates, treasurers or lobbyists.

"Amy and Linda both will be missed," said Jeff Brindle, ELEC's Executive Director. "We wish them well as they begin new chapters in their lives."

Why Disclosure Matters

"The goals of open government are to empower people, to ensure that governmental institutions are responsive to the public, and to improve democratic practices and government operations. Transparency is an important tool that allows Americans to see what their government is doing, how powerful institutions are conforming to the laws of the land, and how 'We, the People' can help to make it better.

Transparency helps an open society solve problems before they become crises - and at its best, avoids those problems in the first place. It also provides the public with a better understanding of who to blame when problems arise and government fails, and who to praise when things go well. That is why open government initiatives have grown over the past half century.

Done properly, transparency makes governing better and less likely to be corrupt....Simply put, information is power, and keeping information secret only serves to keep power in the hands of a few." *"Why Critics of Transparency are Wrong," Brookings Institute, November 2014.*

Texas state Rep. Byron Cook, R-Corsicana: "If we don't address dark money, it's my prediction that more and more people will use that vehicle for more candidates. And down the road, there will be no transparency because elections will be funded by dark money. I would suggest that would be a terrible consequence for the public." - Midland Reporter Telegram, Texas, 9/30/14.

"You can't evaluate the message if you don't know who the messenger is." - Heather Gerkin, Yale Law School Professor, on Bill Moyers show 10/31/14.

Training Seminars 2015

The seminars listed below will be held at the Offices of the Commission, located at 28 West State St., Trenton, NJ. Please visit ELEC's website at www.elec.state.nj.us for more information on training seminar registration.

TREASURER TRAINING FOR CANDIDATES AND JOINT CANDIDATES COMMITTEES		
September 17, 2015		10:00 a.m.
September 29, 2015		10:00 a.m.
TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS		
June 17, 2015		10:00 a.m.
September 15, 2015		10:00 a.m.
December 16, 2015		10:00 a.m.
R-1 ELECTRONIC FILING SOFTWARE (REFS) TRAINING		
July 28, 2015		10:00 a.m.
September 24, 2015		10:00 a.m.
September 30, 2015		10:00 a.m.
LOBBYING REPORTING DATES		
Quarterly Filing	Inclusion Dates	ELEC Due Date
2 nd Quarter	4/1/2015 - 6/30/2015	7/10/2015
3 rd Quarter	7/1/2015 - 9/30/2015	10/13/ 2015
4 th Quarter	10/1/2015-12/31/2015	1/11/2016

29-Day Legislative Campaign Finance Activity June Primary 2015

Candidates for the state Assembly have raised \$11.5 million, spent \$6.2 million and have set aside \$5.2 million for the June 2 primary election, according to new reports filed with the New Jersey Election Law Enforcement Commission (ELEC).

The totals reflect campaign finance activity since the last election in November 2013 up until 29 days before the current primary.

A comparison to three previous election cycles shows this year's combined cash reserve of \$5.2 million is the highest since 2009, when the total was slightly larger if adjusted for inflation.

Table 1
Campaign Finance Activity by State Assembly Candidates
Up Until 29 Days before Primary Election

Year	Raised	Spent	Cash-on-Hand	Elections
2009	\$10,297,502	\$5,454,703	\$4,828,749*	Governor, Assembly
2011	\$11,070,681	\$6,551,696	\$4,537,642	Senate, Assembly
2013	\$10,122,149	\$5,995,636	\$4,252,515	Governor, Senate, Assembly
2015	\$11,476,533	\$6,200,601	\$5,219,743	Assembly

*\$5.329 million adjusted for inflation.

Jeff Brindle, ELEC's Executive Director, said fundraising, spending and cash reserves have not varied dramatically for the past four Assembly campaigns. Democrats, who currently hold a 48 to 32 margin, have controlled the majority since 2001.

"Most legislative districts are not highly competitive," Brindle said. "Therefore, in most districts, incumbents don't have to spend a lot of money to win reelection. There is not much pressure for heavy spending."

With Democrats holding a comfortable majority, they are finding it easier to raise money.

Table 2
Party Breakdown of Assembly Campaign Finance Activity

Party	Raised	Spent	Cash-on-Hand
Democrats	\$ 7,669,632	\$4,295,592	\$3,319,514
Republicans	\$ 3,806,900	\$1,905,009	\$1,900,228
Both Parties	\$11,476,533	\$6,200,601	\$5,219,743

Historically, incumbents usually have enjoyed a heavy advantage over challengers in most districts. Current numbers bear out this trend.

Table 3
Breakdown of Assembly Campaign Finance
Activity Incumbents versus Challengers

Party	Raised	Spent	Cash-on-Hand
Incumbents	\$10,928,997	\$5,929,690	\$4,950,281
Challengers	\$ 547,535	\$ 270,911	\$ 269,462
Both Parties	\$11,476,533	\$6,200,601	\$5,219,743

In seven elections from 1999 to 2011, an average of 97 percent of Assembly incumbents won reelection.

Among the top 10 Assembly members ranked by their cash reserves, six are Democrats and four are Republicans. All are incumbents.

