

**OTHER AGENCIES**

**ELECTION LAW ENFORCEMENT COMMISSION**

**Regulations of the Election Law Enforcement Commission**

**Proposed Readoption: N.J.A.C. 19:25**

Authorized By: Election Law Enforcement Commission, Jeffrey M. Brindle, Executive Director.

Authority: N.J.S.A. 19:27A-17, 19:44A-6, 19:44A-38, 19:44B-7, and 52:13C-23.2.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-069.

Submit written comments by June 30, 2017, to:

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The agency proposal follows:

**Summary**

In accordance with N.J.S.A. 52:14B-5.1, the chapter expiration date for N.J.A.C. 19:25 was March 25, 2017. Because the chapter expiration date falls on a Saturday, the 180-day expiration date extension shall take effect if the filing of the notice of proposed readoption occurs no later than March 27, 2017, the next business day after the expiration date, pursuant to N.J.A.C. 1:30-6.4(g). As the Commission filed this notice of readoption with the Office of Administrative Law on March 27, 2017, the expiration date was extended 180 days to September 21, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The Commission proposes the readoption of N.J.A.C. 19:25. The rules of the Commission implement the provisions of the following laws: the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (Campaign Reporting Act); the Gubernatorial Legislative Disclosure Statement Act, N.J.S.A. 19:44B-1 et seq. (Financial Disclosure Act); the Legislative and Governmental Process Activities Disclosure Act, N.J.S.A. 52:13C-18 et seq. (Lobbying Act); and the Uniform Recall Election Law, N.J.S.A. 19:27A-1 et seq. (Recall Act). The Commission has examined the text of the rules and has determined the rules to be necessary, reasonable, and proper for the purpose for which they were promulgated.

A description of the subchapters follows:

Subchapter 1, General Provisions, sets forth the statutory authority for the Commission's rules and includes rules dealing with construction, relaxation, and amendments. This subchapter also contains definitions of general application.

Subchapter 2, Administrative, includes rules establishing Commission office hours, rules for access and release of documents, and rules dealing with authorized signatures on Commission documents.

Subchapter 3, Electronic Filing, establishes procedures for using the Commission's computer software to file reports with the Commission.

Subchapter 4, Establishment of Reporting Committees, sets forth the requirements, including filing of specific reports, for the establishment of a candidate committee, a joint candidates committee, a political committee, a continuing political committee, and a legislative leadership committee. This subchapter also addresses annual filing requirements for a political party committee.

Subchapter 5, Appointment of Campaign Officers and Depositories, includes the requirements for campaign or committee officers, campaign or committee depository accounts, and for appointment of deputy treasurers and additional depositories.

Subchapter 6, Receipt and Use of Funds, establishes rules for the receipt and deposit of candidate and committee funds. The subchapter also includes rules to establish the permissible campaign and office holding uses of funds by a candidate, a candidate committee, or a joint candidates committee.

Subchapter 7, Recordkeeping, describes the records that must be kept by candidates, committees, and treasurers and the period of retention applicable to such records.

Subchapter 8, Candidate, Joint Candidates, and Political Committee Reporting, establishes the rules, including due dates, for filing election cycle reports, quarterly reports, and certified statements by candidate committees, joint candidates committees, and political committees. Rules for reporting contributions received and expenditures made immediately before an election and for termination of reporting are also included.

Subchapter 9, Continuing Political Committee, Political Party Committee, and Legislative Leadership Committee Reporting, governs the filing of quarterly reports and certified statements by continuing political committees, political party committees, and legislative leadership committees. The rules include the due dates for filing such reports. Reporting of contributions received and expenditures made immediately before an election is also addressed.

Subchapter 10, Contribution Reporting, establishes the detailed information that must be reported by all candidates and committees for each contribution that exceeds a threshold amount. This subchapter describes the standard for reporting of occupation and employer information, the rules for receipt and reporting of currency contributions and reporting associated with "political

communications." Rules for reporting of interest income and loans, as well as for reporting contributions by minors and contributions made by electronic transfers of funds are also included. The rules also provide instructions for correct reporting of contributions received by means of checks from different types of contributors.

