

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

MINUTES - April 6, 1977 Meeting

PRESENT

ABSENT

Frank P. Reiche, Chairman
Sidney Goldmann, Vice-Chairman
Josephine S. Margetts, Member
Archibald S. Alexander, Member
Lewis B. Thurston, III, Executive Director
Edward J. Farrell, Legal Counsel
Herbert Alexander, Consultant
*Neil Upmeyer, E.L.E.C. staff

*Attended only in regard to item No. 4 (Public Financing Regulations).

The meeting convened at 10:15 a.m.

Pursuant to the Open Public Meetings Law, P.L. 1975, c.231, annual notice of the meetings of the Commission, as amended, was filed with the Secretary of State's office, copies were posted in the State House Annex, copies were mailed to the Newark Star Ledger and the Philadelphia Bulletin and the entire State House Press Corps.

1. Minutes of Commission meeting - The minutes of the Commission meeting held on March 8, 1977 were approved.

2. Late filing cases from 1975 and 1976

The executive director reported that a somewhat revised procedure will be employed in some cases. The most significant changes in the procedure involve including a cover letter in simple language setting forth the respondent's options for action and including a form A-2 (Admission of violation and waiver of hearing) with the Notice of Hearing and Complaint and the cover letter sent to the respondent. He indicated that the revised procedure will be employed for the cases involving the 1976 May Municipal Election and some of the cases involved in the 1976 Primary Election. The experience will then be evaluated, and, if the procedure proves to be satisfactory, it will be used for the remaining cases for the 1976 elections. It was agreed to proceed on this basis.

The executive director presented a list of hearing officer assignments, subject to availability, for remaining late filing cases from the 1975 General Election and for the May Municipal, Primary and General Elections of 1976. On a motion by Vice-Chairman Goldmann seconded by Commissioner Margetts, the Commission voted to assign hearing officers in accordance with the list presented. The vote was 4-0.

It was agreed that additional hearing officers are needed for the Commission and that this subject will be placed on the Commission agenda for the meeting on April 27. It was further agreed that certain attorneys from the panel be designated as presenting attorneys and others as hearing officers.

3. Advisory Opinion

0-10-77 (Assemblyman C. Gus Rys) - The Commission approved an advisory opinion in response to this request.

4. Additional proposed regulations re public financing of gubernatorial elections

A draft of 3 supplemental regulations on post-election contributions and payment of expenditures, payment of primary expenditures after the date of the primary and repayment of public and other funds, prepared by Edward Farrell and Neil Upmeyer, along with their written commentaries about these subjects, was discussed. The draft was reviewed previously on March 24 at a meeting at Chairman Reiche's office in Princeton by Chairman Reiche and Messrs. Farrell, Upmeyer, Herbert Alexander and Thurston. The subjects were discussed thoroughly.

Additionally, the executive director suggested that the Commission review its action in previously recommending the proposed change in the regulations which would delete 19:25-12.2(b) (exemption of certain food and beverages expenses from the expenditure limit). He presented data from the 1973 gubernatorial candidates campaign financing reports, prepared by Mr. Upmeyer, which indicated substantial expenditures for food and beverages in connection with fund-raising affairs.

Mr. Thurston and Mr. Upmeyer presented data from the campaign financial reports of the 1973 gubernatorial candidates which indicated in part that a significantly higher proportion of the total funds spent were spent for items which, if undertaken in 1977 could not be paid for with public funds, than the 33% permitted to be used for such items in 1977.

The provisions of Section 35 of the Act regarding the permissible uses of the public funds also was discussed.

Upon conclusion of the discussion, the Commission took the following action:

- a. On a motion by Vice-Chairman Goldmann, seconded by Chairman Reiche, the Commission adopted a motion proposing a regulation (19:25-15.35 - copy attached) specifying, among other things, that contributions after the primary date to pay primary expenditures would be limited to \$600 in the aggregate. The vote was 4-0.
 - b. On a motion by Chairman Reiche, seconded by Vice-Chairman Goldmann, the Commission adopted a proposed regulation (19:25-15.37 - copy attached) indicating that all public monies remaining after the payment of general election debts would be repaid by the candidates to the state not later than 6 months after the date of the general election and that any other monies remaining at that time which were used by the candidates to obtain public matching funds would be paid to the state. The vote was 4-0.
 - c. On a motion by Vice-Chairman Goldmann, seconded by Chairman Reiche, the Commission adopted proposed regulations specifying, among other things, that post-election expenditures will be included in those expenditures which count toward the expenditure limit. The vote was 3-0, with Commissioner Margetts abstaining.
5. Commission vs. Ralph DeRose, C-01-76

Commissioner Alexander is not participating in this matter and, accordingly, left the room at this point in the meeting.

