



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

JULY 19, 1988

All of the Commission members and senior staff were present.

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 10:10 a.m. at the Commission's offices at 28 West State Street, Trenton, New Jersey.

1. Public Hearing

Chairman Bedford convened the public hearing on the proposed amendments to the regulations concerning public financing of gubernatorial primary elections which were published in the June 20, 1988 edition of the New Jersey Register. Since no witnesses were ready to testify, the Commission

decided to delay the hearing until later in the meeting, and to establish August 11, 1988, 9:30 a.m., at the Commission offices as an additional hearing date. A verbatim record of this portion of the meeting was made.

2. Approval of Public Session Minutes of June 21, 1988

On a motion by Commissioner Axtell, seconded by Commissioner Linett and a vote of 4-0, the Commission approved the Public Session Minutes of June 21, 1988.

3. Public Comment

No public comment was made.

4. Executive Director's Report

A. Gubernatorial Cost Analysis Report

Executive Director Herrmann reported that, as he predicted, the report has had an "international impact." Executive Director Herrmann said that there was a story about it in the June 27, 1988 Campaign

Practices Report. He said the Rambling With Gambling radio show on WOR-NY carried another story. Executive Director Herrmann cited a letter from Dr. Herbert E. Alexander which calls the report "a real contribution to the literature." He reported that the Chairman of the Ontario Commission on Election Finances called it "a most interesting document" and asked for a dozen copies for each of the members of the Commission. Finally, Executive Director Herrmann said that A.T. Barbrook of England, a highly respected European expert in the field, wrote: "ELEC is certainly a model in the U.S. for its production of campaign finance literature."

B. ELEC Whitepaper Series

Executive Director Herrmann announced that the staff is starting a research paper series. He said that contributions from staff as well as outside sources will be a part of this series. He said that papers from outside sources, such as graduate students and political scientists, will contain disclaimers stating that ELEC does not necessarily agree with the arguments presented in the paper. Executive Director Herrmann said that the first white paper will be presented to the Commission at the next meeting and will discuss the pro's and con's of "contribution limits and prohibited contributions." He said that this paper is the result of a request made by the Commission for background material relative to this issue.

Executive Director Herrmann said that Deputy Director Brindle prepared the first draft of this paper and that Legal Director Nagy and he did the editing and some of the writing. He said that Compliance and Information Director Evelyn Ford also had input into it. He said that the paper will be reviewed by Professor Stephen A. Salmore of Eagleton Institute.

Chairman Bedford said that this was an excellent idea.

C. Staff Activities

Executive Director Herrmann said that he addressed governmental affairs officials from PSE&G about PACs and Lobbying on July 8, 1988.

Executive Director Herrmann also reported that students from Trenton State Colleges Special Summer Session Program (6th - 7th - 8th grade) toured ELEC and received a morning of lectures from staff. This event occurred on July 13, 1988.

Executive Director Herrmann said that he will be attending the Conference of Canadian Electoral Officials in Prince Edward Island, Canada, the week of July 25, 1988. He said that he will be representing COGEL as an observer and will be addressing the conference. He said that he also will be presenting a plaque to Jean-Marc Hamel, the Chief Electoral Officer of Canada. Msr. Hamel is retiring and will be made an honorary lifetime member of COGEL.

D. Legislation

Executive Director Herrmann reported that he testified on A-2493 (Martin), the Omnibus Campaign Finance Disclosure Bill, on June 23, 1988 before the Assembly State Government Committee.

He said that the bill was released from Committee with banks again included in the provision prohibiting campaign contributions from certain regulated corporations.

Executive Director Herrmann said that at the same meeting he testified on A-3257 (Martin) and S-2488 (Van Wagner), both public financing reform bills. He said that the two bills were combined into a committee substitute bill which included ELEC's campaign cost index provisions to adjust various thresholds for inflation.

Executive Director Herrmann said that the substitute bill is an acceptable variation to ELEC's proposed suggestions. He said that a compromise bill may be negotiated in the fall between the substitute bill, which is mostly Assemblyman Martin's bill, and Senator Van Wagner's original bill. He said that the two bills do not seem that far apart.

Executive Director Herrmann said that a Star-Ledger poll on lobbying reform found that 79 percent of New Jersey citizens were in favor of reform. He said that the support was termed by the poll "overwhelming."

Executive Director Herrmann said that ELEC played a major role in garnering that support because it has publicized the issue for the past half-year.

E. COGEL Update

Executive Director Herrmann said that COGEL's annual conference will be held December 4-7 in Orlando, Florida. He said that former Florida Governor Reuben Askew, former Pennsylvania Governor and U.S. Attorney General designee Richard Thornburgh, Florida Governor Bob Martinez, and U.S. Senator Bob Graham are on the program. He added that the Model Law Project sessions dealing with campaign financing, ethics and lobbying will be a highlight of the program. Executive Director Herrmann said that the 1989 conference will be in New Orleans and the 1990 one in Alaska, Nevada, Rhode Island or Indiana.

Executive Director Herrmann reported that at the recent COGEL Steering Committee meeting in Chicago, Illinois, a decision was made to rename the COGEL Newsletter the COGEL Guardian. He said that the name occurred to him when thinking of the famous question from the Roman Juvenal: "Who will guard the guardians?"

