



State of New Jersey

JERRY FITZGERALD ENGLISH
Chair

AMOS C. SAUNDERS
Vice Chair

ALBERT BURSTEIN
Commissioner

ELECTION LAW ENFORCEMENT COMMISSION

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JEFFREY M. BRINDLE
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Legal Director

EVELYN FORD
Compliance Director

JAMES P. WYSE
Legal Counsel

PUBLIC SESSION MINUTES

June 15, 2010

Chair English, Vice Chair Saunders, Commissioner Burstein, Legal Counsel Wyse, and Senior Staff were present. Director of Special Programs Amy Davis was present and Report Review Officer Lovinsky Joseph was also present for the purpose of recording the minutes.

The meeting convened at 11:00 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. It was also posted on the Commission's website.

First Public Session

2. Approval of Public Session Minutes of May 18, 2010

On a motion by Commissioner Burstein, seconded by Vice Chair Saunders and passed by a vote of 3-0, the Commission approved the Public Session Minutes of May 18, 2010.

3. Request for an Advisory Opinion No. 01-2010

The Commission received a request for an Advisory Opinion from Assemblyman David W. Wolfe (10th Legislative District). Assemblyman Wolfe asks the Commission whether or not it is a permissible use of campaign funds for his single candidate committee, the Friends of Wolfe for Assembly, to make reimbursement to him of travel costs incurred in connection with an unanticipated legislative schedule change.

Assemblyman Wolfe was present in the audience, and Chair English invited him to sit at the witness table.

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Legal Director Hoekje provided a summary of the Advisory Opinion for the Commissioners, reporting that an unanticipated voting session had compelled the Assemblyman to return from a planned one week vacation to attend the voting session. He returned to complete his vacation. Assemblyman Wolf requested that his Candidate Committee reimburse round-trip air fare and one-way car fare from the airport.

Chair English asked if any additional information was required from Assemblyman Wolfe.

The Legal Director replied that none was needed, as the application was very thorough.

The Chair solicited questions or comments from the other Commissioners.

Commissioner Burstein questioned only the cost of the return flight but stated that he did not disagree with allowing the use in this instance based upon a rule of reason. He suggested that such requests be handled on a case-by-case basis.

Vice Chair Saunders asked if there was a specific regulation for travel expenses incurred by Assembly members.

Assemblyman Wolfe stated that a formula for reimbursement was in use for members of the Legislature. The Assemblyman informed the Commissioners that the formula used by the Legislature is based on the number of days that the Legislature is in session as well as the number of conference days.

Legal Director Hoekje reported that two regulations govern reimbursement of travel expenses by members of the Legislature: one concerning use of a vehicle owned by the officeholder or leased by a candidate committee, using the IRS mileage rate, and another concerning the cost of travel as a permissible "ordinary and necessary use" if it does not result in personal use or financial benefit to the officeholder.

The Legal Director suggested that as the reimbursement process may be subject to misuse, applications should be handled on a case-by-case basis. She added that staff did not believe that Assemblyman Wolfe could have foreseen the change in the legislative schedule.

Assemblyman Wolfe also stated that the vote was on pension reform legislation. Chair English noted that the vote to be taken was of significant importance.

On a motion by Vice Chair Saunders, seconded by Commissioner Burstein and passed by a vote of 3-0, the Commission approved staff's recommendation that Assemblyman Wolfe be permitted to use campaign funds to reimburse travel expenses incurred in connection with an unanticipated legislative schedule change.

Chair English thanked the Assemblyman for using the advisory opinion process in order to address his concerns, and added that the process also helped the Commission better administer its regulations.

Assemblyman Wolfe thanked Executive Director Brindle, Legal Director Hoekje, Compliance Director Evelyn Ford, and the rest of the Commission for its assistance past and present.

4. Executive Director's Report

A. Budget

Executive Director Brindle informed the Commissioners that a vote on the budget in the Legislature was anticipated by June 24, 2010. He reported that the budget for Fiscal Year 2011 was \$4.191 million, a decrease of \$84,000 from the previous year, but offset by lobbying fees.

The Executive Director noted that although current staffing levels could be maintained, the budget left very little leeway and will postpone computer enhancements.

Chair English asked Executive Director Brindle if he had received any communication for contingency measures in the event of a State shutdown.

The Executive Director replied that he had received no such communication and did not anticipate a shutdown.

The Chair asked if the Commission ceased operation during the last State shutdown.

Executive Director Brindle replied in the affirmative, but noted that speculation over a future shutdown may make such a prospect appear more likely than is actually the case.

B. Office of Information Technology (OIT) Approval for Technological Updates

The Executive Director announced that the OIT had approved the release of \$137,000 to upgrade the Gubernatorial Election Filing System (GEFS). He stated that the upgrade would improve the Commission's ability to maintain the system and make it easier for candidates to file.