Pursuant to C.10:4-12 of the Open Public Meetings Law, the Commission went into executive session to discuss the determination of this matter. Upon the conclusion of the discussion, the Commission returned to public session.

Upon a motion by Chairman Reiche, seconded by Vice-Chairman Goldmann, the Commission took the following action:

- a. Dismissed the allegations of the complaint regarding:
 1. Repayment of the bank loan in the amount of \$6817.27 without going through a campaign bank account and campaign treasurer in violation of Section 11 of the Act.
 2. Not identifying contributors of currency deposits of \$23,695 to various fund-raising affairs in violation of Section 20 of the Act prohibiting anonymous contributions.
 3. Failure to file 60 day reports and a final report for the 1973 primary election in violation of Section 16.

- b. The Commission found a violation of Section 11 for payment of a campaign bill to Xerox Corporation of \$1300 without going through the campaign bank account and campaign treasurer and imposed a fine of \$100 on Ralph DeRose for such violation.

The vote was 3-0, with Commissioner Alexander not participating. It is anticipated that a formal order by the Commission in this matter setting forth the Commission determination will be available on April 18, 1977.

6. Foley vs. Cardinale, C-21-76

Pursuant to C.10:4-12 of the Open Public Meetings Law, the Commission went into executive session to discuss this matter. At the conclusion of the discussion, the Commission returned to public session. On motion by Vice-Chairman Goldmann, seconded by Commissioner Margetts, the Commission voted to dismiss the complaint filed by Ms. Foley and take no further action in this matter. The vote was 3-0, with Commissioner Alexander not present.

7. Connors vs. Crook, C-19-76

Pursuant to C.10:4-12 of the Open Public Meetings Law, the Commission went into executive session to discuss this matter. At the conclusion of the discussion, the Commission returned to public session. On a motion by Vice-Chairman Goldmann, seconded by Chairman Reiche, the Commission agreed to dismiss the complaint in this matter filed by Mr. Connors and take no further action. The vote was 3-0, with Commissioner Alexander not present.

8. Letter of complaint from Joel L. Bernstein

Pursuant to C.10:4-12 of the Open Public Meetings Law, the Commission went into executive session to discuss this matter. At the conclusion of the discussion, the Commission returned to public session. On a motion by Chairman Reiche, seconded by Commissioner Margetts, the Commission agreed to take no further action in this matter and to inform Mr. Bernstein that the matter had been reviewed and no violation found. The vote was 3-0, with Commissioner Alexander not present.

9. Paci et al vs. Cenci et al, C-15-76

Pursuant to C.10:4-12 of the Open Public Meetings Law, the Commission went into executive session to discuss this matter. At the conclusion of the discussion, the Commission returned to public session. On a motion by Vice-Chairman Goldmann, and seconded by Commissioner Margetts, the Commission voted to file a complaint against the campaign committee of the Spirit of '76, the treasurer of that Committee Frederick E. Cenci, and candidate Henry Cimiluci for making expenditures of \$175 for the rental of premises without depositing the funds in the

campaign account or through a campaign treasurer in violation of Sections 11 and 12 of the Act. The complaint also will charge that Committee, treasurer Cenci, and candidate Giannella with violations of the same sections of the Act regarding the payment of an expenditure of \$300.30 for certain literature. The Commission agreed to appoint George Fischler as the hearing officer in this matter, subject to his availability. Vote was 3-0, with Commissioner Alexander not present.

10. Adjournment - The Commission adjourned the meeting at approximately 4:15 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "Lewis B. Thurston, III".

LEWIS B. THURSTON, III
Executive Director

LBT/cm