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Newsletter

ELECtronic

AN ELECTION LAW ENFORCEMENT COMMISSION NEWSLETTER
“Furthering the Interest of an Informed Citizenry”

Comments from the Chairman

Eric H. Jaso

“A lack of transparency results in distrust and a deep sense of insecurity.” – The Dalai Lama

In order for members of the public to take advantage of ELEC’s services, they must know what we offer. This is doubly important as we come out of the pandemic.

Trenton insiders, politicians, lobbyists, citizen activists, political journalists and campaign-finance lawyers have long been familiar with the broad scope of the Commission’s jurisdiction, statutory authority, and enforcement powers. However, ELEC’s underlying mission of transparency and accountability compels us to make efforts to spread this awareness to the general public.

Unlike most similar agencies in other states, ELEC’s jurisdiction over campaign financing extends beyond state-level candidates to every candidate running for

state, county, or local political office, from fire district commissioner to Governor.

This jurisdiction extends to all political entities participating in New Jersey elections no matter the level.

Political party committees, legislative leadership committees, political committees, and special interest PACs are required to report their contributions and expenditures on an ongoing basis.

Moreover, the Commission registers governmental affairs agents (i.e. lobbyists) and requires them to report their activity quarterly, and their financial activity annually.

Further, the Legislature granted the Commission a significant role in the enforcement of 2006 “pay-to-play” law. While the Commission has civil jurisdiction over infractions of pay-to-play at the local level, its primary responsibility is to oversee and enforce disclosure requirements under the law.

Lastly, and in addition to overseeing the personal financial disclosure law involving legislative and gubernatorial candidates,

ELEC administers the Gubernatorial Public Financing Program.

Since first implemented in the 1977 gubernatorial election, the Public Financing Program has served New Jersey well. In fact, it has been hailed as a national model and used as a template for similar programs in other states. The recent gubernatorial election, where both general-election candidates availed themselves of public financing, is a case in point.

For a relatively small agency with only 65 staff members, implementing the broad scope of ELEC’s responsibilities could otherwise be daunting. However, our dedicated staff, often recognized as among the best in state government, has more than met that challenge.

Both by publicizing ELEC’s authority, jurisdiction, and services, as well as by letting our work and our formal actions speak for themselves, the Commission will continue to get the word out about its crucial role in New Jersey politics and government.

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COMMISSIONERS

- Eric H. Jaso, Chairman
- Stephen M. Holden, Commissioner
- Marguerite T. Simon, Commissioner
- Edwin R. Matthews, Legal Counsel

Executive Director's Thoughts

Jeff Brindle

US Supreme Court Support for Rhode Island Disclosure Law is Good News

On April 25, 2022, the U.S. Supreme Court declined to hear a constitutional challenge to a Rhode Island law that required independent groups that spend more than \$1,000 per year to disclose their top donors.

By denying a petition for certiorari from the Gaspee Project, a national conservative legal organization, the Supreme Court let stand a ruling by the U.S. Circuit of Appeals, which itself had upheld a decision by the U.S. District Court for the District of Rhode Island.

The high court's action continued its longstanding support for disclosure and should ease the concerns of some experts who expressed the opinion that a recent decision by the Supreme Court, *Americans for Prosperity (AFP) v. Bonta*, would sabotage campaign finance law in general.

In *Bonta*, the U.S. Supreme Court ruled in July 2021 that a California law requiring charitable organizations to disclose major donors to the State's Attorney General was unconstitutional.

Under the law, charitable organizations, when renewing annual registrations, were required to file copies of IRS Form 990, which discloses the names and addresses of contributors.

According to then-California Attorney General and now-Vice President Kamala Harris, the law was necessary in terms of investigations into fraud potentially carried out by charitable organizations.

New Jersey and 15 other states had filed a Friend of the Court brief defending the constitutionality of California law.

The decision in *Bonta* raised the fears of three dissenting Supreme Court judges, scholars, and regulators that campaign finance law, including disclosure, was doomed.

Supreme Court Justice Sonia Sotomayor, for example, in her dissenting opinion, said that for the first time the Supreme Court held that the "exacting scrutiny" test, like the "strict scrutiny" test, must require that government-mandated disclosure be narrowly tailored to government interest. Justice Sotomayor also expressed strong concern that the high court required no proof that disclosure led to harassment of charitable donors, maintaining that the Court set the bar higher for election-related disclosure laws and may put them in legal jeopardy.