Director of Information Technology Carol Neiman reported that the upgrade would allow access to the system for users with newer operating systems.

Chair English asked if the upgrade would eventually extend to all of the Commission's systems.

Director Neiman replied that the upgrade for the moment would encompass the filing of gubernatorial filing only, but added that staff would investigate extending the upgrade to R-1 reports in the future. R-1 reports are reports of contributions and expenditures.

The Chair thanked Director Neiman for her work and persistence.

Special Programs Director Amy Davis stated that the upgrade would make the system more attractive to candidates, particularly as electronic filing was now required for gubernatorial races.

Chair English asked if training sessions would be necessary for treasurers to become accustomed to the upgraded system.

Director Davis replied that training sessions were mandatory. She thanked Director Neiman for her work in this project.

C. Scanning of Lobbying Reports

Executive Director Brindle informed the Commissioners that staff had almost completed scanning lobbying reports, all of which will be made accessible to the general public online.

The Chair asked if there would be a press release announcing this development.

The Executive Director replied in the affirmative, and added that both the general public and lobbyists would welcome the new information.

D. Local Contributor Database

Executive Director Brindle reported that the Data Entry staff was currently incorporating municipal party committees into the Local Contributor Database, and anticipated completion of this task by July, 2010.

The Executive Director anticipated that all offices would be included in the database by November. He thanked the Data Entry staff for their work in achieving these goals.

Chair English asked if this would be the first time that all offices would be available online.

Executive Director Brindle replied in the affirmative.

The Chair proposed that the Commissioners produce a congratulatory letter to recognize this achievement by staff.

Deputy Director Donohue noted that few other states disclose local contributions online.

The Executive Director stated that the Commission's jurisdiction was more extensive than that of most other campaign finance disclosure agencies in other states, where local contributions are often not regulated.

E. Analytical Press Release – Special Interest Political Action Committees (PACs)

Executive Director Brindle announced the imminent publication of a new analytical press release concerning special interest PACs within the next month.

The Executive Director reported that although the number of total PACs had increased, most of that increase consisted of political party affiliated PACs created since the enactment of pay-to-play. He stated that 90 new PACs had been created since the passage of pay-to-play reform.

Chair English asked if this subject had been discussed in meetings with leaders of the Legislature.

Executive Director Brindle replied that this issue had been mentioned when discussing the legislative recommendation to deal with the proliferation of PACs.

F. Legislation

The Executive Director informed the Commissioners of Senate Bill S-1215, sponsored by Senator Loretta Weinberg. He reported that this proposed legislation would require lobbyists lobbying on behalf of local government entities to disclose their activities, and local government entities to file with the Commission.

Executive Director Brindle noted that the first part of the Senate legislation was taken from a Commission proposal, and the latter from a Comptroller report.

The Executive Director further informed the Commissioners of Assembly Bill A-2595, sponsored by Assemblywoman Linda Greenstein. He reported that the first part of this proposed legislation, taken from a Commission recommendation, would require disclosure by "527" groups.

Executive Director Brindle reported that the latter part of this proposed legislation, which was not taken from a Commission recommendation, would require disclosure by 501(c)(3) charities and 501(c)(4) committees that are allowed limited election activity. He noted that significant opposition to this part of the bill was expressed by organizations that would be subject to the regulation.

The Executive Director informed the Commissioners that he testified in favor of the bill, emphasizing that the Commission's recommendations encompassed only the first part of the proposed legislation. He reported that passage of the bill would be postponed until the completion of further negotiation.

G. State Ethics Commission (SEC) Filing

Executive Director Brindle informed the Commissioners of the SEC disclosure form due on August 15, 2010.

Commissioner Burstein asked if the form had changed significantly from the previous year.

The Executive Director replied that it had not, but had to be filed online.

Vice Chair Saunders noted that completed forms could be emailed to staff if difficulties were encountered with the browser-based submission system.

Executive Director Brindle noted that the Commissioners could consult Administrator Elbia Zeppetelli for assistance.

H. Summer Meeting Schedule

- July 20, 2010 at 11:00 a.m. in Trenton;
- August 17, 2010 at 11:00 a.m. in Trenton (if needed); and,
- September 21, 2010 at 11:00 a.m. in Trenton.

5. Resolution to go into Executive Session

On a motion by Commissioner Burstein, seconded by Vice Chair 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.

Second Public Session

6. Online Publication of Public Session Minutes

On a motion by Vice Chair Saunders, seconded by Commissioner Burstein and passed by a vote of 3-0, the Commission approved the publication of Public Session minutes on the Commission website.

7. Adjournment

The Chair directed the meeting be closed at 12:53 p.m.

Respectfully submitted as true
and correct,

Jeffrey M. Brindle
Executive Director