

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

JULY 28, 1987

Present

Stanley G. Bedford, Chairman  
Owen V. McNany, III, Vice Chairman  
Andrew C. Axtell, Commissioner  
Alexander P. Waugh, Jr., Commissioner \*  
Frederick M. Herrmann, Ph.D., Executive Director  
Edward J. Farrell, General Counsel  
Jeffrey M. Brindle, Deputy Director  
Gregory E. Nagy, Staff Counsel

\* Participated by telephone beginning at 11:20 a.m.

Chairman Bedford called the meeting to order and announced that pursuant to the "Open Public Meetings Act," P.L. 1974, c. 231, special 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 10:14 a.m. at 28 W. State Street, Trenton, New Jersey.

1. Approval of Public Session Minutes of June 16, 1987

On a motion by Commissioner Axtell, seconded by Vice Chairman McNany and a vote of 3-0, the Commission approved the Public Session Minutes of June 16, 1987 as written.

Following the adoption of the minutes of the previous meeting, newly appointed Chairman Stanley G. Bedford presented former Chairman Andrew C. Axtell with the gavel he used during his tenure as Chairman of the Commission. Chairman Bedford thanked Commissioner Axtell for his "many services to the Commission" throughout the years.

2. Executive Directors' Report

A. Computer Update

Executive Director Herrmann reported that staff has been interviewing people for the position of systems administrator. He suggested that one candidate appeared to be well qualified.

Chairman Bedford asked whether the salary was consistent with the demands of the position. Executive Director Herrmann indicated that the Office of Telecommunications and Information Systems (OTIS) in the Department of the Treasury had worked with the Commission in establishing both the position and

salary. In his opinion, therefore, he was satisfied that the salary was adequate for the demands of the job.

Vice Chairman McNany asked about the skills required for the job. Deputy Director Brindle responded that the individual chosen would, among other things, be able to evaluate the system and design new programs. Executive Director Herrmann added that it is hoped that the computer person would be able to design a program for press releases in the fall as well as retrieve G-85 material. He said that bugs still exist in the system, one of which involves getting G-85 data out of the system. Executive Director Herrmann also indicated that the Federal Election Commission's (FEC) remote access project is available again and that the person hired as systems administrator would be responsible for implementing it. He added that Staff Counsel Nagy, Compliance and Information Director Evelyn Ford, and he will be visiting the FEC offices in Washington, D.C. on July 29th to the 30th and that the remote access project would be on their agenda.

#### B. Outside Activities

Executive Director Herrmann mentioned an article he had published in the most recent edition of Campaigns and Elections Magazine. He said that the article is about the public financing program in New Jersey and is a good promotional piece for the Commission. He thanked Deputy Director Brindle, Staff Counsel Nagy, and Dr. Herbert E. Alexander for their help in preparing it.

The Executive Director mentioned that he was asked by former ELEC Executive Director Lewis Thurston to teach a class on Ethics in Government at Kean College on Monday evening, August 3, 1987.

Executive Director Herrmann reported that he has proposed to members of the Northeast Conference on Lobbying that they meet at the Council on Governmental Ethics Laws (COGEL) Conference in September to plan for a meeting in New York City in December and a one-day conference in New Jersey in August of 1988. He said that last year's meeting in Baltimore was a huge success.

Executive Director Herrmann said that he will be attending the Council on State Governments Regional conference in August. He reported that he is moderating a campaign financing panel which includes Dr. Herbert E. Alexander, New York Secretary of State Gail Shaffer, Dr. Larry Sabato, and Mr. Curtis Gans.

The executive director next mentioned the COGEL Conference, asking the Commissioners to please advise Richard Magee, Director of Administration, as to whether they planned to attend. Mr. Magee will make all the necessary arrangements. He asked the Commissioners to contact him within the next two weeks.

Finally, Executive Director Herrmann invited all the ELEC Commissioners to attend the Commission picnic to be held on August 7, 1987, at the home of Staff Counsel Nagy in Hopewell, N.J. He said that invitations are in the mail.

