



*State of New Jersey*

JERRY FITZGERALD ENGLISH  
Chair

ALBERT BURSTEIN  
Commissioner

AMOS C. SAUNDERS  
Commissioner

## ELECTION LAW ENFORCEMENT COMMISSION

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### PUBLIC SESSION MINUTES

January 19, 2010

Chair English, Vice Chair Tober, Commissioner Burstein, Commissioner Saunders, Legal Counsel Wyse, and Senior Staff were present. Report Review Officer Lovinsky Joseph was present for the purpose of recording the minutes. Vice Chair Tober was present only as indicated below.

The meeting convened at 10:00 a.m. in Trenton.

#### 1. Open Public Meetings Statement

Chair English called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., adequate 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.

Vice Chair Tober announced his immediate resignation from the Commission due to his acceptance of an appointment with the new administration.

The Vice Chair stated that it had been a pleasure working for the Commission, and recused himself from all further items on the agenda. He stated that he had wished to appear in person to offer his resignation to the Chair, the Commissioners, and the Executive Director.

Chair English stated that it had been a pleasure working with Vice Chair Tober.

Commissioner Burstein stated that it had been a distinct pleasure working with the Vice Chair, and wished him all the best in his new position.

Commissioner Saunders stated that it had been a pleasure working with the Vice Chair, and wished him good luck.

Legal Counsel Wyse stated that the Vice Chair would be missed.

At this point, Vice Chair Tober left the meeting.

2. Approval of Public Session Minutes of December 15, 2009

On a motion by Commissioner Saunders, seconded by Commissioner Burstein and passed by a vote of 3-0, the Commission approved the Public Session Minutes of December 15, 2009.

3. Report on Reimbursement of 2009 Gubernatorial Ballot Statement Costs

Special Programs Director Amy Davis reported to the Commissioners on the administration of the gubernatorial ballot statement program which permits each gubernatorial candidate to place a statement, not exceeding 500 words, on the general election sample ballots in each of the 21 counties; see N.J.S.A. 19:44A-37 and N.J.A.C. 19:25-15.44. Director Davis added that in the 2009 general election, all 12 gubernatorial candidates submitted statements by the August 17, 2009 deadline.

The Director reported that as it has in past publicly funded gubernatorial elections, staff contracted with a professional translator to obtain translations of the candidates' statements into Spanish for use by those counties in election districts where bilingual ballots are required pursuant to N.J.S.A. 19:14-21. Director Davis stated that the English and Spanish texts of the candidates' statements were provided to the county clerks on a compact disk for printing on the sample ballots. She further stated that in addition to providing the statements submitted by the 2009 general election gubernatorial candidates to the county clerks for placement on the sample ballots, the English and Spanish statements were made available to the public on the Commission's website.

Director Davis informed the Commissioners that the Commission is statutorily required by the "New Jersey Campaign Contributions and Expenditures Reporting Act" to reimburse the 21 clerks for the costs of printing and mailing associated with placement of the candidates' statements on the general election sample ballots. The Director noted that the Commission has no jurisdiction concerning the method selected by each of the 21 county clerks for arranging and placing the gubernatorial candidates' statements on the sample ballots. She additionally noted that these costs vary county-to-county based not only on direct printing costs, but also on the number of bilingual ballots that must be printed. Director Davis reported that there is also no way to anticipate increases in population in each particular county. The Director further reported that in 2009, staff requested and received a ballot reimbursement appropriation of \$700,000 to reimburse the 21 clerks for the printing and mailing costs relevant to the ballot statements.

Director Davis reported that staff received 2009 ballot statement claim forms, totaling \$457,163.86, from the 21 county clerks by the December 15, 2009 deadline as indicated in the chart below:

