

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

SEPTEMBER 24, 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
Gregory E. Nagy, Staff Counsel
Edward J. Farrell, General Counsel
Judge Sidney Goldmann, Consultant
* Leslie G. London,
Election Finance Analyst

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 10:15 a.m. at the Commission's office, Trenton, N. J.

1. Discussion of Next Meeting

The Commission reviewed its meeting schedule and decided to meet on Tuesday, October 12, 1982 at Commissioner DeCotiis' office.

2. Pending Legislation - Assembly Bill 1875

The Commission reviewed a September 24, 1982 memorandum (3 pages) from the Executive Director on the subject of pending legislation A-1875, sponsored by Assemblyman Vincent Pellechia. The Bill would amend the public financing law by establishing a "two tier" contribution limitation.

Before the Commission reviewed Mr. Weiner's memorandum and discussed the issues raised by A-1875, Commissioner DeCotiis withdrew from the discussion.

Mr. Weiner made four points. Firstly, the Bill deals solely with the contribution limit and fails to deal with any of the other parts of the public financing formula, i.e. it is not comprehensive. Secondly, in Mr. Weiner's judgment, the proposal misconstrues the purpose of the contribution limit. Thirdly, because of its retroactive clause, the proposal for raising the contribution limit to \$2,500 for candidates who do not accept public funds makes the bill a personal bill for Congressman Roe and Joseph Sullivan. Fourthly, the bill at present has 44 co-sponsors and thus has broad support.

* Ms. London attended a portion of the executive session meeting.

Chairman Axtell noted that this could be a one-time proposal to aid Congressman Roe and Mr. Sullivan, neither of whom were elected and neither of whom hold elected State office at present. Mr. Weiner said that a change in the contribution limit should be made as part of an overall reform bill. Former Chairman Goldman noted that if A-1875 were enacted, it would encourage candidates to run up debts during the campaign and then, after the fact, secure legislative approval for a contribution limit higher than that imposed on competitors during the campaign. Commissioner Waugh noted that A-1875 is a classic attempt to "change the rules of the game after the fact".

Chairman Axtell asked Mr. Weiner if ELEC had been approached about the bill as it was being developed. Mr. Weiner said that he had not been made aware of the bill until it had been drafted despite good liaison with the legislative leadership and the State government committees in the Assembly and Senate.

Commissioner Proctor raised the issue whether ELEC should take the initiative. Mr. Weiner said that in his judgment, it was entirely appropriate for the Commission to say that it is opposed to A-1875 for a number of reasons. He said that in his judgment, A-1875 is fraught with problems, specifically the two-tier system of contribution limits, the incremental change in the public financing law and the fact that A-1875 is not the end result of any overall reform package.

On a motion by Commissioner Waugh, seconded by Commissioner Proctor and a vote of 2-0, with one abstention (Chairman Axtell), the Commission voted to oppose A-1875 as written.

3. Approval of Minutes of Public Session of Commission Meeting of September 13, 1982.

Assistant Executive Director Schmidt noted two errors on the September 13, 1982 minutes that had been called to his attention by former Chairman Goldman. Firstly, Judge Goldman's name had been left off the list of those present on page one. Secondly, on page two, third paragraph, eighth line, the word "accepted" was not fully typed out.

On a motion by Commissioner Proctor, seconded by Commissioner DeCotiis, and a vote of 4-0, the Commission approved the minutes of the public session of September 13, 1982, as amended.

4. Staff Recommendations for Amending the Campaign Contributions and Expenditures Reporting Act of 1973

Firstly, the Commission discussed the issue of what threshold amount should be established which would trigger campaign report filings by a multi-candidate committee supporting candidates having no R-1 reporting obligation under the Act. (This was the seventh staff recommendation discussed by the Commission at its September 13, 1982 meeting.) The Commission discussed the newly introduced short form for reporting by candidates, all of whose campaign activity is handled by a multi-candidate committee; the short form is being used for the 1982 general election.

The Commission also discussed Form C-1 on which candidates report contributions in excess of \$100 (\$200 if the recommended change is enacted).

On a motion by Commissioner Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission decided to recommend that a multi-candidate committee report its receipts and disbursements when it spends over \$4,000 and report contributions in excess of \$200 on Form C-1 when the Committee spends less than \$4,000.