Subchapter 11, Contribution Limits, sets forth the limit on a contribution made by an individual, a corporation or union, an association or group, a candidate committee, a political committee, a continuing political committee, a political party committee, or a national political party committee to a candidate committee, a political committee, a continuing political committee, a legislative leadership committee, or to a State, county, or municipal political party committee. This subchapter also establishes rules for the return of excessive contributions and determination of affiliation between or among contributors. The rules establish the prohibition on partnership contributions and direct that such contributions must be properly allocated.

Subchapter 12, Reporting of Expenditures; Independent Expenditures, establishes the rules for correct reporting of expenditures by candidates and committees, including expenditures made by credit and debit cards and expenditures for the purpose of "street money." Subchapter 12 also defines and establishes rules for reporting of independent expenditures and expenditures for inaugural or other election-related events.

Subchapter 13, Political Identification Statements, establishes the requirement to include "paid for by" information on a political communication and recordkeeping requirements by other vendors.

Subchapter 14, Recall Elections, establishes reporting and other requirements applicable to a recall committee or a recall defense committee. Subchapter 14 also sets forth the permissible use of funds received by a recall defense committee.

Subchapter 15, Public Financing; General Elections for the Offices of Governor and Lieutenant Governor, and Subchapter 16, Public Financing of Primary Election for Governor, establish the rules by which gubernatorial primary and general election candidates may apply and qualify for receipt of public matching funds. These two subchapters establish the gubernatorial primary and general election contribution and public financing expenditure limits, the expenses that are not subject to expenditure limits, and the rules for reporting coordinated expenditures. The rules also concern the mandatory debates for publicly financed candidates and applications to sponsor debates. Subchapter 15 includes rules for the gubernatorial ballot statement program and the inaugural event contribution limit and reporting requirements.

Subchapter 17, Complaints and Other Proceedings; Violations, provides for complaint and hearing procedures and penalties for violations of the Campaign Reporting Act and the Recall Act.

Subchapter 18, Advisory Opinions, establishes procedures for requesting a Commission Advisory Opinion.

Subchapter 19, Personal Financial Disclosure Statements, implements the requirement that gubernatorial and legislative candidates file personal financial disclosure statements pursuant to the Financial Disclosure Act.

Subchapter 20, Represented Entities and Governmental Affairs Agents, implements the provisions of the Lobbying Act. It includes exemptions from lobbying reporting, definitions applicable to lobbying activity, rules for filing quarterly reports of lobbying activity and the contents of annual financial reports, and mandatory electronic filing. The rules also concern annual lobbying fees.

Subchapter 21, Professional Campaign Fund Raisers, defines “professional campaign fund raiser,” and requires professional campaign fund raisers to register with the Commission, file reports, and pay an annual fee. The rules also provide for penalties for violations of this subchapter.

Subchapter 22, Severability Clause, contains a severability clause.

Subchapter 23, is reserved for future use.

Subchapter 24, State Contractor Contributions Prohibited, implements the provisions of the “pay-to-play” prohibition law regarding State contracts that disqualify a business entity from receiving contracts with New Jersey State agencies if a contribution was made prior to the award of the contract and provides that a business entity that receives a State contract is prohibited from making certain campaign contributions during the term of the contract.

Subchapter 25, Legislative, County and Municipal Contractor Contributions Prohibited, implements the “pay-to-play” prohibition law regarding legislative, county, and municipal contracts, which disqualify a business entity from receiving contracts with New Jersey legislative, county, and municipal agencies if a contribution was made prior to the award of the contract, and provides that a business entity that receives such a contract is prohibited from making certain campaign contributions during the term of the contract.

