

DRAFT

Morris County Chamber Supports Legislation to Eliminate Duplicative Pay to Play Disclosure for Charitable Organizations

The Election Law Enforcement Commission (ELEC) has issued new regulations based on the series of laws commonly known as "Pay to Play" legislation. The legislation's intent is to "clean up" elections by eliminating the possibility of corruption due to the influence of big money in political campaigns.

Unfortunately, the substantive effect of these laws is to create a system that is, in fact, unfair having many unintended consequences that make it more difficult for small businesses to compete.

At its meeting March 6, 2007, the Election Law Enforcement Commission adopted the proposed "Pay to Play" disclosure regulations without changes that would have excluded 501(c) 3 organizations from the scope of the requirements. At the hearing, ELEC staff considered the possibility that the regulations likely exceeded legislative intent. Ultimately, however, the Commissioners did not believe that they had the authority to make the change, and that the perceived benefits of the disclosure outweighed any administrative burdens for charitable organizations.

Acting on this interpretation, the New Jersey Election Law Enforcement Commission (ELEC) has adopted regulations that will require charities and other non-profits to disclose the reportable state, county and local political contributions of their board members, officers, and respective spouses in order to comply with disclosure requirements of the pay to play laws.

The Pay to Play laws (P.L. 2004, C. 19 and P.L. 2005, C. 271) which took effect in early January 2006, were part of a sweeping series of ethics reforms enacted by the state to reduce the influence of campaign contributions on the awarding of public contracts. These laws restrict state, county and local government's ability to enter into contracts with a "business entity" if that entity has made certain "reportable" campaign contributions (generally \$300 or more). The new law also requires covered entities to disclose campaign contributions made by various key individuals within the business entity. Specifically, this law requires that all entities that receive an aggregate of \$50,000 or more per year in government funding disclose all reportable campaign contributions of their officers, board members and key employees to the NJ Department of the Treasury.

The Morris County Chamber of Commerce is concerned that the regulations are particularly inappropriate in the context of charitable organizations, whose activities under federal law must be scrupulously non-partisan. Charities are exceedingly careful to separate the private, constitutionally protected campaign activities of individuals who may work or volunteer for them; by forcing an institutional disclosure of private campaign contributions, the proposed regulations will foster misperceptions that may actually harm charitable efforts to solicit contributions and recruit board members. Laws that regulate conflicts of interest and fraud already cover recent well-publicized abuses of charities by legislators.

Another issue causing confusion is that government contracts are covered under the pay-to-play laws, but some grants are exempt; unfortunately, there does not appear to be a definition that clearly distinguishes the two. Further, existing campaign law already requires that all contributions that aggregate more than \$300 in an election cycle be reported to the state. This regulation would require that donors also report the donation to the charity, who would then **also** disclose information to the state.

The business community supports legislation that would eliminate the negative effects of this regulation. The regulations as adopted will only unnecessarily add to the administrative burdens of charities, will have a chilling effect on the ability of charities to recruit new board members, restrict the charities and involvement in public policy and inhibit the ability of charities to receive government funds.

The Morris County Chamber of Commerce, representing some 800 employers, supports legislation that would exclude 501(c)3's from the "pay to play" disclosure requirements.

#