

↖
NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

JUNE 28, 1982

PRESENT

Andrew C. Axtell, Chairman
M. Robert DeCotiis, Member
*Haydn Proctor, Member
Alexander P. Waugh, Jr., Member
Scott A. Weiner, Executive Director
William R. Schmidt, Assistant Executive Director
Edward J. Farrell, General Counsel
Gregory E. Nagy, Staff Counsel
Sidney Goldmann, Former Chairman

Chairman Axtell called the meeting to order and announced that pursuant to the Open Public Meetings Law, P.L. 1975, c.231, annual notice of the meetings of the Commission, as amended, has been filed with the Secretary of State's office, and that copies have been filed in the State House Annex, and mailed to the Newark Star Ledger, and the entire State House press corps.

The meeting convened at 10:05 a.m. at the offices of General Legal Counsel Farrell in Morristown, N. J.

*Commissioner Proctor arrived at the meeting at 10:25 a.m.

1. Approval of Minutes of Public Session of Commission Meeting of June 7, 1982

Executive Director Weiner distributed the minutes of the June 7, 1982 Commission meeting. The Commission reviewed the minutes and on a motion by Commissioner DeCotiis, seconded by Chairman Axtell and a vote of 3-0 (with Commissioner Proctor not voting because he had not arrived at the time of the vote), the Commission approved the minutes of the public session of the June 7, 1982 meeting.

2. Report on S-1195 - Personal Use of Campaign Funds

Executive Director Weiner reported that S-1195, introduced by Senator Perskie and dealing with the personal use of campaign funds, had not yet been listed in the Assembly for a vote. Mr. Weiner said that S-1195 may come up for a vote in July if the Assembly meets during that month.

3. Report on Public Hearing Concerning Public Financing

Executive Director Weiner reported on the public hearing conducted by the Assembly State Government Committee concerning amendments to the public financing statute. He reported that he was the first speaker before the Committee and in his comments before the Committee he stressed the need to be comprehensive in approaching amending the statute and the need to review the entire

statute carefully and not rush with amendments. He reported that the printer had provided ten copies of the printed report which were distributed to committee members. Among those testifying were Assemblyman LaCorte who urged the elimination of public financing for the gubernatorial primary, Common Cause, and Neil Upmeyer. He reported that there exists within the Committee strong sentiment for retaining the expenditure limit and for providing "seed money" to gubernatorial candidates. He said the Committee acknowledged the work of the Commission and that Chairwoman Kalik was not going to attempt to report a bill out that day.

Executive Director Weiner also reported on the afternoon session of the meeting of the Assembly State Government Committee. He and a representative of New Jersey Common Cause met with Committee members and discussed proposals put forth by Chairwoman Kalik. Mr. Weiner distributed a June 25, 1982 memorandum to the Commission concerning a "working proposal" for modifying the public financing statute derived from the meeting with Chairwoman Kalik and Committee members Assemblymen Zimmer and Franks.

Mr. Weiner said that a staff evaluation of the proposals put forth by the members of the Assembly State Government Committee would be made available for the July 12 Commission meeting.

4. Staff Report Concerning Audit of the Lan for Governor Committee

The Commission reviewed the staff report concerning the audit of the Lan for Governor Committee and noted that the Lan Campaign had a total of \$11,156.99 cash on hand of which \$3,120.03 is in the public funds account and \$8,036.86 is in a campaign depository account. Executive Director Weiner suggested that the Lan Campaign be required to either close out its campaign accounts or refund the cash on hand to the State of New Jersey with the money being put in an escrow account to be returned to the Lan Campaign to settle outstanding obligations and this should be accomplished within 30 days. On a motion by Commissioner DeCotiis, seconded by Commissioner Proctor and a vote of 4-0, the Commission accepted the staff recommendation, with the amendment requiring the Lan Campaign either to close out its accounts within 30 days or refund the cash on hand to the State of New Jersey which will then place the funds in an escrow account to be returned to the Lan Campaign when the outstanding obligations are to be paid.