## Public Session Minutes

January 19, 2010

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COUNTY	DATE FILED	# of BALLOTS PRINTED	AMOUNT OF CLAIM	COST PER BALLOT
ATLANTIC	15-Dec-09	166,958	\$6,500.00	0.04
BERGEN	30-Nov-09	530,835	\$108,650.00	0.20
BURLINGTON	11-Dec-09	282,209	\$12,212.90	0.04
CAMDEN	14-Dec-09	349,380	\$27,169.96	0.08
CAPE MAY	30-Nov-09	70,967	\$2,838.68	0.04
CUMBERLAND	04-Dec-09	96,371	\$4,500.00	0.05
ESSEX	25-Nov-09	410,251	\$31,383.09	0.08
GLOUCESTER	20-Nov-09	197,000	\$12,081.00	0.06
HUDSON	14-Dec-09	350,888	\$18,000.00	0.05
HUNTERDON	06-Nov-09	99,875	\$12,500.00	0.13
MERCER	14-Dec-09	238,762	\$8,500	0.04
MIDDLESEX	15-Dec-09	418,251	\$28,321.99	0.07
MONMOUTH	15-Dec-09	466,853	\$18,400.00	0.04
MORRIS	23-Nov-09	370,189	\$14,807.56	0.04
OCEAN	11-Nov-09	414,414	\$74,594.52	0.18
PASSAIC	18-Nov-09	261,050	\$23,105.28	0.09
SALEM	15-Dec-09	47,372	\$6,875.93	0.15
SOMERSET	30-Nov-09	207,700	\$17,790.00	0.09
SUSSEX	18-Nov-09	105,450	\$9,832.95	0.09
UNION	09-Nov-09	292,490	\$12,500.00	0.04
WARREN	09-Nov-09	66,050	\$6,600.00	0.10
<b>TOTAL:</b>			<b>\$457,163.86</b>	

The Director noted that if approved by the Commission, staff will process the reimbursement claims as indicated above, and will pay the amounts requested for 2009 gubernatorial ballot statement printing and mailing costs to the 21 county clerks.

Commissioner Saunders asked how Bergen County alone could account for almost 25 percent of reimbursement costs. He also remarked that reimbursement costs for Ocean County were also notably higher than average.

Director Davis replied that additional costs may have been due to the requirement that ballots be printed in Spanish as well as English. She reiterated that the Commission had no control over the printing process.

The Director suggested that the higher cost reported by Bergen County may also be a result of the large dimensions of the sample ballot. She contrasted the Bergen County sample ballot with examples from Middlesex and Ocean County, which used a booklet format and small type respectively.

Director Davis reported that she had contacted the Bergen County Clerk for additional information, and was awaiting a response.

The Director reported that the 2009 reimbursement request from Bergen County was less than the 2005 request, but still higher than average.

Commissioner Saunders asked about the overall average cost per ballot.

Director Davis stated that the average cost per ballot was about eight cents, and that the Bergen County cost was more than double that figure. Director Davis stated that although the statute requires reimbursement, the Commission may ask for documentation.

Commissioner Saunders suggested that the Commission obtain more information concerning ballot printing costs.

On a motion by Commissioner Saunders, seconded by Commissioner Burstein, and passed by a vote of 3-0, the Commission approved the disbursement of ballot statement reimbursements for all claims except for those submitted by Bergen and Ocean County.

Commissioner Saunders asked Director Davis if she could obtain the names of printing vendors and bids received.

The Director replied in the affirmative.

On a motion by Commissioner Burstein, seconded by Commissioner Saunders, and passed by a vote of 3-0, the Commission approved a request for additional information concerning ballot printing expenses for Bergen and Ocean County.

4. Review of 2009 Gubernatorial Expenditures

Special Programs Director Amy Davis discussed the procedures for obtaining the services of an independent auditing firm in the spring to review the public funds expenditure activity of the 2009 publicly financed gubernatorial candidates. Among the procedures to be performed as part of that review will be a verification that the primary and general election expenditure limits have been observed, an examination of postelection expenditures to confirm that they conform to the applicable restrictions, and a verification of the amounts of funds, if any, remaining in the campaign depositories and available for return to the State.

Director Davis reported that during January staff will prepare a request for bids and provide it to the vendors that have been approved by the State for auditing services. The Director added that the request for bids will detail that the work to be performed includes review of expenditures of the 2009 primary and general election publicly financed campaigns. She stated that the term "Agreed Upon Procedures" instead of the term "audit" would be used because "audit" has a specific meaning in accounting practice and requires detailed review of both contribution and expenditure transactions. Director Davis explained that a detailed review of contributions would duplicate the review performed by the Special Programs staff. The Director reported that the request for bids will specify that the review is to focus on expenditure activity and only to perform limited review of bank account activity relevant to contributions.

On a motion by Commissioner Burstein, seconded by Commission Saunders and passed by a vote of 3-0, the Commission approved the status report concerning review of 2009 gubernatorial expenditures.

5. Executive Director's Report

A. Citizens United v. Federal Election Commission (FEC)

Executive Director Brindle informed the Commissioners that he anticipated a decision in this case in the near future. The Executive Director stated that the case challenged electioneering restrictions in the Bipartisan Campaign Reform Act of 2002 as well as the 1990 Supreme Court decision in Austin v. Michigan State Chamber of Commerce that upheld a ban on corporate and union political expenditures.