Next the Commission discussed the staff recommendation of a 48 hour notice to the Commission of any significantly large contributions, e.g. \$500, received by a campaign after the filing of the proposed 10 day pre-election report. (This was the ninth recommendation considered by the Commission at its September 13, 1982 meeting.) The Commission reviewed a September 24, 1982 memorandum (3 pages) from Juana M. Schultz, Director of Compliance and Review, setting forth examples of contributions received during the last seven days of a campaign. Ms. Schultz' examples were drawn from four general 1981 legislative campaigns and two non-partisan mayoral campaigns.

General Legal Counsel Farrell said that the staff recommendation is to move the reporting period back three days, from seven days to 10 days, but to require the reporting of significant contributions between the 10 day report and the date of the election. Mr. Weiner noted that the new requirement would appear to apply only to campaigns raising or spending relatively large sums of money. Former Chairman Goldmann said that in his judgment, the "burden" isn't too much of a burden on larger campaigns because they are usually geared up to handle the reporting and record keeping. Mr. Weiner said that the proposal of the 48 hour notice is one way to continue a reasonable level of public information on contributions received prior to the date of the election.

Commissioner DeCotiis expressed his concern that the 48 hour requirement would generate more complaints. Former Chairman Goldmann noted the Commission has the power to consider mitigating circumstances and to be "reasonable" in its initiating complaint proceedings and in its imposition of the fines. Mr. Weiner said that the 48 hour notice provision would help promote public confidence in the entire disclosure system.

On a motion by Commissioner Waugh, seconded by Commissioner Proctor and a vote of 3-1, with Commissioner DeCotiis in the negative, the Commission decided to recommend the change in pre-election reporting from seven days to 10 days and to recommend that campaigns give 48 hour notice of contributions in excess of \$500.

The Commission next discussed the staff recommendation that the 48 hour notice provision for significant contributions received by ongoing political committees be imposed on such committees. (This was part of the fourteenth staff recommendation discussed by the Commission at its September 13, 1982 meeting.) After a lengthy discussion of the types of organizations which would be required under this recommendation to file 48 hour notifications of significant contributions on a motion by Commissioner DeCotiis, seconded by Commissioner Proctor and a vote of 3-1, with Commissioner Waugh in the negative, the Commission decided not to impose the 48 hour notice requirement on "continuing political committees".

The Commission decided to define "continuing political committee" by regulation.

Executive Director Weiner next raised the issue of PACs organized by industries regulated by the State of New Jersey, specifically banks, insurance companies and utilities. He noted that federal law and FEC regulations allow corporations to spend funds to set up PACs. He also noted the opinion of the New Jersey Attorney General, issued in 1978 or 1979, in which the Attorney General advised that New Jersey regulated corporations could not use corporate funds for the initial administrative costs of setting up PACs. Mr. Weiner said that the result of the Attorney General's opinion was that PACs organized by regulated industries for federal elections could not make political contributions in New Jersey. Mr. Weiner recommended the Commission consider recommending amending the law to allow regulated industries to use corporate funds to administer PACs.

Commissioner Waugh suggested that the problems faced by the regulated industries and their PACs are of no concern to the Commission.

General Legal Counsel Farrell noted that federal law permits these regulated industries to set up PACs and make contributions to federal candidates, but those same PACs cannot make contributions in New Jersey because of the Attorney General's Opinion. Mr. Farrell said that in his judgment this raises constitutional considerations and he noted the U. S. Supreme Court decision concerning involvement of corporations in the political process.

On a motion by Commissioner Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission decided to make no recommendation to amend the law to permit the use of corporate funds by regulated industries to set up PACs.

The Commission then considered eight additional staff recommendations for amending the law as set forth in Executive Director Weiner's September 21, 1982 memorandum concerning additional information for the agenda for the Commission meeting of September 24, 1982. On a motion by Commissioner Waugh, seconded by Chairman Axtell and a vote of 4-0, the Commission accepted all eight staff recommendations for amending the law: (1) deletion of committee-men and delegates; (2) deletion of the "political information organization" definition; (3) specifying that the Governor may appoint any Commissioner as chairman; (4) requiring county clerks to deliver candidates' names to ELEC; (5) obligating political party committees to advise candidates of allocations to them of expenditures by the committees; (6) eliminating Form B-1, reporting by banks; (7) including a notice of filing requirement in the nominating petition, N.J.S.A. 19:13-4; and (8) allowing for administrative termination of reporting.

5. Advisory Opinion Request from Senator Richard J. Codey

The Commission reviewed a September 14, 1982 letter signed by Lawrence DeMarzo, past treasurer of Citizens for Codey, a campaign fund established for Senator Richard J. Codey. The Executive Director reported that he was advised by Mr. DeMarzo that Senator Codey requested that Commission consideration be postponed for one meeting. After discussing the request and in light of the Legislature's consideration of S-1195, the Commission decided to table the advisory opinion request for one meeting. The Executive Director will confirm whether Mr. DeMarzo and Senator Codey wish to withdraw their request for an advisory opinion.

