



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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DAVID LINETT
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EXECUTIVE DIRECTOR

JEFFREY M. BRINDLE
DEPUTY DIRECTOR

GREGORY E. NAGY
LEGAL DIRECTOR

EDWARD J. FARRELL
COUNSEL

PUBLIC SESSION MINUTES

AUGUST 2, 1991

All the Commissioners and senior staff were present

Chairman McNany called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., 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 9:40 a.m. at the Keyport Municipal Building, 18-20 Main Street, Keyport, New Jersey.

1. Approval of Public Session Minutes of June 19, 1991

On a motion by Chairman McNany, seconded by Commissioner Bedford and passed by a vote of 3-0, the Commission approved the Public Session Minutes of June 19, 1991.

2. Executive Director's Report

A. Congratulations to Commissioner Linett

Executive Director Herrmann offered congratulations to Commissioner Linett for being named the new district governor of Rotary District 7510. The Executive Director noted that Commissioner Linett will oversee more than 3,000 Rotarians in 70 clubs throughout Central New Jersey.

B. Staff Activities

Executive Director Herrmann reported that on July 30, 1991, Deputy Director Brindle, Legal Director Nagy and he attended a meeting of the Northeastern Regional Conference on Lobbying (NORCOL) held on Long Island, New York. He said that the group discussed changes in lobbying laws that have taken place over the last three years since the New Jersey meeting in Princeton. Executive Director Herrmann said that staff paid for their own travel expenses and \$25 registration fees.

On July 31, the Executive Director addressed the Public Affairs Department of Public Service Electric and Gas (PSE and G) on the impact of new lobbying legislation passed by the Legislature and being considered for enactment by the Governor.

The Executive Director advised the Commission that the 1991 COGEL Conference at Hilton Head, South Carolina will be held from September 22-25. He said that it was doubtful that any staff would be attending due to state restrictions on out-of-state travel.

C. Budget FY-92

Executive Director Herrmann said that he would characterize the Commission's FY-92 budget as "exceedingly bleak."

The Executive Director said that the FY-92 appropriation of \$1.052 million is the lowest budget since FY-87. He said that compared to the FY-89 budget of \$1.255 million, which was still \$.5 million short of the Commission's needs at that time, the FY-92 amount is truly impoverished. Executive Director Herrmann noted also, that the \$1.052 million figure does not represent the true extent of the Commission's cuts. He said that the Commission has received two interdepartmental salary assessments in the past month totalling \$118,875, reducing the FY-92 budget to \$932,125. He said, however, that the Commission's actual budget would go up to \$965,125 after \$33,000 in salary program money is added to it. Still, the Executive Director said, the \$965,125 budget is the first sub-one million dollar budget since FY-86, when the Commission's budget was \$912,000. He noted that since FY-89, the budget has dropped by \$300,000, or 23 percent.

Executive Director Herrmann reported that on July 1, 1991, the Commission had to surrender its only State car. He said that the Commission has no permanent State car to conduct investigations in the field. Executive Director Herrmann mentioned that Chairman McNany had suggested using a car from the Department of Law and Public Safety. The Executive Director said that he had looked into that possibility but learned that the Commission would be charged for such use.

Deputy Director Brindle said that the car was given up because the Commission would have had to pay a \$4,000 annual fee up front in order to retain it. He said that the Commission can still obtain a State car from the Central Motor Pool on a pay-as-you-go basis, a method that will save the Commission at least \$3,000 in FY-92. However, funds for such use are extremely limited.

Executive Director Herrmann said that on a positive note, the FY-92 budget language does allow the Commission to collect filing fees from lobbyists. He said that the Commission will be able to do this if the Governor signs A-4618, sponsored by Assemblymen Villapiano and Baer.

Executive Director Herrmann said that the Commission cannot hire new staff with this money due to the fact that there is a hiring freeze and that the money will have to cover other administrative expenses. Furthermore, continued Executive Director Herrmann, the Commission will need two tier approval in order to utilize the fee money. He said that the budget bill requires ELEC to gain approval from the Office of Management and Budget (OMB) and the Joint Budget Oversight Committee (JBOC). Executive Director Herrmann said that the Attorney General has already collected filing fees for FY-92, and intends to give the Commission this money, which amounts to between \$40,000 and \$50,000. The Executive Director said that the Attorney General also plans to loan computer hardware to the Commission if this action would be necessary.

D. Budget Response - Additional Cost-Saving Measures

Executive Director Herrmann said that staff will attempt to minimize the damage of the budget cuts to the Commission's central mission of disclosure.

The Executive Director said that various follow-up mailings will be eliminated and that all ELEC analytical and special reports would have Xeroxed covers. He said that the software maintenance contract with COGENT has been reduced and that the mailing of requested materials is being sent postage due. Executive Director Herrmann said that contingency funds have been cut and that coffee for meetings will be brewed on the premises. The Executive Director said that the staff would continue to develop desktop publishing. He indicated that software has been purchased but that the purchase of hardware was still required.

Executive Director Herrmann said that the White Paper series will be postponed after the publication of White Paper Number Seven, which is almost completed. The Executive Director said that maximum use of existing resources will be made, and that no new purchases will be undertaken. Executive Director Herrmann noted that a voluntary furlough program will be utilized if necessary and that layoffs would have to be taken as a last resort. The Executive Director said, however, that layoffs would be harmful to morale and further burden a staff that has been cut by 20 percent.

Chairman McNany expressed concern about the implementation of the postage due procedure.