Executive Director Brindle noted that as corporate and union political expenditures were already allowed with disclosure in New Jersey, a federal ruling loosening restrictions on such entities would likely have little effect on State regulations. He added that staff would remain vigilant for any potential effect on the Commission's statute.

B. Green Party of Connecticut v. Garfield

Executive Director Brindle reported on the decision rendered by the U.S. District Court for the District of Connecticut on August 27, 2009. The Executive Director stated that this ruling, which declared a state public financing program unfair to minor party candidates, was a challenge to campaign finance reforms. He noted that the decision upheld a ban on contributions from lobbyists and state contractors; however, this ban was currently being challenged by the American Civil Liberties Union.

The Executive Director reported that the Second Circuit Court of Appeals was reviewing the ruling. He further reported that this case may influence public financing and pay-to-play regulation.

C. Transition Report

The Executive Director reported that he had not heard from the transition team on the status of a pending meeting.

D. Budget

Executive Director Brindle informed the Commissioners on the status of the Commission's budget. He noted that more funds had been taken by the Office of Management and Budget (OMB) from the Commission's non-salary account.

The Executive Director reported that as of the previous week, \$250,000 had been placed in reserve by OMB. He stated that funding for personnel was currently adequate, but the Commission could face difficulties if additional budget cuts were enacted. The Executive Director added that Information Technology was currently not affected, but system upgrades may be deferred if the current budget trend continues into Fiscal Year 2011.

Chair English asked about mandatory furloughs, and if the furloughs had had any affect on staff performance.

The Executive Director stated that staff was beginning its second year of mandated furloughs but that staff continued to work according to high standards. He praised the performance of section directors and Personnel Officer Anita Vaingankar. He noted, however, that the furloughs did affect staff morale, as well as staff pay checks.

E. Analytical Press Release

Executive Director Brindle announced that the Commission would soon release the latest “snap-shot” analytical press release detailing annual fundraising totals for the “Big Six” committees. He added that an analytical press release reporting county political organization activity was also forthcoming.

The Executive Director noted that receipts and expenditures for all committees had decreased from four and eight years ago due to the underperforming economy and pay-to-play reforms.

F. Local Contributor Database

Executive Director Brindle reported that the Commission was on target to release local contributor information from the 2009 general election into the new database in February. He recognized Director of Information Technology Carol Neiman and the Data Entry staff for their efforts in achieving this goal.

G. YouTube Message

The Executive Director announced that Chair English would record a second message to be uploaded to the YouTube video-sharing website after the meeting. He stated that the message would be an announcement informing members of the general public about the new local contributor database.

H. Winter/Spring Meeting Schedule

- February 16, 2010 at 10:00 a.m. in Trenton;
- March 23, 2010 at 10:00 a.m. in Trenton; and,
- April 20, 2010 at 10:00 a.m. in Trenton.

6. Legislative Recommendations

Executive Director Brindle presented an overview of possible legislative recommendations. He presented six recommendations and stated that staff had prioritized them. The Executive Director noted that many of these recommendations had appeared in previous annual reports.

Executive Director Brindle thanked Deputy Director Joseph Donohue for his work in coordinating and drafting the proposals. He reported that the entire management staff contributed to the recommendations, and thanked them for their efforts.

Chair English asked the Executive Director how he and Deputy Director Donohue planned to advance the recommendations.

Executive Director Brindle stated that once the Commissioners approved the recommendations, the main goal should be to get them enacted. He stated that the Commission could initiate contact with the Governor's Office, both chambers of the Legislature, and individual legislators. He also had considered a possible press conference. The Executive Director also suggested meeting with civic groups and good-government organizations. Executive Director Brindle stated that these measures would give legislators time to prepare responses before public announcement of the recommendations.

Commissioner Burstein stated that the initiative should not be done piecemeal, and noted that the Senate and Assembly were currently in the midst of leadership reorganization. He added that contact with the new leadership should be a high priority.

Commissioner Saunders agreed with Commissioner Burstein's statements.

Chair English agreed that the initiatives should be presented as a cohesive body.

Commissioner Burstein stated that gaining legislative attention would be difficult, and advised that the Commission complete preparations as soon as possible to take advantage of the opportunities offered by a new administration.

Chair English stated that we will encourage bipartisan support and agreed with Commissioner Burstein's statements, noting that the Commission has historically been successful in its initiatives. She asked for Deputy Director Donohue's thoughts on the matter.