Subchapter 26, Contribution Disclosure by For-Profit Entities, implements the “pay-to-play” disclosure law, which requires that prior to entering into a governmental contract of more than \$17,500 that is not publicly advertised, a business entity must disclose to that governmental entity certain contributions made during the past year. Further, a business entity that has received

\$50,000 or more through government contracts in a calendar year must file an annual statement with the Commission.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The rules proposed for re-adoption do not impose any new compliance or recordkeeping duties, and have no new economic impact upon candidates, reporting committees, treasurers, or governmental affairs agents. The rules proposed for re-adoption are designed to carry out the disclosure, contribution limit, political identification, and other salutary purposes of the Campaign Reporting Act, the Financial Disclosure Act, the Lobbying Act, and the Recall Act, and will promote the integrity of the electoral and legislative processes in this State. The rules will provide governmental affairs agents, candidates, various reporting committees, and their treasurers with guidelines on how to comply with various reporting requirements. The rules, therefore, will assist the public in a fuller understanding of campaign reports, gubernatorial and legislative financial disclosure statements, and governmental affairs agent registration statements and reports. The Commission notes that candidate, committee, and lobbying reports may be accessed by the political community and the public on the Commission's website at [www.elec.state.nj.us](http://www.elec.state.nj.us).

### **Economic Impact**

The rules proposed for re-adoption will generate no new compliance costs for filing entities or contributors who are required to observe limits on the amounts they may contribute to candidates and various committees. The Commission believes that the costs generated by the

rules proposed for re-adoption are justified by the public purposes of the Campaign Reporting Act and the Lobbying Act in order to promote the integrity of the electoral and legislative processes in this State. The rules proposed for re-adoption do not generate any additional costs, as they merely implement existing statutory requirements and practices.

### **Federal Standards Statement**

A Federal standards analysis is not required because the rules proposed for re-adoption concern New Jersey filing entities. The rules are not subject to any Federal requirements or standards.

### **Jobs Impact**

The rules proposed for re-adoption are not expected to have any impact upon the number of persons employed by candidates, candidate committees, joint candidates committees, political committees, continuing political committees, political party committees, and legislative leadership committees or in any other sector of the State.

### **Agriculture Industry Impact**

The rules proposed for re-adoption are not expected to have any impact on the agriculture industry.

### **Regulatory Flexibility Analysis**

The rules proposed for re-adoption affect election campaign and legislative disclosure, contribution limits, political identification, and other salutary purposes of the Campaign Reporting Act, the Financial Disclosure Act, the Lobbying Act, and the Recall Act. As such, the rules proposed for re-adoption do not affect, impact, or impose reporting, recordkeeping, or other compliance duties on small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. While N.J.A.C. 19:25-26, Recordkeeping; period of retention,

does impose a recordkeeping obligation on small businesses (business entities) that have received \$50,000 or more in the aggregate in any calendar year through agreements or contracts with a public entity and small businesses that are affected by this subchapter are subject to reporting requirements pursuant to the “pay to play” disclosure law, P.L. 2005, c. 271, amended P.L. 2007, c. 304, N.J.S.A. 19:44A-20.27, the rules proposed for re adoption do not impose any new recordkeeping or filing obligations.

### **Housing Affordability Impact Analysis**

The rules proposed for re adoption are not expected to have any impact on the affordability of housing in New Jersey and it is unlikely that the rules would evoke a change in the average costs associated with housing, as the rules affect the election campaign and legislative disclosure, contribution limits, political identification, and other salutary purposes of the Campaign Reporting Act, the Financial Disclosure Act, the Lobbying Act, and the Recall Act.

### **Smart Growth Development Impact Analysis**

The rules proposed for re adoption are not expected to have any impact on smart growth and it is unlikely that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey, as the rules affect the election campaign and legislative disclosure, contribution limits, political identification, and other salutary purposes of the Campaign Reporting Act, the Financial Disclosure Act, the Lobbying Act, and the Recall Act.

**Full text** of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:25.