Sotomayor said the ruling "marks reporting and disclosure requirements with a bull's-eye."

In an Insider column also published in July 2021, I respectfully dissented from that point of view, stating "I disagree the *Bonta* ruling jeopardizes election-related campaign finance disclosure requirements."

In the column I further stated that "the *Bonta* ruling, with its focus on charitable organizations, no more opens the door to eliminating campaign finance law in general than previous decisions. The

influence of legal precedent, so embedded in our common law tradition, will play an important role in any future Supreme Court rulings involving campaign finance law."

I suppose it is possible the fears expressed by some learned individuals in the field of campaign finance that *Bonta* threatens disclosure may prove correct.

But the Supreme Court's denial of certiorari in the Rhode Island case furthers my confidence that the ruling will not serve as a foundation to undo campaign finance laws, including disclosure.

The Rhode Island "Independent Expenditures and Electioneering Act" requires independent groups spending more than \$1,000 per year to disclose in their advertising their top five contributors.

As noted above, the law was challenged on constitutional grounds. In 2020, Gaspee Project and Illinois Opportunity Project filed a lawsuit challenging various transparency requirements in the Act, including the provision requiring the disclosure of the five largest donors.

The law was defended by Rhode Island Attorney General Peter Neronha with the assistance of the Campaign Legal Center.

In reacting to the U.S. Supreme Court's decision to deny certiorari, Campaign Legal Center Vice President Paul Smith said: "To reduce political corruption, we need real transparency about who is spending big money in elections and to that end, voters in Rhode Island have a right to know who is attempting to influence their votes. This denial of review from the Supreme Court of the United States means that vital right will

remain in place and continue to enable Rhode Islanders to be well-informed before heading into the voting booth.”

Smith’s comments are right on target in terms of the reason for disclosure. It is not to curtail anyone’s First Amendment right to free political speech- this columnist totally supports that right- but rather to avail the public of those who are spending huge amounts of money to influence their vote and therefore the election.

The decision of the Supreme Court to leave the Rhode Island disclosure law intact should encourage those of us in New Jersey who support legislation requiring Dark Money groups to disclose their contributions and expenditures just like candidates, parties and traditional PACs.

Of course, any such legislation would have to be narrowly tailored and be in the context of an election to meet the Supreme Court’s “strict scrutiny” test. But in doing so the Legislature would bring further light to an election process that now only shines on candidates, political parties, and PACs, but not on their electioneering partners, independent groups.

The New Jersey Election Law Enforcement Commission has made recommendations to require independent groups to disclose their financial activity in the contest of elections and to strengthen political parties.

Those recommendations include: increasing contribution limits applicable to parties, exclude political parties from the pay-to-play law and include special interest PACs in the law, allow parties to participate in gubernatorial elections,

end the ban on county party donations to each other in primaries, require public contractors to disclose contributions from independent groups, and require disclosure of contributions and expenditures by independent groups undertaking electioneering activity.

As a further personal proposal, I support allowing tax credits for contributions to political parties.

These measures would bring parity and balance to the electoral process in New Jersey.

Training Seminars

*All webinars will run for approximately 2 hours.

CPC WEBINARS

R-3 eFile ONLY Program Training	CPC/PPC Compliance Seminar AND eFile Training
July 07, 2022 10:00 AM	June 23, 2022 10:00 AM
September 27, 2022 10:00 AM	July 21, 2022 10:00 AM
	August 09, 2022 10:00 AM
	September 21, 2022 10:00 AM
	October 13, 2022 10:00 AM

CPC Seminar (In–Person) at ELEC Office

Contact ELEC for Registration and Date Information

CANDIDATE WEBINARS

R-1 eFile ONLY Program Training	Campaign Compliance Seminar AND eFile Training
June 07, 2022 10:00 AM	June 14, 2022 10:00 AM
September 29, 2022 10:00 AM	July 12, 2022 10:00 AM
	August 02, 2022 10:00 AM
	September 08, 2022 10:00 AM
	September 15, 2022 10:00 AM
	October 05, 2022 10:00 AM
	October 12, 2022 10:00 AM

Candidate Seminars (In–Person) at ELEC Office

Contact ELEC for Registration and Date Information

County Parties Flush with Cash Heading Into Federal Election Year

County party committees are heading into a federal election year with their largest combined cash reserves in more than a decade, according to reports filed with the New Jersey Election Law Enforcement Commission (ELEC).

