

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

MINUTES - December 9, 1977 Meeting

PRESENT

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
Neil Upmeyer, Director of Public Financing

ABSENT

Herbert Alexander, Consultant

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.

The meeting convened at 10:15 a.m.

1. Advisory Opinion Requests

0-05-77 John A. Zaleski, Linden City Dem. Club
0-20-77 Irving C. Marcus, Esq.
0-31-77 C.A. Haverly, Treasurer, Taxpayers PAC
0-42-77 John Tomasin, Esq.

The Commission agreed on advisory opinions for each of the above requests and directed counsel to forward copies of the advisory opinions to the individuals requesting them.

2. Request by Socialist Workers Party for Exemption from Disclosure Requirements

The Commission discussed the request by the Socialist Workers Party for an exemption for itself and its candidate for Governor, Richard Ariza, from the disclosure requirements of the Act. Counsel advised the Commission that, in his opinion, there is insufficient legal authority in the Act and Commission regulations for the Commission to grant the exemption requested. Counsel presented to the Commission a draft of response to the exemption request which reflects this conclusion and denies the request for that reason. On a motion by Chairman Reiche, seconded by Commissioner Margetts, the Commission voted to approve counsel's draft, with some slight changes. The vote was 3-1 with Commissioner Alexander in the negative because he believes that the Commission's legal authorization is sufficient for the Commission to hold a hearing in regard to the exemption request at this time.

3. 1976 Primary Election Late Filing Cases

Pursuant to C.10:4-12 of the Open Public Meetings Act, the Commission went into executive session to discuss determinations

in regard to these matters. 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 voted 4-0 for the determinations in 46 cases on the attached list. In the other 2 cases on the list, C-379-76 (Harold Hill) and C-398-76 (Thomas J. McCart), the vote was 3-1, with Commissioner Alexander in the negative favoring a \$25.00 fine in each case.

4. 1978 E.L.E.C. Schedule of Meetings

The Commission discussed and agreed upon a schedule of meetings for the Commission for 1978 and directed the executive director to make the schedule public in accordance with the provisions of the Open Meetings Law.

5. 1977 Gubernatorial Election

A. 15-day reports- the executive director reported on the 15-day reports received by gubernatorial candidates and the State Committees of the major political parties. In particular, he indicated that there appeared to be extensive reporting of "street money" under the Commission's new regulation on this subject.

B. Post-audit - the executive director and director of public financing reported on the post-audit of the gubernatorial candidate's records for this campaign. The director of public financing indicated that an internal review of the documents submitted to the Commission by gubernatorial candidates Bateman and Byrne applying for public financing had been conducted. He also reported on his and Alexander Parks' meeting with staff members of the Federal Election Commission to review procedures that were undertaken by that agency in post-auditing presidential candidates in 1976.

6. Certification of Matching Funds to Gubernatorial Candidates

The Commission reviewed a staff summary of evidence recently received from the Bateman campaign concerning contributions which had been originally submitted prior to the general election. The director of public financing reported that the Commission staff internal audit review had discovered one \$500 contribution to the Bateman campaign which had been matched twice inadvertently and indicated that the staff summary presently before the Commission reflects a \$1,000 deduction from the Bateman campaign of matching funds for this purpose. On a motion by Commissioner Alexander, seconded by Vice-Chairman Goldmann, the Commission voted 4-0 to certify a net total of \$2250 in public

matching funds to the Bateman campaign.

7. Income Tax Checkoff Fund for Gubernatorial Election

The executive director reported that he had received preliminary figures from the Division of Taxation on the first year experience with the income tax checkoff for gubernatorial public financing. He stated that he was told by the Division that comprehensive figures would be available in the near future detailing this experience.

8. Inaugural Activities in 1977

The executive director and director of public financing reported on conversations and correspondence with representatives of the Byrne campaign and the Brendan Byrne Inaugural Committee concerning planned inaugural affairs and use of proceeds from such affairs for political purposes. Apparently, the solicitations to the inaugural affairs do not contain any written reference to indicate to potential contributors the intended use of the proceeds and do not alert the contributors to the possible application of the \$600 limit to some or all of the contributions to such affairs.

After discussion, the Commission agreed that in the absence of some showing of a written indication to contributors of the intended use of the proceeds of inaugural affairs and an alerting of the contributors to possible application of the \$600 limit, as spelled out in the recent letter sent by the executive director to the treasurer of the inaugural committee, the proceeds from such inaugural activities could not be used to pay obligations of the gubernatorial primary or general election. The Commission further indicated that compliance with this provision could be achieved by forwarding a letter to contributors spelling out the purposes for which the contributions to inaugural activities would be used and informing them of the possible application of the \$600 contributions limit to some or all of these activities. Counsel was directed to prepare a letter to the treasurer of the Brendan Byrne Inaugural Committee setting forth the Commission's views.

9. Advisory Opinion Request from Robert Raymar re Use of Anticipated Surplus in Byrne for Governor Committee Account, 0-46-77

The Commission discussed this advisory opinion request and concluded that the \$8,000 which was not submitted for match could be used to pay primary debts but the \$40,000 threshold money could not be used to pay primary debts and could not be refunded to contributors. The same is true of money other than the \$40,000 threshold unless it can be shown that such other money was not used to obtain public funding. Counsel was directed to draft an advisory opinion reflecting these conclusions and to forward it immediately to Mr. Raymar.

10. Senate Bill 1811 of 1976-77 Proposing an Office of Administrative Law

The executive director reported that this bill which could affect the Commission by requiring it to use Administrative Law Judges appointed by the Governor and assigned by the Director of the Office of Administrative Law to replace the hearing officers now appointed by the Commission, had passed the Senate and was being considered by the Assembly. The executive director indicated his concern that the bill could affect the independence of the Commission, particularly in view of the specific statutory charge of independence to the Commission contained in N.J.S.A. 19:44A-5. He indicated that he believed the Commission should seek an amendment to the bill to exempt the Commission from its provisions for this reason. The Commission agreed and indicated to the executive director that he continue his dialogue with the legislators and Governor's office in regard to this bill.

11. Approval of Minutes of Commission meetings

The Commission approved the minutes of the following meetings:

October 3, 1977 - Public and executive sessions

October 24, 1977- Public session

*October 31, 1977- Public and executive sessions

*Commissioner Alexander abstained from the discussion and vote because he did not attend that meeting.

November 3, 1977 - Public and executive sessions

12. Report on National Conference of Reform Commissions

The chairman and executive director reported on the attendance and participation in this conference held in New Orleans, Louisiana from December 5-7 by representatives from New Jersey. The chairman, executive director, counsel and director of public financing all participated in the program at the conference. The chairman particularly reported in regard to the organizational proposal for the group approved by the Commission and indicated that he had been selected as chairman of the continuing steering committee of the organization. The executive director reported on the very strong interest in public financing and, in particular, the New Jersey experience in public financing evidenced at the meeting.

13. Adjournment - The Commission adjourned the meeting at 4:30 p.m.

Respectfully submitted,



LEWIS B. THURSTON, III
Executive Director