5. Discussion of the Applicability of the Campaign Reporting Act to the 1982 Nuclear Freeze Referendum

A question will appear on the general election ballot this November regarding the proposed nuclear arms freeze. Mr. Weiner reported that interested citizen groups had asked him about the reporting requirements of such groups when they solicit contributions and spend funds on behalf of the nuclear freeze referendum. Based on initial staff discussions, Staff Counsel Nagy prepared a three-page memorandum dated June 25, 1982 concerning reporting requirements of committees supporting or opposing the nuclear freeze referendum. Mr. Weiner summarized Mr. Nagy's memorandum noting two fundamental questions, namely, does the Act apply at all to this proposed referendum and, if so, what is the nature of the reporting requirements to be imposed on the groups supporting or opposing the referendum. The issue in the first case is whether this is a "public question" as defined in the law and requiring campaign contributions and expenditures reporting. Should a decision be reached that the Reporting Act does apply, then what types of reports and what depth in detail will be required particularly in light of the anticipated participation by various civic groups who normally do not participate in campaign activities for candidates or for other types of referenda, e.g. bond issues or constitutional amendments.

Former Chairman Goldmann expressed his concern that interpreting the law to apply to this type of public question which is "non-binding" and appeals to national office holders rather than state office holders, would envelope the Commission in a "thicket". Former Chairman Goldmann also noted that the legislative intent behind the Campaign Contributions and Expenditures Reporting Act focused on candidate reporting.

General Legal Counsel Farrell stressed the point that the law defines "public question" as "any question, proposition or referendum required by the legislative or governing body of the state... to be submitted by referendum procedure to the voters of the state ... for decision at elections." Furthermore, the Reporting Act applies "in any election at which a public question is to be voted upon by the voters of the state ...". Commissioner Waugh suggested that one approach might be for the Commission to go ahead with requiring reporting in the possibility that the requirement might be challenged in court. He expressed the opinion that if it is a matter of law then the Commission can do no less.

It was noted that the referendum deals with a national security and foreign policy issue which is the constitutional responsibility of the President and the United States Senate and, to some extent, the House of Representatives. Furthermore, the November referendum takes on a character of petitioning the national government and the character of an opinion poll. On the other hand,

concern was expressed that the outcome of the referendum could influence state policy with regard to nuclear energy and the related topics. In addition, the Commission discussed that a strong public interest for early disclosure may be present in a non-binding referendum. An example of a local non-binding referendum addressing zoning amendments was discussed as such an example.

Staff Counsel Nagy and General Legal Counsel Farrell noted the court case, N.Y.C.L.U. v. Acito, wherein the Federal District Court held that New York election officials could not constitutionally require the local American Civil Liberties Union Chapter to disclose contributors even though the Chapter had contributed to a ballot proposition. Both General Legal Counsel Farrell and Former Chairman Goldmann noted that the Acito decision was not a good decision but that New York election officials had not appealed the decision to a higher court.

Mr. Weiner advised the Commission that the staff would be discussing the various issues in greater detail and would report back to the Commission at its next meeting on July 12, 1982.

6. Proposed Communication to the New Jersey Supreme Court Concerning Audit of Financial Records of Lawyers-Lobbyists.

The Commission discussed the draft of a letter to Chief Justice Wilentz which General Legal Counsel Farrell had mailed to the Commission members under date of June 23, 1982. On a motion by Commissioner Proctor, seconded by Commissioner DeCotiis, and a vote of 4-0, the Commission authorized the letter, as written, to be sent to the Chief Justice.

7. Scheduling of Next Commission Meeting

The next Commission meeting is scheduled for July 12. Executive Director Weiner suggested that the meeting be started at 1:30 p.m. and be held in Trenton. He noted that a reception for Helen Letts was being held in Trenton from 5-7 p.m. on that date. The Commission concurred in holding the next meeting in Trenton at 1:30 p.m. on July 12.

8. Executive Session

On a motion by Commissioner Waugh, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission voted to resolve to go into executive session to review the executive session minutes of June 7, 1982 and to discuss investigations and enforcement actions, the results of which will be made public at their conclusion.

Public Session Minutes
June 28, 1982 meeting
Page 5

9. Adjournment

On a motion by Commissioner DeCotiis, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to adjourn.

Respectfully submitted,



SCOTT A. WEINER
Executive Director

SAW/cm