Based on available reports, cash-on-hand for all committees filing reports totaled \$3.9 million as of March 31, 2022. Going back to 2012, the previous first quarter high occurred in 2019, when joint reserves totaled \$3.3 million.

Democrats, who control both US Senate seats, **10** of 12 congressional seats, the governorship and both legislative houses, have stashed away the most campaign cash. They reported \$3.3 million in cash-on-hand, or more than five times the \$602,852 reported by Republican committees.

YEAR	DEMOCRATS	REPUBLICANS	TOTAL
2022	\$3,269,736	\$ 602,852	\$3,872,588
2021	\$2,249,612	\$ 408,233	\$2,657,845
2020	\$1,750,284	\$ 405,550	\$2,155,834
2019	\$2,297,905	\$1,043,544	\$3,341,448
2018	\$2,107,613	\$ 549,815	\$2,657,429
2017	\$1,465,078	\$ 621,855	\$2,086,933
2016	\$1,245,021	\$ 782,181	\$2,027,203
2015	\$ 916,544	\$ 520,976	\$1,437,520
2014	\$ 838,605	\$ 474,184	\$1,312,788
2013	\$1,194,185	\$ 263,068	\$1,457,253
2012	\$ 708,074	\$ 315,861	\$1,023,935

Jeff Brindle, ELEC's Executive Director, said Democratic committees are benefiting from more than \$4.8 million they received from out-of-state contributions in 2021 compared to \$178,028 for Republican committees.

An ELEC analysis released February 3, 2022 found that Democratic committees raised 41 percent of their funds last year from out-of-state groups compared to just seven percent for GOP committees.

While the GOP reserves are much smaller than those of the Democrats, they are their highest level since 2019.

Democrats benefited from big checks from the Democratic Governors Association, House Speaker Nancy Pelosi, Oklahoma donor Stacy Schusterman and national affiliates of some New Jersey unions.

"The infusion of out-of-state funds armed Democratic county party committees with more firepower going into a key election year, when Republicans will be trying to pare down the **ten-to-two** Democratic advantage within the state's Congressional delegation," Brindle said.

"During each election year, county parties help with get-out-the-vote efforts and other party functions. Having a cash windfall certainly provides a boost though other factors like the trend in voter sentiment also come into play," he said.

Along with having bigger cash reserves, Democrats also have raised and spent more so far this year.

Table 2
Fundraising By County Party Committees
January 1 Through March 31, 2022

PARTY	RAISED	SPENT**	CASH-ON-HAND	NET WORTH*
Democratic County Party Committees	\$ 796,084	\$1,044,719	\$3,269,736	\$3,123,756
Republican County Party Committees	\$ 550,559	\$ 493,659	\$ 602,852	\$1,086,143
Total- Both Parties	\$1,346,643	\$1,538,378	\$3,872,588	\$4,209,899

*Net worth is cash-on-hand adjusted for debts owed to or by the committee.

**Spending can exceed fundraising due to use of reserves or borrowing.

Among Democratic counties, nine county party committees- Bergen, Burlington, Camden, Essex, Gloucester, Mercer, Passaic, Somerset, and Union- reported cash balances above \$100,000.

Hudson County reported a negative net worth due to outstanding debts.

Table 3
Campaign Finance Activity of
Democratic County Party Committees
January 1 through March 31, 2022