Table 4
Top Ten Assembly Candidates
Ranked by Cash-on-Hand

Candidate	Cash-on-Hand	Party	District
Assembly Speaker Vincent Prieto	\$548,737	D	32
Assemblyman Chris Brown	\$352,364	R	2
Assemblyman Joseph Egan	\$274,263	D	17
Assembly Minority Leader Jon Bramnick	\$269,774	R	21
Assembly Majority Leader Louis Greenwald	\$225,941	D	6
Assemblyman Gerald Green	\$209,692	D	22
Assemblyman Gary Schaer	\$163,531	D	36
Assemblyman Troy Singleton	\$162,484	D	7
Assemblyman Scott Rumana	\$157,969	R	40
Assemblyman Jay Webber	\$141,272	R	26

Brindle said that because of the lack of competitiveness in the primary, there has not been spending by independent special interest groups so far on Assembly campaigns.

A record \$10.5 million was spent on legislative campaigns in 2013 when the governor's seat and all 120 legislative seats were open for reelection.

Brindle said outside groups may focus on a handful of targeted districts this fall. They include Districts 1, 2 and 38. "We expect overall independent spending to be much more subdued than in 2013. It could be closer to the \$1.8 million spent by these committees in legislative districts in 2011," he said.

Brindle said the likely drop-off also reflects the fact that there are no gubernatorial or state Senate elections this year.

The numbers in this report should be considered preliminary. The analysis is based on legislative fundraising reports received by noon May 5, 2015.

Reports filed by legislative candidates are available online on ELEC's website at www.elec.state.nj.us. A downloadable summary of data from those reports is available in both spreadsheet and PDF formats at www.elec.state.nj.us/publicinformation/statistics.htm.

ELEC also can be accessed on Facebook (www.facebook.com/NJElectionLaw) and Twitter (www.twitter.com/elecny).

2015 REPORTING DATES

		<i>Inclusion Dates</i>	<i>Report Due Date</i>
Fire Commissioner - 2/21/2015			
29-day pre-election		Inception of campaign* - 1/20/15	1/23/2015
11-day pre-election		1/21/15 - 2/7/15	2/10/2015
20-day post-election		2/8/15 - 3/10/15	3/13/2015
48 Hour Notice Reports Start on 2/8/2015 through 2/21/2015			
School Board Election - 4/21/2015			
29-day pre-election		Inception of campaign* - 3/20/15	3/23/2015
11-day pre-election		3/21/15 - 4/7/15	4/10/2015
20-day post-election		4/8/15 - 5/8/15	5/11/2015
48 Hour Notice Reports Start on 4/8/2015 through 4/21/2015			
May Municipal Election - 5/12/2015			
29-day pre-election		Inception of campaign* - 4/10/15	4/13/2015
11-day pre-election		4/11/15 - 4/28/15	5/1/2015
20-day post-election		4/29/15 - 5/29/15	6/1/2015
48 Hour Notice Reports Start on 4/29/2015 through 5/12/2015			
Runoff (June)** - 6/9/2015			
29-day pre-election		No Report Required for this Period	
11-day pre-election		4/29/15 - 5/26/15	5/29/2015
20-day post-election		5/27/15-6/26/15	6/29/2015
48 Hour Notice Reports Start on 5/27/2015 through 6/9/2015			
Primary Election*** - 6/2/2015			
29-day pre-election		Inception of campaign* - 5/1/15	5/4/2015
11-day pre-election		5/2/15 - 5/19/15	5/22/2015
20-day post-election		5/20/15 - 6/19/15	6/22/2015
48 Hour Notice Reports Start on 5/20/2015 through 6/2/2015			
90 Day Start Date: 3/4/2015			
General Election*** - 11/3/2015			
29-day pre-election		6/20/15 - 10/2/15	10/5/2015
11-day pre-election		10/3/15 - 10/20/15	10/23/2015
20-day post-election		10/21/15 - 11/20/15	11/23/2015
48 Hour Notice Reports Start on 10/21/2015 through 11/3/2015			
Runoff (December)** - 12/8/2015			
29-day pre-election		No Report Required for this Period	
11-day pre-election		10/21/15 - 11/24/15	11/27/2015
20-day post-election		11/25/15 - 12/25/15	12/28/2015
48 Hour Notice Reports Start on 11/25/2015 through 12/8/2015			
PACs, PCFRs & Campaign Quarterly Filers			
1 st Quarter		1/1/15 - 3/31/15	4/15/2015
2 nd Quarter****		4/1/15 - 6/30/15	7/15/2015
3 rd Quarter		7/1/15 - 9/30/15	10/15/2015
4 th Quarter		10/1/15 - 12/31/15	1/15/2016

* Inception Date of Campaign (first time filers) or from January 1, 2015 (Quarterly filers).

** A candidate committee or joint candidates committee that is filing in a 2015 Runoff election is not required to file a 20-day post election report for the corresponding prior election (May Municipal or General).

*** Form PFD-1 is due on April 9, 2015 for Primary Election Candidates and June 12, 2015 for Independent General Election Candidates.

**** A second quarter report is needed by Independent/Non-Partisan General Election candidates if they started their campaign before 5/5/2015.