After some discussion, it was agreed that the procedure is working well, that other agencies have a similar policy, and that it appeared to be the most efficient way to reduce the cost to the postage account. Staff will continue to monitor its functioning, and report to the Commission any problems that may arise.

E. Budget News in Sister States

Executive Director Herrmann advised the Commission that a new Kansas law increases the funding for its campaign financing/lobbying commission. He said that the new law implements a program of lobbyist registration and candidate filing fees.

The Executive Director said that under an Alabama bill, the Alabama agency can collect registration fees from PACs and campaigns.

Finally, continued Executive Director Herrmann, the Washington State commission recently received funding for six new positions, representing a 40 percent increase in staff. The Washington state commission also received computer enhancement dollars.

F. Legislative Update

Executive Director Herrmann said that on June 20, 1991, the Senate State Government Committee unanimously released S-3578 (Stockman)/A-4617 (Spadoro/Kronick), which removes the "expressly" loophole, and S-3568 (Dalton)/A-4618 (Villapiano/Baer), which moves the Attorney General's quarterly lobbying reports to ELEC.

Executive Director Herrmann reported that Deputy Director Brindle and he testified in favor of the bills. The Executive Director said that on June 27, 1991, the "expressly" bill passed the Senate 40-0 and the quarterly reports bill passed 39-0. Executive Director Herrmann noted that the bills are currently on the Governor's desk and that he plans to sign them on Monday, August 5th at 10:30 a.m. ELEC Commissioners and staff are invited.

Executive Director Herrmann reported that on July 3, 1991, Governor Florio signed S-895 (Cowan), which he had originally conditionally vetoed. According to the Executive Director, this bill permits withholding of employee wages for PACs. Executive Director Herrmann said that the bill sets up a PAC registration program for PACs that utilize an employee checkoff. He noted that the registration program calls for the name of the PAC; its classification; the names, addresses, and employers of those in

control; and the procedure for selecting contribution recipients to be disclosed. Executive Director Herrmann said that no appropriation is included in the law, but that the Department of Labor is responsible for drafting regulations and for enforcing the law. He mentioned the fact that ELEC has offered to cooperate with the Department.

Executive Director Herrmann reported that A-2421 (Baer) which allows public organizations and media associations to sponsor gubernatorial debates, passed the Senate 36-0 on July 25, 1991, and is on the Governor's desk for signature.

G. ELEC Guide to Campaign Financing and Lobbying Literature

Executive Director Herrmann reported that the ELEC Guide received an excellent initial response. In fact, continued the Executive Director, former COGEL Award Winner Robert Stern called him from California to tell him that his work was "extraordinary and incredible."

Executive Director Herrmann added that Ed Zuckerman, editor of PACs and Lobbies ran an advertisement for the Guide that has led to numerous orders. He said that Glen Craney, editor of Campaign Practices Reports, has offered to do the same.

Executive Director Herrmann said despite the extremely positive response, the Commission, because of diminished resources, cannot actively promote the Guide any further, or even afford to mail it. He said, however, that COGEL has expressed an interest in marketing and distributing it for the Commission. The Executive Director noted that ELEC would get credit for the publication and COGEL would receive some much needed revenue. Executive Director Herrmann advised the Commission that the State will not allow ELEC to sell the Guide for profit. Therefore, he said, the arrangement with COGEL provides good publicity for ELEC and money for COGEL.

On a motion by Chairman McNany, seconded by Commissioner Bedford and passed by a vote of 3-0, the Commission approved COGEL taking over the ELEC Guide as outlined by the Executive Director.

H. Commission Meeting Schedule

The Commission scheduled meetings for September 17, 1991, at 9:30 a.m., in Maplewood, New Jersey. It also scheduled meetings for October 22, 1991, and November 20, 1991, in Trenton at 9:30 a.m. A public hearing on

the "900 phone line" regulation is scheduled for the November meeting. The December meeting is slated for December 18, 1991, in Trenton.

3. Regulatory Activity

Legal Director Nagy reviewed information contained in a memorandum from him to Frederick M. Herrmann, Ph.D., Executive Director, dated July 25, 1991, and entitled Regulatory Activity.

Legal Director Nagy said that amendments to the Political Communications regulation and the violation regulation became effective on July 15, 1991. The Legal Director said that the "900 line" telephone service regulation is on hold until November. He noted that the newly-enacted amendments to the wage regulation statutes, which allows employees to make payroll deductions for their PACs, requires ELEC to prepare registration forms, but does not give it authority to promulgate regulations. Legal Director Nagy also reported that lobbying reform legislation is awaiting the signature of the Governor. He said that if the Governor signs the legislation, staff will begin drafting proposed regulations.

Counsel Farrell asked if lobbyists would be filing with ELEC before regulations are in place.

Legal Director Nagy said that the Commission could seek to enact regulations on an emergency basis because the normal promulgation timetable would extend past January 1, 1992, when the new law would become effective. He suggested that it was important that the public have input into this process, and therefore the normal promulgation procedure might be more appropriate notwithstanding that for a short period in 1992 the new regulations would not be effective.

4. Resolution To Go Into Executive Session

On a resolution by Commissioner Bedford, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission resolved to go into closed Executive Session to discuss the following matters which will become public as follows:

1. Final Decision recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public 15 days after mailing; and,

2. Investigative Reports of possible violations, which reports will not become public. However, any Complaint generated as the result of an Investigative Report will become public 30 days after mailing.

5. Adjournment

On a motion by Commissioner Linett, seconded by Commissioner Bedford and passed by a vote of 3-0 the Commission voted to adjourn at 12:15 p.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

FMH/ck