COUNTY	RAISED	SPENT	CASH-ON-HAND	NET WORTH*
Atlantic	\$ 14,780	\$ 8,436	\$ 12,795	\$ 12,795
Bergen	\$104,298	\$ 49,412	\$ 201,127	\$ 201,127
Burlington	\$ 99,383	\$ 23,723	\$ 173,829	\$ 167,454
Camden	\$ 87,633	\$ 108,841	\$ 316,054	\$ 316,054
Cape May	\$ 2,681	\$ 305	\$ 3,431	\$ 3,431
Cumberland	\$ 22,800	\$ 1,839	\$ 24,084	\$ 24,084
Essex	\$ 15,600	\$ 91,159	\$ 277,115	\$ 277,115
Gloucester	\$ 29,000	\$ 50,234	\$ 231,048	\$ 229,738
Hudson	\$ 61	\$ 109,619	\$ 17,075	\$ (121,699)
Hunterdon	\$ 43,800	\$ 4,787	\$ 91,100	\$ 91,100
Mercer	\$ 5	\$ 8,083	\$ 422,259	\$ 407,371
Middlesex	\$ 65,220	\$ 208,329	\$ 38,952	\$ 38,952
Monmouth	\$ 39,945	\$ 42,960	\$ 69,219	\$ 69,219
Morris	\$ 24,810	\$ 26,674	\$ 8,303	\$ 8,302
Ocean	\$ 11,028	\$ 21,402	\$ 85,055	\$ 101,222
Passaic	\$ 91,906	\$ 119,601	\$ 571,802	\$ 571,802
Salem	\$ 140	\$ 2,887	\$ 86,452	\$ 85,653
Somerset	\$ 60,747	\$ 27,294	\$ 167,166	\$ 167,166
Sussex	\$ 918	\$ 9,572	\$ 10,577	\$ 10,577
Union	\$ 81,331	\$ 129,561	\$ 462,291	\$ 462,291
Warren**	NA	NA	NA	NA
Democrats-Total	\$796,084	\$1,044,719	\$3,269,736	\$3,123,756

*Net worth is cash-on-hand adjusted for debts owed to or by the committee.

**Does not expect to spent more than \$7,200.

NA= Not Available.

Among Republican county party committees, only Cape May reported more than \$100,000 in cash-on-hand.

COUNTY	RAISED	SPENT	CASH-ON-HAND	NET WORTH*
Atlantic	\$ 6,926	\$ 24,808	\$ 13,955	\$ 13,955
Bergen	\$ 99,823	\$ 70,824	\$ 31,932	\$ 21,932
Burlington	\$ 2,830	\$ 23,345	\$ 20,206	\$ 528,498
Camden	\$ 8,022	\$ 9,065	\$ 1,054	\$ 1,054
Cape May	\$ 389	\$ 20,806	\$111,171	\$ 111,171
Cumberland	\$ 47,650	\$ 10,794	\$ 38,723	\$ 38,723
Essex	\$ 0	\$ 860	\$ 17,119	\$ 17,119
Gloucester	\$ 47,762	\$ 46,729	\$ 16,694	\$ 16,694
Hudson**	NA	NA	NA	NA
Hunterdon	\$ 21,774	\$ 37,024	\$ 5,302	\$ 5,302
Mercer	\$ 2,550	\$ 1,271	\$ 2,850	\$ 2,849
Middlesex	\$ 3,430	\$ 899	\$ 10,538	\$ 10,538
Monmouth	\$ 85,376	\$ 45,980	\$ 88,731	\$ 88,731
Morris	\$ 71,700	\$ 55,618	\$ 20,954	\$ 5,954
Ocean	\$ 27,500	\$ 11,099	\$ 19,386	\$ 19,386
Passaic	\$ 92,475	\$ 88,077	\$ 29,454	\$ 29,454
Salem	\$ 565	\$ 3,964	\$ 20,880	\$ 20,880
Somerset	NA	NA	NA	NA
Sussex	\$ 2,728	\$ 8,716	\$ 88,506	\$ 88,506
Union	\$ 17,308	\$ 17,840	\$ 55,995	\$ 55,995
Warren	\$ 11,752	\$ 15,939	\$ 9,404	\$ 9,404
Republicans-Total	\$550,559	\$493,659	\$602,852	\$1,086,143

*Net worth is cash-on-hand adjusted for debts owed to or by the committee.

**Does not expect to spend more than \$7,200.

NA=Not available.

The numbers in this analysis are based on reports filed by noon May 3, 2022. They have yet to be verified by ELEC staff, and should be considered preliminary.

Individual reports can be reviewed on ELEC's website (www.elec.state.nj.us).