#### C. Budget

Executive Director Herrmann reported that Governor Kean signed the FY-88 budget which provided ELEC with approximately \$1.1 million.

Executive Director Herrmann then reviewed the Commission's FY-89 budget priorities. This review was necessary because the budget submission schedule established by the Office of Management and Budget (OMB) in the Department of the Treasury has been changed. The new schedule requires agencies to make budget submissions by the end of July as opposed to November. Executive Director Herrmann explained that he was therefore presenting a budget review memorandum to the Commission now, at the beginning of the process, to acquire the Commission's approval for the priority recommendations contained in it.

He said that in the past, detailed spread sheets were submitted to the Commission in September, but because of the new schedule it was not possible to do so at this time. He said that the spread sheets containing the continuation budget could be presented in the fall if the Commissioners desired, but that in his opinion this action would be unnecessary. Executive Director Herrmann said that the official budget submissions contain similar detail to that in the spread sheets; and, if any member of the Commission desired, that information could be presented to them in lieu of the internal document.

Executive Director Herrmann then summarized the memorandum. He said that the ELEC budget for FY '88 is \$1,067,000. He said that OMB added \$56,000 for salary increases and inflation and used this new number, \$1,123,000, as the base target for FY '89. Executive Director Herrmann reported that ELEC is asking for an additional \$149,000 for increases in the Commissioners per diem, five new positions, and a research grant program.

In addition to the review of the spending priorities vis-a-vis the Commission's regular operating budget, the Executive Director also discussed the public financing budget for FY '89. He said that the Commission request is for \$10,560,000. He said that \$10,300,000 is for disbursements to candidates in the primary and \$260,000 for administrative costs. Executive Director Herrmann said that the administrative costs would, for the first time, be included in the Commission's regular operating budget. He said that the money would be provided in the form of a supplemental appropriation. Executive Director Herrmann said that only disbursements to candidates would be made from the gubernatorial elections fund. He said that the new system is in the interest of the Commission because of its proposal to make the new temporary Director of Public Financing position into a permanent one. The executive director also noted that the figure for administrative costs was a soft number that staff might have to negotiate upward.

General Counsel Farrell said that the idea to make the director permanent was a good one. He said that there was no continuity under the current system. He said that whoever "comes in, comes in cold." He also said that a better qualified person would be available if the job were a permanent one.

Executive Director Herrmann added that another problem with a temporary director is that this person is very likely to leave before the job is terminated. He said that the last director understandably did just that, leaving to take a permanent position elsewhere in government. Executive Director Herrmann said that there was much continuing work to do, both with respect to enforcement problems and with the publication of the gubernatorial

public financing report. He said that Staff Counsel Nagy had to assume responsibility for enforcement matters and Deputy Director Brindle for the completion of the report.

At this point, Vice Chairman McNany asked how the administrative costs compared to past figures. Executive Director Herrmann said that estimates were based on past actual figures but that the request for five analysts might be low. He said that the position request was based on the 1981 experience when sixteen candidates ran in the primary. He said that this number may have to be revised upward, particularly to cover the possibility of an unpredictably large number of candidates. He said also that there should be a ratio between the number of analysts and the number of candidates.

Chairman Bedford asked for an explanation of the position request as contained in the regular operating budget.

Executive Director Herrmann responded that the new position requests are primarily in response to the pressure being exerted on the Commission to produce press releases and analytical reports.

Chairman Bedford questioned whether analytic research should be a function of ELEC.

Executive Director Herrmann said that research is not mandated in the law but that it may be the sense of the Commission that this work should be undertaken. He said that analytical work can be accomplished only if there is adequate staff.

Chairman Bedford suggested that there may be some value in undertaking this work, but that he does not want to have any of the other work of the Commission jeopardized because of it. Chairman Bedford asked if there was a motion to accept the staff's recommendation on the budget.

On a motion by Vice Chairman McNany, seconded by Commissioner Axtell and a vote of 3-0, the Commission voted to adopt the staff's recommendation on the budget.

