

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

JUNE 22, 1983

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, Asst. Executive Director
Edward J. Farrell, Counsel

ABSENT

Sidney Goldmann, Consultant

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 meeting of the Commission, had been filed with the Secretary of State's office, and distributed to the entire State House Press Corps.

The meeting convened at 10:17 a.m. at the office of Commissioner Proctor, 501 Grand Avenue, Asbury Park, N. J.

1. Approval of Minutes of Public Session of Commission Meeting of June 6, 1983

On a motion by Commissioner Proctor, seconded by Commissioner Waugh and a vote of 3-0, the Commission approved the minutes of the public session of June 6, 1983. Commissioner DeCotiis did not vote on the minutes because he did not attend the public session of the June 6, 1983 Commission meeting.

2. Discussion of Insurance Agents - Prohibition Against Making Contributions

The Commission reviewed a May 31, 1983 one-page letter from John J. McCarthy, along with a one-page April 21, 1983 letter Mr. McCarthy wrote Attorney General Kimmelman. Mr. McCarthy, in his May 31, 1983 letter addressed to the Commission, asked if the Commission would consider requesting the Attorney General for an opinion whether insurance agents and brokers are prohibited by N.J.S.A. 19:34-45 from making political contributions.

Mr. Weiner noted that the issue raised is unsettled and guidance from the Attorney General on the application of the statute to insurance agents would assist the Commission in its administration of the Act while providing guidance to insurance agents throughout the State. Mr. Weiner recommended the Commission refer Mr. McCarthy's inquiry to the Attorney General for an opinion.

On a motion by Commissioner DeCotiis, seconded by Commissioner Proctor and a vote of 4-0, the Commission decided to request the Attorney General for an opinion on this issue.

3. Attorney General's Opinion Concerning Political Contributions by the Shell Oil Company

Mr. Weiner distributed copy of a three-page June 14, 1983 Attorney General's opinion in response to the Commission's request. In the opinion of the Attorney General, N.J.S.A. 19:34-45 does not encompass the political contributions made in New Jersey by the Shell Oil Company.

4. Adoption of Regulations Concerning Pre-Candidacy Activity - Testing the Waters

The Commission reviewed a two-page June 17, 1983 memorandum concerning "Adoption of Regulations" from Executive Director Weiner. Mr. Weiner recommended that the Commission adopt the Pre-Candidacy Activity Testing the Waters Regulations as proposed. Mr. Weiner pointed out that by adopting the regulations as proposed, the Commission would not be accepting the proposal offered by FEC Commissioner Reiche and Neil Upmeyer to extend the contribution limits to funds received during the pre-candidacy period, the proposal by Assemblyman Gallo and Steven Edelstein, Esq. to establish a date before which contributions and expenditures would not be considered reportable, the proposal by Steven Edelstein, Esq. to define more precisely how financial transactions associated with an activity would be allocated between "Testing the Waters" and the reasonable and normal activities of an elected public official and the proposal of Common Cause that the term "Testing the Waters" be defined in the definition section of the regulations.

The Commission reviewed Mr. Weiner's memorandum. Commissioner DeCotiis asked for clarification when an individual would have to report. Mr. Weiner responded that an individual would have to report only when he or she becomes a candidate.

On a motion by Commissioner DeCotiis, seconded by Commissioner Waugh and a vote of 4-0, the Commission adopted the regulations, as published, as PRN 1983-186 on April 18, 1983, at 15 N.J.R. 616(a) and authorized the Executive Director to execute the Certification of Proposal, Adoption and Promulgation.

5. Adoption of Personal Financial Disclosure Regulations

The Commission reviewed Mr. Weiner's June 17, 1983 two-page memorandum concerning "Adoption of Regulations", specifically, the section on page 2 dealing with personal financial disclosure regulations. Mr. Weiner recommended that the Commission adopt the proposed regulations, as amended by the Commission.

Mr. Weiner noted that Staff Counsel Nagy and he met with Al Perrone, Counsel to the Legislature, and that another meeting will be held in July where General Legal Counsel Farrell and Mr. Nagy will discuss the development of another statute so that the disclosure requirements for incumbents and legislative candidates would be the same.

On a motion by Commissioner Waugh, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission adopted the regulations for Personal Financial Disclosure Statements of Candidates for the Office of Governor and Candidates for the Senate or General Assembly, as republished, as PRN 1983-230 on May 16, 1983, at 15 N.J.R. 799(a) and authorized the Executive Director to execute the Certification of Proposal, Adoption and Promulgation.