Deputy Director Donohue stated that the proposals were a combination of longstanding issues and emerging issues. The Deputy Director noted that the new local contributor database helped reveal the possible influence of lobbying at the local level that is not regulated. He stated that he does not think disclosure of this activity is unwarranted.

Chair English stated that the Commission must remain on top of current trends in order to successfully execute the disclosure process that constitutes the foundation of the Commission's mission.

A discussion of the recommendations followed.

(1) **Wheeling**

Commissioner Burstein expressed satisfaction that the activity known as "wheeling" was a priority in the legislative proposals.

(2) **Lobbying on Behalf of Public Institutions**

Executive Director Brindle reported that hospitals and other public institutions including state universities that compete for grants and funding hire lobbyists to influence state government. He added that there had been much discussion concerning proposed reporting requirements of such activity.

Deputy Director Donohue also noted that some of the independent commissions may have lobbyists and do not disclose this activity.

Executive Director Brindle noted State Comptroller Matthew Boxer has previously made this recommendation.

Commissioner Burstein announced that he would recuse himself during the vote on this recommendation due to an existing matter concerning the University of Medicine and Dentistry of New Jersey (UMDNJ).

**(3) Local Lobbying Disclosure**

The Executive Director stated that if lobbying activity performed on the state level required disclosure, the same requirements should apply for local government where considerable financial activity takes place. He added that proposed regulation of local government lobbying would also encompass school boards, where lobbying would not be prohibited, but require disclosure.

Commissioner Saunders asked if the proposed regulation would apply to registered lobbyists.

Executive Director Brindle replied that the regulation would be applicable to registered lobbyists compensated for their efforts.

Legal Director Carol Hoekje noted that an expansion of the definition of “governmental process” would increase the number of filers.

**(4) Personal Financial Disclosure Statements (PFD)**

Deputy Director Donohue informed the Commissioners of the proposal to place Personal Financial Disclosure Statements (PFD) on the Internet and change the filing date to improve efficiency. He reported that this task would be easy as the information was already uploaded into the Commission’s system.

Executive Director Brindle stated that changing the filing date would make disclosure easier for filers and the Commission by increasing the time available to the Commission to obtain candidate lists from the Secretary of State as well as increasing the time available to candidates to gather financial information. He anticipated that this proposal would reduce confusion and redundancy.

Commissioner Burstein asked if the PFD requirements on the part of the Commission and OLS were the same.

Executive Director Brindle replied that they were similar.

The Executive Director stated that the proposal would not expand the scope of disclosure, but would place the information on the Internet.

Commissioner Saunders stated that the proposal would help legislators by giving them more time to report financial information.

(5) **Affiliated Political Action Committees (PACs)**

Executive Director Brindle informed the Commissioners of the proposal to prohibit the proliferation of affiliated PACs in New Jersey. He stated that this initiative could possibly be accomplished via rule making instead of creating a new statute.

The Executive Director reported that affiliated PACs have become a possible way to circumvent pay-to-play laws and contribution limits.

Deputy Director Donohue reported that other campaign finance regulatory agencies such as the Federal Election Commission and the New York City Campaign Finance Board regulate this type of activity.

Chair English asked how the Commission could proceed making this proposal into a regulation.

The Chair asked if the current statute defined a PAC to be a committee with a minimum of two individuals.

Legal Director Hoekje replied in the affirmative. She stated that she would spend additional time examining the statutory and regulatory authority issue.

(6) **Pay-to-Play**

Executive Director Brindle informed the Commissioners of a recommendation to extend “pay-to-play” regulation to the local level by abolishing the “fair and open” exclusion and prohibiting business entities from entering county or municipal contracts larger than \$17,500 if they make certain political donations.

The Executive Director noted that this recommendation had been proposed by Governor Corzine, and is supported by Governor Christie. He added that this proposal had been recommended in both chambers of the Legislature, but never advanced to become legislation.

Commissioner Burstein noted that the interweaving of lobbying entities at the local level often circumvent regulations. He suggested a preamble noting their intent and addressing gaps in the laws.

Executive Director Brindle approved of the proposal for a preamble.

**Vote on Legislative Recommendations**

- (1) On a motion by Commissioner Burstein, seconded by Commissioner Saunders, and passed by a vote of 3-0, the Commission approved the recommendation to expand the regulation of “wheeling” to include contributions by county political party committees to other county political party committees during the entire year.

