

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

OCTOBER 20, 1987

Present

Stanley B. Bedford, 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, Legal Director

Absent

Owen V. McNany, III, Vice Chairman

* Participated by telephone

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 10:20 a.m. at 28 W. State Street, Trenton, New Jersey.

1. Approval of September 22, 1987 Public Session Minutes

On a motion by Commissioner Axtell, seconded by Commissioner Waugh and a vote of 3-0, the Commission approved the public session minutes of September 22, 1987.

2. Executive Session

On a motion by Commissioner Axtell, seconded by Commissioner Waugh and a vote of 3-0, the Commission voted to go into executive session to discuss investigative and enforcement matters, the results of which will be made public at their conclusion.

3. Executive Directors' Report

A. Identification of PACs

Executive Director Herrmann stated that a number of political committees and CPC's are using generic names or titles that do not provide any information as to the interest or ideology they represent. He said that the issue arose during the course of completing press releases. He said that the staff encountered difficulty when attempting to classify these PACs. As an example, Executive Director Herrmann mentioned "The Good Government Committee" and asked the rhetorical question: Is it a political party, an officeholder's personal PAC, or a special interest group?" He said that ELEC reports would reveal who this PAC is contributing to and who is contributing to it. He said, however, that it is impossible to know the true identity of such a PAC. Executive Director Herrmann said that this situation seriously hurts disclosure. The executive director said that some other states are moving or have already moved in the direction of eliminating this problem. He said that North Carolina, Montana, and California have laws to require proper PAC identification and that legislation has been proposed in Illinois to require PACs to identify themselves adequately.

Executive Director Herrmann said that the solution to the problem is simply to require that the Committee name describe the purpose of the committee. As examples he cited: Assemblyman Fred Herrmann - Good Government Committee, Federalist Party Good Government Committee or Hula Hoop Manufacturer's Good Government Committee. He said that this information should be contained in the group's statement of organization. Executive Director Herrmann said that a statutory mandate to this effect would greatly maximize disclosure without in any way having a chilling effect on political participation. He advocated adding this proposal to the "suggested legislation" section of the 1987 Annual Report.

Chairman Bedford asked the executive director if this were a widespread problem. Executive Director Herrmann responded in the affirmative.

Commissioner Waugh said that he was generally in favor of further identification of PACs and reiterated that the proposal should be written up for inclusion in the next annual report.

Chairman Bedford said that any bill which proposes to amend the statute in this way should be carefully drawn. He suggested that the Commission should adopt the proposal in principle and distribute a press release to that effect. Commissioner Waugh asked whether the press release could be circulated to the Commission in advance. Chairman Bedford directed staff to prepare a background memorandum on the proposal as well as a press release. He said that this information would be discussed at the next meeting. Executive Director Herrmann stated that staff would do so.

B. Press Release

Executive Director Herrmann presented a press release on campaign spending. He said that the release contained information as reported by legislative candidates on their 29-day preelection reports and contained extensive tables ranking all reporting candidates by receipts and by expenditures. Executive Director Herrmann stated that this release was the most extensive preelection release ever done by the Commission. He said that it was completed by staff during a very hectic period. Despite this fact, the executive director added, the necessary coding and filing work of the Commission was completed. However, the report review staff had no time to prepare correction letters which are routinely sent to candidates following the filing date. He said that the purpose of correction letters is to identify errors and omissions for candidates in the hope they will be corrected and not repeated on the 11-day preelection reports.

Executive Director Herrmann next asked for approval by the Commission to distribute the press release. He suggested that the trouble with doing this type of release is that it holds the potential for injecting the Commission into the political process. Executive Director Herrmann said that obtaining statutory direction vis-a-vis press releases and reports would be a positive development. He said that there is nothing in the law which presently gives the Commission guidance in these matters. Some other states and the Federal government have provisions in their laws which give this guidance, he added.

Chairman Bedford suggested that he would not like to see the Commission "tie its hands" in this way. He said that the flexibility in the New Jersey law is a good thing. Chairman Bedford said that this flexibility permits the Commission to undertake studies when it is able to and to forego them when it lacks the staff resources to do so. He stressed that he is not opposed to undertaking analytical research. He said that it should be undertaken when there is adequate staff available.

Commissioner Waugh said that the historical record shows that the Commission has undertaken this type of work at certain times in the past while at other times it has not.