Executive Director Herrmann next mentioned this past Friday's program on New Jersey Network Television entitled, "Front Page New Jersey." He said that some of the background material for the show was provided by ELEC. He said that he was interviewed for thirty minutes, but his segment did not appear.

Vice Chairman McNany asked if a tape would be available from New Jersey Nightly News so that the Commissioners could view the program through the use of their VCR's. Executive Director Herrmann responded that the staff would check on this request.

Commissioner Axtell asked if the staff tracked the various issues and legislation regarding them. Executive Director Herrmann responded that the staff uses a computer software package to perform this function. General Counsel Farrell said that with respect to legislative issues it is extremely important that the Commission be kept up to date on matters of importance. He said that it would be a waste of time to discuss in detail legislation that,

practically speaking, would probably not move through the process, but on important issues the Commission has always been kept informed.

At this juncture, Commissioner Waugh, via telephone from Canada, joined in the proceedings at 11:20 a.m.

Commissioner Axtell requested a summary of ELEC legislation. Executive Director Herrmann stated that said summary would be provided.

Chairman Bedford next stated that he would leave open the possibility of an August 18, 1987 Commission meeting. He said that there would be a meeting on September 15, 1987, when the public hearing on Advisory Opinion 05-1987 would be held.

Chairman Bedford next asked if there was a motion to accept the Executive Directors' Report.

On a motion by Vice Chairman McNany, seconded by Commissioner Axtell and a vote of 4-0, the Commission voted to accept the Executive Directors' Report.

### 3. Regulation Proposal and Advisory Opinion 05-1987 Correspondence

General Counsel Farrell reviewed his response to a follow-up letter from State Senator Dorsey asking for a determination of whether or not his recent personal financial disclosure filing was in compliance with the regulation. General Counsel Farrell said that with Commission approval, he would respond to the Senator that his filing was in compliance with the regulation as written. Chairman Bedford added that he agreed; there should be no retroactivity. He also said that he felt it was clear that the statute did not envision candidates identifying their individual clients who paid them fees and commissions. Rather, the Chairman said, the statute clearly calls for identification of law firms, businesses, etc. as the source of fees and commissions. He also said that the proposed regulation goes beyond the statute. Chairman Bedford said that if the legislature wants to change the law it must do so itself. In his opinion, it is not the Commission's job to do so.

At this point, General Counsel Farrell stated that the proposed regulation adopted at the last meeting is necessary to clarify a vague law. He said that the language in the statute was "not ours in the first place" but we have to work with it.

Chairman Bedford said that the proposed regulation has not been adopted and therefore the statement in the Advisory Opinion letter to the effect the Commission decided to adopt a proposed regulation was incorrect. He said that at the last meeting the Commission gave its approval for initiating the process of regulatory change, but did not adopt an amendment to the regulation per se. He said that if the Commission adopted the regulation before the hearing, it would have in effect already made a decision. Chairman Bedford said that if the regulatory change had already been adopted there would be no reason for a public hearing.

Chairman Bedford said that he is opposed to the proposed regulation as written. He said it would only serve to discourage people from running for office.

Chairman Bedford asked the Executive Director what the Joint Legislative Committee on Ethical Standards requires on its personal financial disclosure forms. Executive Director Herrmann stated that the Joint Committee does not require the identification of clients. Executive Director Herrmann noted that the legislative history indicated that candidates are subject only to the same disclosure requirements that members of the Legislature are but are not subject to additional disclosure in regard to fees. Chairman Bedford said that he did not understand why the Commission would require more than the Joint Committee does, particularly in light of the legislative history.

On a motion by Chairman McNany, seconded by Commissioner Waugh and a vote of 4-0, the Commission voted to inform Senator Dorsey that he is in compliance with the current regulation.

4. Adjournment

On a motion by Commissioner Axtell, seconded by Vice Chairman McNany and a vote of 4-0, the Commission voted to adjourn at 11:32 a.m.

Respectfully Submitted,



FREDERICK M. HERRMANN, Ph.D.

FMH/jah