- (2) On a motion by Commissioner Saunders, seconded by Chair English, and passed by a vote of 2-0, the Commission approved the recommendation to require lobbying activity on behalf of government agencies to be disclosed by registered lobbyists. Commissioner Burstein recused himself from this vote.
- (3) On a motion by Commissioner Saunders, seconded by Commissioner Burstein, and passed by a vote of 3-0, the Commission approved the recommendation to broaden the governmental activities law to include disclosure by registered lobbyists of activity involving the lobbying of local government entities.
- (4) On a motion by Commissioner Burstein, seconded by Commissioner Saunders, and passed by a vote of 3-0, the Commission approved the recommendation to place the Personal Financial Disclosure Statements of candidates on the Internet and change the filing date to improve efficiency.
- (5) On a motion by Commissioner Burstein, seconded by Commissioner Saunders, and passed by a vote of 3-0, the Commission approved the recommendation concerning regulation of affiliated PACs in New Jersey.
- (6) On a motion by Commissioner Burstein, seconded by Commissioner Saunders, and passed by a vote of 3-0, the Commission approved the recommendation to expand pay-to-play restrictions by abolishing the “fair and open” exclusion that applies to the awarding of contracts at the county and local level and to ban businesses from entering into contracts worth more than \$17,500 if they have made a contribution of \$300 or more.

### **Deletions of Legislative Recommendations**

Recommendation: Provide for uniform disclosure of gifts, reimbursements and honoraria of over \$250 in a calendar year and require disclosure of their value and a description of the article if other than cash (first proposed in 2000).

- Enactment of 2003 gift restrictions and disclosure requirements satisfies these criteria.

Recommendation: Require reporting of the occupation and employer of individuals providing reportable benefits (first proposed 1994).

- This recommendation has become less pressing due to the sharp drop in benefit passing since it was originally proposed 16 years ago. Since 2001 alone, reported gifts have dropped 81 percent to just \$22,360 in 2008. All gifts reported last year were provided by lobbyists, trade associations or ideological PACs.

Recommendation: Change the due date of the PFD filing by a candidate in the primary and general election to the due date of the 29-day preelection report for that election (first proposed 2007).

- Replaced by new recommendation for filing deadlines mentioned above.

Executive Director Brindle discussed the possible deletions from past legislative recommendations.

On a motion by Commissioner Saunders, seconded by Commissioner Burstein, and passed by a vote of 3-0, the Commission approved deleting from the Commission recommendation list the proposal to provide for uniform disclosure of gifts, reimbursements and honoraria over \$250 in a calendar year and require disclosure of their value and a description of the article if other than cash.

Commissioner Burstein asked if disclosure of gifts was already required.

The Deputy Director replied in the affirmative.

Chair English stated that she had reservations about deleting the occupation and employer recommendation.

Deputy Director Donohue reported that most gifts were from lobbyists, and did not perceive a lack of disclosure as reporting such activity was already required.

Commissioner Burstein stated that he had no strong feelings one way or the other toward this proposal.

Commissioner Saunders stated that he likewise had no strong feelings on the issue.

The Commission determined to leave this recommendation intact.

Executive Director Brindle recommended deleting the proposal to change the due date of the PFD filing to the due date of the 29-day preelection report. This action would be consistent with the new proposal concerning PFD filing. The Commission approved this recommendation.

### **Recommendations to Withhold**

#### **Possible Deletion Pending U.S. Supreme Court Decision**

Recommendation: Ban contributions made directly from corporate and labor union treasuries (first proposed in 1988).

- Presently in New Jersey, some corporations are banned from making donations. These include Atlantic City casino hotels and regulated industries such as utilities and banks. Casino hotels face a total ban. Employees of regulated industries can form political action committees (PACs) and make donations through those PACs. Unions can provide donations either directly or through political action committees.
- For more than two decades, ELEC has recommended a ban on direct donations by corporations and unions. The federal government, and 19 states, currently imposes such a ban on political fund-raising. However, the U.S. Supreme Court is widely expected in “Citizens United v. Federal Election Commission” to declare such bans unconstitutional under the free speech provisions of the U.S. Constitution. The ruling also could have an impact on political communication regulations.

Commissioner Burstein discussed the proposed recommendation to delete the proposal to ban contributions made directly from corporate and labor union treasuries.

Commissioner Burstein recommended leaving the proposed prohibition in place for now, depending on whether a broad or narrow reading of the Constitution is followed in the decision of Citizens United v. FEC. The Commission concurred.

#### Possible Recommendation for Legislative Action Pending Decision of New Jersey Supreme Court

- Prohibit state, county, municipal and school board candidates in New Jersey from using campaign funds to pay their legal bills if they are subject to criminal charges.