6. Pending Legislation

Mr. Weiner first reported on the status of the bill to amend the Campaign Reporting Act as recommended by the Commission. He said that on Monday, June 20, 1983, the Assembly State Government Committee merged the bills proposed by Assemblymen Bocchini and Zimmer and reported the bill out. The only major change the Committee made from the recommendations of the Commission is that the Committee bill did not raise the dollar amount of contributions that need not be disclosed. The Committee bill kept the threshold at \$100 as opposed to \$200 as proposed by the Commission. Chairman Axtell asked why the Committee did not make the change. Mr. Weiner responded that the Committee decided that \$100 may have been too high in 1973 and that \$100 is still significant and worthy of disclosure. The Committee also gave consideration to the relationship of \$100 in New Jersey to the \$200 threshold in national elections. Mr. Weiner said the Committee had kept the Commission's 48 hour notice provision but had decreased the threshold from \$500 to \$250. On another change the Committee made was to provide only a notice on nominating petitions rather than both a notice and a form for candidates to submit to the Commission. Mr. Weiner said county clerks had noted a problem in printing the form as part of the nominating petitions. It was for that reason the Committee dropped the Commission's recommendation about including the form as part of the petition itself. He said the Committee bill also prohibited cash contributions but raised the threshold of the \$20 recommended by the Commission to \$100. However, the Committee did add a provision that contributions in cash had to be supported by a contribution card signed by the contributor. Mr. Weiner said that the effective date for the bill, if enacted, would be immediate except for the provisions pertaining to ongoing political committees; those provisions will not take effect until 1984.

Next, Mr. Weiner reported on a proposal raised by Senator Cardinale who has suggested that candidates be allowed to send in their reports by certified mail and that the certification would

represent proof of mailing. Mr. Weiner noted that the Commission's position has been that disclosure does not occur until the information is in the Commission's hands. Mr. Weiner also noted that the amendments to the Reporting Act would allow candidates to close their books two days before the reporting date. Furthermore, in the case of 25 day, 7 day and 15 day reports, the Commission has made arrangements with county clerks and State police for a pick up service. Finally, Mr. Weiner noted that a candidate could make use of overnight message services to deliver reports timely with the Commission, although that is expensive. Mr. Weiner noted the Senator is still interested in his proposal. General Counsel Farrell suggested that the pending amendments to the Act might impart upon the desirability of the proposal. After discussion, the Commission agreed to await the outcome of the pending legislative action and delay further consideration until after it has had experience administering the amendments.

Mr. Weiner then reported on the bill to impose an \$800 contribution limit on legislative candidates. He said that the hearing scheduled for the Assembly State Government Committee was cancelled.

Finally, Mr. Weiner reported on the bill to permit gubernatorial candidates who did not take public funds to accept contributions up to \$2,500. The bill, which has 43 co-sponsors, is on the Assembly State Government Committee agenda for consideration on Thursday, June 23. Mr. Weiner noted that the bill would chiefly, if not exclusively, aid gubernatorial candidate Robert Roe, who is in debt in an amount in excess of \$100,000. Mr. Weiner noted that there is a feeling among the members of the Assembly to help Congressman Roe on this problem. Mr. Weiner observed that the Commission's position has been that the public financing formula should be revised as a total package. He referred to a September 24, 1982 memorandum he had prepared for the Commission outlining reasons against the proposal to raise the contribution limit to \$2,500 for those candidates not accepting public financing; those reasons included:

- (a) the proposed change is incremental rather than comprehensive;
- (b) the change would provide a disincentive for gubernatorial candidates to accept public financing; and
- (c) it represents special legislation and would set an inappropriate precedent.

7. Issue of Early Filing of Reports

Mr. Weiner said that one of the issues raised by Senator Cardinale is the Commission's rejection of reports filed prior to the filing date. Mr. Weiner said that the staff send candidates and treasurers a form letter when reports are dated too early and that the form letter advises the recipient either to amend the report or certify that there were no activities since the date of filing. Mr. Weiner said he had received a letter from Senator Laskin, who had received such a form letter from ELEC and who was annoyed with the form letter and the point raised by it.

Mr. Weiner said he had responded to the Senator explaining the provisions in the law and the procedures followed by the Commission. Mr. Weiner also noted that the proposed changes to the Reporting Act would generally resolve the problems raised by Senator Cardinale and Senator Laskin.

Commissioner DeCotiis asked how many letters on this issue we sent out during the primary and how widespread is the problem of early dating of reports? Mr. Weiner said he would provide the Commission with that information.

8. Executive Director's Report

Mr. Weiner noted that the cost of his attending the National Conference of State Legislatures Conference in San Antonio will be met by the N.C.S.L. which will pay for his air fare and hotel.

Mr. Weiner distributed copies of The Sunshine Boys, Lobbyists, Interest Groups and Disclosure Laws, by Neil Upmeyer.

Mr. Weiner said that Staff Counsel Nagy and he are recruiting for an Associate Staff Counsel.

9. Executive Session

On a motion by Commissioner Proctor, seconded by Commissioner Waugh and a vote of 4-0, the Commission voted to go into executive session to review the executive session minutes of June 6 and May 2, and to discuss personnel matters, enforcement actions and investigative matters, the results of which will be made public at their conclusion.

10. 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