Chairman Bedford complimented Executive Director Herrmann and the staff for completing an excellent press release. The Commissioners instructed the executive director to distribute the release.

C. Commission Meetings

The next meeting of the Commission will be held on Tuesday, November 17, 1987, 11:00 a.m. at the Maplewood, New Jersey Municipal building.

At this juncture, Commissioner Waugh absented himself from the meeting (11:21 a.m.).

D. COGEL Conference

Executive Director Herrmann said that Legal Director Nagy gave a fine panel presentation on campaign financial enforcement issues and that he himself conducted a workshop in computer uses in regulatory agencies. He said that a major result of his talk will be the completion of a Council on Governmental Ethics Laws (COGEL) Directory of State Agency Computer Personnel.

Executive Director Herrmann reported that he was named the 1988 Chairperson of COGEL. He also reported that ~~COGEL~~^{EVEL} assumed major leadership responsibilities in the Northeastern Regional Conference on Lobbying (NORCOL). The executive director said that he was selected chairperson and that Deputy Director Jeffrey M. Brindle and Director of Compliance and Information Evelyn Ford will be 1988 conference coordinator and membership coordinator, respectively. He said that the NORCOL Biennial Conference will be held in New Jersey on August 8, 1988. Executive Director Herrmann said Legal Director Nagy will serve on the COGEL Model Law Committee on Lobbying. 

E. Upcoming Activities

Executive Director Herrmann reported that he will be testifying before the New York Committee on Government Integrity in New York City on October 21, 1987 and in Buffalo, New York on October 23, 1987. He said that these appearances will be paid for by the committee.

He said that Evelyn Ford and he will staff a consulting table at the League of Municipalities Convention on November 19, 1987 in Atlantic City, New Jersey.

Executive Director Herrmann said that he would be in Boston, Massachusetts during the weekend of December 5, 1987 to attend the Conference on State Governments (CSG) annual convention. He said that he would be meeting with other COGEL members about the 1988 COGEL Conference in Orlando, Florida and with CSG staff. He said that he would also be meeting with members the State Government Affairs Council on working with COGEL.

F. Filing Night Activities

Deputy Director Brindle reported on the 29-day preelection filing night activities. He said that it is unfortunate that Compliance and Information Director Evelyn Ford is unable to give the report (due to hospitalization). He said that she did an excellent job coordinating these activities.

Deputy Director Brindle said that approximately 3,000 reports were filed on the 29-day preelection reports (October 5, 1987). He said that the compliance rate approximated 85 percent, which is very good for the 29-day prelection filing. Deputy Director Brindle reported that the entire staff was mobilized to process reports in order to have them ready for public inspection within 48 hours. He said that many overtime hours were worked by staff to complete this task. Deputy Director Brindle added that besides this effort, much time and energy was put into preparing the press release, as well as processing quarterly reports due on October 15, 1987.

4. Advisory Opinions

General Counsel Farrell reported that Advisory Opinion No. 8, forwarded to the Attorney General by the Commission, was being withdrawn.

General Counsel Farrell indicated that the Commission received two advisory opinion requests for consideration. He said that Advisory Opinion No. 12 involves the Commission's requirement that corporations making contributions of more than \$10,000 report these contributions to the Commission. He said that it involves the pure contributor issue. The advisory opinion request was made by John P. Sheridan, Jr., of the law firm of Riker, Danzig, Scherer, Hyland and Perretti. Legal Director Nagy said this issue had been raised by a law firm in 1984 at the time the Commission was adopting regulations and distributed copies of the Commission response as published in the August 6, 1984 edition of the New Jersey Register. General Counsel Farrell said that he would ask Mr. Sheridan for an extension of time in terms of responding to the request.

General Counsel Farrell said that an advisory opinion request on behalf of Sea-Land Corporation (Advisory Opinion No. 13-1987) was submitted by Jeffrey L. Reines of Meyner and Landis. He said it involved the issue of prohibited contributions. General Counsel Farrell said that the matter would be referred to the Attorney General.

5. Adjournment

On a motion by Chairman Bedford, seconded by Commissioner Axtell and a vote of 2-0, the Commission voted to adjourn at 12:04 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "F. M. Herrmann", written in black ink on a light-colored background.

FREDERICK M. HERRMANN, Ph.D.

FMH/jah