Executive Director Herrmann announced that at the Steering Committee meeting subscription rates for the COGEL publication were finally set and that ELEC will purchase eight copies, one each for the Commissioners and senior staff.

Executive Director Herrmann said that the COGEL Conference yearbook will be published and that the new Blue Book will be available in August. He said that the Blue Book will be 150-175 pages long. Executive Director Herrmann said that the Steering Committee approved a 1989 study of external funding sources, including Frank Reiche's suggestion for an "Ethics Foundation."

F. Executive Committee on Ethical Standards

Executive Director Herrmann said that the Commission's proposed changes in its Code of Ethics would be considered tomorrow before the Executive Committee on Ethical Standards. He said that he would attend the meeting to answer any questions about the proposed change.

5. Continuation of Public Hearing

The Commission interrupted the public portion of its regular meeting to return to its public hearing on proposed changes to the gubernatorial primary election public financing regulations at 10:47 a.m. A verbatim record of the proceedings was made.

6. Return to Executive Director's Report

H. Proposed Budget

Executive Director Herrmann reviewed the Commission's proposed budget recommendations for Fiscal Year 1990. Details of the Fiscal Year 1990 budget request as well as a summary of priority recommendations are contained in the July 12, 1988 memorandum from Executive Director Herrmann to the Commissioners.

In sum, the FY-1990 base budget target as set by the Office of Management and Budget (OMB) in the Department of Treasury is \$1,215,000. This figure amounts to a \$63,000 increase over FY-1989. It covers salary increases only and does not provide any money for inflation. OMB's proposed budget for the Commission for FY-90 is exactly the same as for FY-89, except that it is adjusted to account for normal salary increases.

In response to the OMB base target the Commission staff recommended an additional \$272,000 for six new positions, an increase in the Commissioner per diem payments, an increase in non-salary operating accounts, and an increase in salary funding for special services personnel.

Moreover, the staff's FY-1990 Budget priority request also includes \$3,000,000 for the Gubernatorial Public Financing Program for disbursements to candidates and \$500,000 for administration of the Program.

The Commission, at the suggestion of Commissioner Axtell, modified the priority package proposal by eliminating the proposed increase of \$30,000 for an increase in the Commissioner's per diem payment. The request to increase the Commissioner's per diem payment to \$500 remains intact, however. The existing appropriation of \$30,000 would cover the per diem increase.

On a motion by Commissioner Linett, seconded by Commissioner Axtell and a vote of 4-0 the Commission approved the budget proposal as modified.

I. NORCOL Conference

Executive Director Herrmann said that planning for the NORCOL Conference was on schedule. He said that the Commissioners would be reimbursed for travel. He said that he expected about 75 people to attend.

J. Meeting Schedule

Executive Director Herrmann said that the next meeting of the Commission is set for Tuesday, August 16, 1988. He said that picnic will follow the meeting. Executive Director Herrmann said that no Final Decisions will be presented on that date. He said this is due to vacations and the fact that Assistant Counsel Nedda G. Massar will become Director of Public Financing and no successor to her in the position of Assistant Counsel has been named. He said that the annual Final Decisions numbers will not be affected, however.

7. Advisory Opinion No. 07-1988

For the detailed response to this Advisory Opinion Request please see letter to Clifford M. Sobel, July 19, 1988, from Gregory E. Nagy.

In brief, this advisory opinion request asked several questions concerning the application of "The New Jersey Campaign Contributions and Expenditures Reporting Act," N.J.S.A. 19:44A-1 et seq. to the raising of donations and making of payments by a group of individuals encouraging Congressman James A. Courter to undertake a gubernatorial candidacy in the upcoming gubernatorial primary election.

The Commission's response is based on current law and existing regulations. Under the law, this group would incur no filing obligation during the "testing the waters" phase provided that money raised and spent is limited to: payments for conducting a poll, for telephone calls, and for travel; all carried out for the purpose of determining whether an individual should become a candidate. A filing obligation would be incurred if payments are made for general advertising or for amassing campaign funds that would be spent after an individual becomes a candidate. A filing obligation would also be incurred when an individual becomes a candidate.

Chairman Bedford remarked that he was pleased with the quality of the Advisory Opinion response. Commissioner Linett said that the opinion was well done and suggested a closing sentence be added offering any possible staff assistance and thanking the inquirer for his letter.

On a motion by Commissioner Axtell, seconded by Commissioner Linett and a vote of 4-0, the Commission approved Advisory Opinion No. 07-1988.

8. Future Meetings

Commissioner Linett asked if the Commission was planning to meet in South Jersey in September. Because of the Jewish holiday on the date of the September meeting, the Commission rescheduled the September meeting for

Trenton and scheduled its October meeting for South Jersey. The October meeting will be planned for Glassboro State College. Executive Director Herrmann said that arrangements would be made and the South Jersey Press contacted. He said that staff would also contact the Political Science Department of Glassboro State College to alert the students of the Commission's presence on campus. The Glassboro meeting will be at 11:00 a.m.

9. Executive Session

On a motion by Commissioner Linett, seconded by Commissioner Axtell and a vote of 4-0, 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.

10. Adjournment

On a motion by Vice Chairman McNany, seconded by Commissioner Axtell and a vote of 4-0, the Commission voted to adjourn at 1:16 p.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.