The Commission withheld action on this recommendation pending the decision of the New Jersey Supreme Court.

#### Existing Legislative Recommendations

##### Cost Savings and Efficiencies

The Executive Director stated that other initiatives have appeared in the annual report in previous years and are organized by categories into “cost saving,” “disclosure,” and “strengthening existing laws” categories.

- Delete the statutory requirement that a candidate file a copy of every election fund report with the county clerk in the county where the candidate resides.
- Study the effectiveness of the gubernatorial ballot statement program to determine whether or not it is an effective means of communicating the candidates’ messages to New Jersey voters and to recommend alternatives to the ballot statement program.
- Eliminate the gubernatorial spending qualification threshold.
- Lengthen Commissioner terms to six years from three years (1985) and select the Commission Chair for a fixed term (1998).

##### Increase Public Disclosure

- Add political ID to grassroots lobbying materials.
- Include funds in the Commission’s public financing budget specifically for the purpose of advertising the mandatory gubernatorial debates in New Jersey newspapers.
- Require lobbyists to file electronic quarterly reports, which include both lobbying and financial activity, rather than separate quarterly reports for lobbying activity and annual reports for financial activity.

- Study the impact of increasing the number of required debates for publicly-financed candidates from two to three in the primary and general elections (Recommendation for study 2005).
- Study expansion of lobbying reporting requirements to include activity of outside governmental affairs agents hired by public entities.

Strengthen Campaign Finance, Personal Financial Disclosure and Lobbying Laws

- Reduce the annual contribution limit to county political party committees to conform to the limit for State political party committees.
- Enhance penalties for impermissible use of candidate committee funds.
- Conform the penalty provisions of the Personal Financial Disclosure law to the Campaign Reporting Act.
- Require disclosure of occupation and employer information for contributions from individuals in the aggregate in excess of the \$300 disclosure threshold on reports filed by an Inaugural event committee.
- Include in the definition of “candidate” all appointees to fill vacancies for elected offices.
- Increase the penalties for public financing violations to conform to penalties applicable for other Campaign Reporting Act violations because the public financing penalty amounts have not been changed since 1974.
- Conform the penalty provisions of the Lobbying Disclosure law to those of the Campaign Reporting Act.
- Ban the use of partnership funds for the purpose of making contributions.
- Provide for uniform disclosure of gifts, reimbursements, and honoraria of over \$250 in a calendar year and require disclosure of their value and a description of the article if other than cash.
- Prohibit a political committee or continuing political committee from containing in its name the name of a candidate or officeholder.
- Amend the 48-hour notice requirement for continuing political committee expenditures to require that notices be filed for expenditures made in municipal, school, and special elections, as well as primary and general elections.
- Increase the penalties for public financing violations to conform to penalties applicable for other Campaign Reporting Act violations because the public financing penalty amounts have not been changed since 1974.

- Require that the name given to a candidate's campaign depository account contain the name of the candidate.

The Commission agreed to keep the remaining recommendations from previous year intact.

Commissioner Burstein proposed that more attention be given to the ballot statement issue.

Chair English asked for more information concerning the recommendation to eliminate the gubernatorial spending qualification threshold.

Special Programs Director Amy Davis replied that the current regulation requiring committees to spend a minimum amount of funds by a set date forces committees to approve contracts before they can accurately ascertain their needs.

The Chair asked how the regulation came about and for what purpose.

Director Davis replied that the intent of the regulation was the idea that ability to raise money was indicative of the viability of a candidate.

The Executive Director stated that requiring a committee to commit to spending may interfere with a campaign plan.

Legal Director Hoekje stated that the viability threshold is also used to determine who may participate in debates.

Chair English asked Deputy Director Donohue for his thoughts on the matter.

The Deputy Director replied that the issue required more study.

Chair English suggested that the issue be revisited at a later time.

Executive Director Brindle suggested that this was an issue that could be discussed at the gubernatorial public financing public hearing in April.

#### 7. Resolution to go into Executive Session

On a motion by Commissioner Burstein, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss anticipated litigation, which will become public as follows:

- A. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public not later than seven business days after mailing to the named respondents.
- B. 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 not later than seven business days after mailing to the named respondents.

8. Adjournment

On a motion by Commissioner Burstein, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission voted to adjourn at 12:20 p.m.

Respectfully submitted as true  
and correct,

Jeffrey M. Brindle  
Executive Director

JMB/elz