

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

MINUTES - August 1, 1977 Meeting

PRESENT

Frank P. Reiche, Chairman
Sidney Goldmann, Vice-Chairman
Josephine S. Margetts, Member
Archibald S. Alexander, Member
Lewis B. Thurston, III, Executive Director
Edward J. Farrell, Legal Counsel
Herbert Alexander, Consultant
Neil Upmeyer, E.L.E.C. staff

Pursuant to the Open Public Meetings Law, P.L. 1975, c.231, annual notice of the meetings of the Commission, as amended, was filed with the Secretary of State's office, copies were posted in the State House Annex, copies were mailed to the Newark Star Ledger and the Philadelphia Bulletin and the entire State House Press Corps.

The meeting convened at 10:15 a.m.

1. Tour of Commission Office

The Executive Director led the Commission members and Consultant Alexander on a brief walk-through tour of the Commission offices, reviewing with them the revamped floor plan of the office, indicating the newly carpeted areas of the office and pointing out other improvements. At the conclusion of the tour the Commission returned to the Commission conference room for the remainder of the meeting.

2. Review of Contribution Data Submitted for Public Financing

Pursuant to C.10:4-12 of the Open Public Meetings Law, the Commission went into Executive Session to discuss the staff investigation and review of the data submitted by candidates Brendan Byrne and Raymond Bateman to qualify for public funding and receive public matching funds. This data was submitted to the Commission on July 25, 1977.

3. Report by Counsel on Current Litigation

The Commission remained in executive session to hear a report from Counsel Farrell on current litigation in Common Cause v. E.L.E.C. and the appeal by respondents Luciano, Reilly and Mellini from the Commission action in the case of Ricci v. Senior Citizens and Taxpayers Fed Up with Byrne Democrats. At the conclusion of this report, the Commission returned to public session.

4. Certification of Matching Funds to Gubernatorial Candidates

The Commission briefly discussed the situation in which a check is not signed by the contributor but is signed by a person with power of attorney to act for the contributor. On a motion by Commissioner Alexander, seconded by Commissioner Margetts, the Commission voted to require that the candidates'

representatives provide to the Commission a written authorization signed by the contributor or written proof of the power of attorney. The vote was 4-0.

The Commission briefly discussed the matter of campaign contributions from professional corporations or associations. On a motion by Chairman Reiche, seconded by Vice-Chairman Goldmann, the Commission agreed to treat such contributions as contributions from the professional corporation or association as a separate entity and not attributable personally to the shareholders of such professional corporations or associations. The vote was 3-1, with Commissioner Alexander in the negative because he believes such contributions should be attributable to the appropriate shareholders of such corporations or associations and that to do otherwise offers a serious potential loophole to the \$600 contributions limit.

On a motion by Chairman Reiche, seconded by Vice-Chairman Goldmann, the Commission voted to certify \$83,036 to candidate Raymond H. Bateman in public matching funds. The vote was 4-0. Commissioner Alexander indicated that he regrets that the total includes some funds from professional corporations or associations which are not being attributed to the shareholders of such corporations or associations in accordance with the vote referred to in the previous paragraph of these minutes.

On a motion by Vice-Chairman Goldmann, seconded by Chairman Reiche, the Commission certified \$147,965 in public matching funds to candidate Brendan T. Byrne. The vote was 4-0. Commissioner Alexander expressed his reservations regarding the Commission policy in regards to the treatment of contributions from professional corporations or associations and indicated that he felt \$600 more in contributions (Submission 1, Deposit 2, Item 14) should have been matched and certified at this time to Governor Byrne if the policy were different.

After a brief discussion of possible ways of treating contributions rejected for matching, the Commission directed its staff, including Counsel, to review the question of releasing publicly such contributions rejected for matching purposes.

5. Current Investigation

Pursuant to C.10:4-12 of the Open Public Meetings Law, the Commission went into Executive Session to discuss the current investigation involving a 1977 election. The Commission discussed this matter after a report by the Executive Director.

6. Executive Session Minutes of Commission Meeting of July 18, 1977

The Commission remained in Executive Session and approved these minutes.

7. Commission Personnel Matter

The Commission remained in Executive Session to discuss a personnel matter regarding a member of the Commission staff. At the conclusion of the discussion, the Commission returned to public session.

8. Public Minutes of July 18, 1977 Commission Meeting

The Commission approved these minutes.

9. New Jersey Supreme Court Opinion Applying \$600 Contribution Limit to Independent Candidates for Governor

The Commission discussed this opinion and alternative courses of action for the Commission in informing the candidates of this decision and its contents and assuring their compliance with the \$600 contributions limit. At the conclusion of the discussion it was agreed that the Commission would forward immediately a letter to all independent candidates for Governor informing them of the essence of the New Jersey Supreme Court Opinion in the case of Common Cause v. New Jersey Election Law Enforcement Commission and, specifically, of the following:

1. They must immediately return to the contributor the amount of any contribution which exceeds \$600.
2. All campaign funds presently on hand and all contributions received after the date of the receipt of the Commission letter must first be applied to repayment of such contribution in excess of \$600 before those funds may be used for any other campaign purpose.
3. All contributions in excess of \$600 must be repaid in full not later than Friday, September 30, 1977.
4. The deadline for notifying the Commission of an intention to seek to qualify for public financing has been extended to August 26, 1977.
5. No candidate may qualify for public financing or receive public funds until every contribution in excess of \$600 has been returned to the contributor and all of the other requirements for qualification have been met.
6. They must advise the Commission in writing on or before Friday, August 19, 1977 whether they have received any contribution in excess of \$600, and if so, the date upon which such contribution in excess of \$600 has been returned to the contributor.

10. Additional Public Matching Funds Re Brendan T. Byrne
Commissioner Alexander moved that an additional \$600 in contributions to Brendan T. Byrne (Submission 1, Deposit 2, Item 14) be considered eligible for matching with public funds where a contribution from a professional association was allocated to a named shareholder of the professional association. The motion failed for lack of a second.
11. Common Cause v. New Jersey Election Law Enforcement Commission - New Jersey Supreme Court Opinion
In response to a question from Commissioner Alexander, Counsel set forth for the Commission possible bases of appeal of the opinion of the New Jersey Supreme Court in this matter and the merits and demerits of each. Counsel indicated that with the exception of an equal protection question, the decision is one of state statutory interpretation and, thus, not likely to be accepted for appeal by the United States Supreme Court. The Commission discussed the subject and agreed not to appeal the decision of the New Jersey Supreme Court.
12. Advisory Opinion Request 0-30-77 (Thomas Saybolt - Ford Motor Company Political Action Committee)
The Commission discussed this advisory opinion request with particular concentration on the topic of how and under what conditions a political action committee such as this one could forward contributions from individual employees to gubernatorial candidates and under what conditions such contributions might be considered individual contributions or contributions from the political action committee for purposes of the \$600 limit and as eligible for match with public funds. The Commission agreed that Counsel should forward to the political action committee a copy of the Commission's proposed regulations re political action committees.
13. Adjournment
The Commission adjourned the meeting at 5:15 p.m.

Respectfully submitted,



LEWIS B. THURSTON, III
Executive Director