6. Executive Director's Report

Mr. Weiner reported that action on new and additional space is proceeding and that the Commission might almost double its square footage but will probably be on two floors, the 11th and 12th.

Mr. Weiner reported that he and Juana Schultz, Director of Compliance and Review, had attended the county clerks' meeting held in Cape May on Friday, September 17, 1982.

Mr. Weiner reported that Assemblywoman Kalik, chairwoman of the Assembly State Government Committee, has been considering revisions of Title 19A. He also reported that the Eagleton Institute has expressed an interest in holding one or more forums to be jointly sponsored by the Attorney General, the Secretary of State, the county clerks and the Commission, with said forums to be used to discuss the many issues associated with revising Title 19A. Mr. Weiner reported that the county clerks were receptive to the idea and appreciated the fact that the Commission has been talking with them. Furthermore, Mr. Weiner reported that the Attorney General has expressed some interest and that the Election Division of the Secretary of State has been developing proposals. Mr. Weiner envisioned the forums as serving as a basis for identifying and discussing the existing weaknesses in the law. The forums would have a format of an invited panel and invited participants, with the number limited.

General Legal Counsel Farrell cautioned that revision of Title 19A can be seen as empire building. He also expressed the concern of comingling enforcement and administration.

Mr. Weiner acknowledged both of Mr. Farrell's concerns. He said that the Commission and he would have nothing specific to say unless there is a proposal on the table. The forums and the other communications among the interested parties would be a means for working cooperatively but separate and apart from what the Legislature and particularly the Assembly State Government Committee are doing. After lengthy discussion, the Commission decided that it did not want to co-sponsor the proposed forums at the Eagleton Institute.

Mr. Weiner reported that the Conference on Governmental Ethics Laws will be held the first or second week in December in Columbus, Ohio. This is the conference that was held last year in Charleston, South Carolina and was attended by Executive Director Weiner, Assistant Executive Director Schmidt and General Legal Counsel Farrell.

7. Per Diem Payments to Commission Members

The Commission discussed proposing that Commission members be paid for attending meetings on behalf of the Commission. General Legal Counsel Farrell pointed out that the Appropriations Act states "payment to members of Election Law Enforcement Commission a per diem amount of \$200 for each meeting of the Commission attended" and makes no reference to per diem for attending meetings other than Commission meetings.

8. Amendments to Lobby Act

Mr. Weiner reported that he had met with James Morford of the New Jersey Chamber of Commerce to discuss possible changes to the Lobbyist Disclosure Act.

9. Fiscal Year 1984 Budget Recommendation

Executive Director Weiner reviewed the recommendations he had made to the Commission at its last meeting. Firstly, he said he was recommending only three instead of five new positions, namely the clerk stenographer, the report examiner, and the senior data entry clerk. Commissioner DeCotiis asked if there were any open positions at present to which Mr. Weiner said yes there are three unfilled positions which have remained unfilled because of the FY'83 spending plan which did not provide full funding of increments and cost of living increases.

Mr. Weiner pointed out the printing recommendation, specifically the cost for xeroxing reflected a conversion in 1982 to a least-purchase. He also noted that the proposed increase in printing costs reflects a proposal to completely revise ELEC's forms during the next fiscal year. Mr. Weiner pointed out the data processing proposed budget which he had increased from \$80,000 to \$110,000 following discussions with representatives of Data Processing from the Department of the Treasury. Of the \$110,000, the first \$50,000 is for the Commission's normal usage. The remaining \$60,000 is the initial cost for beginning redesign of our existing programs which have been changed and amended so many times that they will, in a year or two, be nearly unusable. Therefore, he is recommending, with the concurrence of the representatives of Data Processing, to begin to design new programs. Mr. Weiner and the Commission also reviewed contractual services, proposed microfilming, proposed new equipment (including furniture, word processing equipment, lateral files and a microfiche system) and Commission per diem.

On a motion by Commissioner Proctor, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission voted to accept the staff recommendation for the Fiscal Year 1984 budget.

10. Executive Session

On a motion by Commissioner Proctor, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission resolved to go into executive session to review the executive session minutes of September 13, 1982 and to discuss investigations and enforcement actions, the results of which will be made public at their conclusion.

11. Adjournment

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

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Scott A. Weiner".

SCOTT A. WEINER
Executive Director