2022 Reporting Dates

	INCLUSION DATES	REPORT DUE DATE
FIRE COMMISSIONER – FEBRUARY 19, 2022		
29–day Preelection Reporting Date	Inception of campaign* – 1/18/2022	1/21/2022
11–day Preelection Reporting Date	1/19/2022 – 2/5/2022	2/8/2022
20–day Postelection Reporting Date	2/6/2022 – 3/8/2022	3/11/2022
48–Hour Notice Reporting Starts on 2/6/2022 through 2/19/2022		
SCHOOLBOARD – APRIL 19, 2022		
29–day Preelection Reporting Date	Inception of campaign* – 3/18/2022	3/21/2022
11–day Preelection Reporting Date	3/19/2022 – 4/5/2022	4/8/2022
20–Day Postelection Reporting Date	4/6/2022 – 5/6/2022	5/9/2022
48–Hour Notice Reporting Starts on 4/6/2022 through 4/19/2022		
MAY MUNICIPAL – (90-DAY START DATE: FEBRUARY 9, 2022) – MAY 10, 2022		
29–day Preelection Reporting Date	Inception of campaign* – 4/8/2022	4/11/2022
11–day Preelection Reporting Date	4/9/2022 – 4/26/2022	4/29/2022
20–Day Postelection Reporting Date	4/27/2022 – 5/28/2022	5/31/2022
48–Hour Notice Reporting Starts on 4/27/2022 through 5/10/2022		
RUNOFF (JUNE)** – JUNE 14, 2022		
29–day Preelection Reporting Date	No Report Required for this Period	
11–day Preelection Reporting Date	4/27/2022 – 5/31/2022	6/3/2022
20–Day Postelection Reporting Date	6/1/2022 – 7/1/2022	7/5/2022
48–Hour Notice Reporting Starts on 6/1/2022 through 6/14/2022		
PRIMARY (90 DAY START DATE: MARCH 9, 2022)*** – JUNE 7, 2022		
29–day Preelection Reporting Date	Inception of campaign* – 5/6/2022	5/9/2022
11–day Preelection Reporting Date	5/7/2022 – 5/24/2022	5/27/2022
20–Day Postelection Reporting Date	5/25/2022 – 6/24/2022	6/27/2022
48–Hour Notice Reporting Starts on 5/25/2022 – 6/7/2022		
GENERAL (90 DAY START DATE: AUGUST 10, 2022)*** – NOVEMBER 8, 2022		
29–day Preelection Reporting Date	6/25/2022 – 10/7/2022	10/11/2022
11–day Preelection Reporting Date	10/8/2022 – 10/25/2022	10/28/2022
20–day Postelection Reporting Date	10/26/2022 – 11/25/2022	11/28/2022
48–Hour Notice Reporting Starts on 10/26/2022 through 11/8/2022		
RUN–OFF (DECEMBER)** – DECEMBER 6, 2022		
29–day Preelection Reporting Date	No Report Required for this Period	
11–day Preelection Reporting Date	10/26/2022 – 11/22/2022	11/25/2022
20–day Postelection Reporting Date	11/23/2022 – 12/23/2022	12/27/2022
48 Hour Notice Reporting Starts on 11/23/2022 through 12/6/2022		

PACS, PCFRS & CAMPAIGN QUARTERLY FILERS

1 st Quarter	1/1/2022 – 3/31/2022	4/18/2022
2 nd Quarter	4/1/2022 – 6/30/2022	7/15/2022
3 rd Quarter	7/1/2022 – 9/30/2022	10/17/2022
4 th Quarter	10/1/2022 – 12/31/2022	1/17/2023

GOVERNMENTAL AFFAIRS AGENTS (Q-4)

1 st Quarter	1/1/2022 – 3/31/2022	4/11/2022
2 nd Quarter	4/1/2022 – 6/30/2022	7/11/2022
3 rd Quarter	7/1/2022 – 9/30/2022	10/11/2022
4 th Quarter	10/1/2022 – 12/31/2022	1/10/2023

* Inception Date of Campaign (first time filers) or January 1, 2022 (Quarterly filers).

** A candidate committee or joint candidates committee that is filing in a 2022 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 April 14, 2022 for the Primary Election candidates and June 20, 2022 for Independent General Election candidates.

Note: A fourth quarter 2021 filing is needed for the Primary 2022 candidates if they started their campaign prior to December 9, 2021.

A second quarter 2022 filing is needed by Independent/ Non-partisan General Election candidates if they started their campaign prior to May 11, 2022.