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MEMORANDUM

TO: Members of the New Jersey Citizens' Clean Elections
Commission

FROM: Frank J. Parisi *FJP*
Principal Research Analyst

DATE: MARCH 2, 2005

SUBJECT: EXPLANATION OF P.L.2004, c.121, THE "NEW JERSEY
FAIR AND CLEAN ELECTIONS PILOT PROJECT."

Introduction

The following is an explanation of P.L.2004, c.121, which establishes the "New Jersey Fair and Clean Elections Pilot Project." It is a temporary program for the public financing of candidates seeking election to the office of member of the General Assembly from two legislative districts in 2005. This explanation is based on the Assembly State Government Committee statement for the law when it was a bill and the text of the law, a copy of which is enclosed.

Selection of Participating Districts

Specifically, the law provides that the chair of the State Democratic party and the chair of the State Republican party would each select a district to participate in the program from those described in the law no later than the 20th day following the primary election (June 27, 2005). These districts include the 6th, 7th and 15th for the Democrats and the 9th, 11th and 13th for the Republicans. If a chair refuses to make such a selection, it would be made by a three-member selection committee made up of a former Governor of this State and one other person, each appointed by the Speaker of the General Assembly, and one person appointed by the Minority Leader of the General Assembly. This committee would make the selection no later than the 24th day following the primary election (July 1, 2005).

Fund Raising

Participating candidates are required to initially raise money in contributions of no greater than \$200, defined as seed money contributions, from the candidate, the candidate's family or other

individuals but not from a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, up to a limit of \$3,000 in the aggregate. The seed money contributions are used by a participating candidate seeking to raise enough qualifying contributions to become certified as a New Jersey Fair and Clean Elections candidate. All participating candidates must raise qualifying contributions of at least 1,000 contributions of \$5 and at least 500 contributions of \$30, for a total of \$20,000. The participating candidate must suspend, for the duration of the campaign, all access he or she has to campaign funds raised prior to becoming a participating candidate. All such qualifying contributions must be raised during the period beginning on the 25th day following the primary election (July 2, 2005) and ending on the 62nd day prior to the general election (September 7, 2005). All unspent seed money and qualifying contributions are to be turned over to the New Jersey Fair and Clean Elections Fund, which will be used to finance New Jersey Fair and Clean Elections candidates.

Certification as a New Jersey Fair and Clean Elections Candidate

Participating candidates can be certified as New Jersey Fair and Clean Elections candidates if: 1) they sign and file with the Election Law Enforcement Commission (ELEC) a declaration of intent to participate in the election as such a candidate; receive the appropriate number of valid qualifying contributions; submit a valid petition of nomination to the appropriate authority; and have not accepted contributions while a participating candidate, other than seed money contributions; and 2) both candidates in a legislative district from the same political party are certified as New Jersey Fair and Clean Elections candidates. A certified candidate may withdraw from being a certified candidate and become a nonparticipating candidate at any time prior to the day of the general election (November 8, 2005) with the approval of the "New Jersey Citizens' Clean Elections Commission" (NJCCEC, described below). The NJCCEC will consider such requests on a case by case basis. Any candidate who withdraws from being a certified candidate must remit to the clean elections fund any money received therefrom, unless directed otherwise by the NJCCEC. The law allows ELEC to assess a penalty for such a withdrawal.

Public Funding

Under the law, each certified candidate is provided with an amount of money equal to 75 percent of the average amount of money expended by candidates who were members of a political party seeking election to the General Assembly in the legislative districts of the certified candidates in the two immediately preceding general elections for that office, but in no event more than \$100,000. If a certified candidate is opposed by a nonparticipating candidate, the certified candidate would receive an additional amount of money equal to the amount that would have been issued to the nonparticipating candidate opponent if that nonparticipating candidate had been a certified candidate. If a campaign report of a nonparticipating candidate shows that the aggregate amount of the contributions, alone or with money spent on behalf of such a candidate by a person or a political committee, continuing political committee, political party committee, candidate committee, joint

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candidates committee or legislative leadership committee not acting in concert with that nonparticipating candidate, exceeds the amount provided to each certified candidate under the law, each certified candidate would receive additional money equivalent to the excess, up to \$50,000.

The law further provides that if certified candidates or nonparticipating candidates are determined by ELEC to be benefiting from money spent on behalf of such candidates by a person or a political committee, continuing political committee, political party committee, candidate committee, joint candidates committee or legislative leadership committee not acting in concert with those certified or nonparticipating candidates (i.e., entities making independent expenditures), each of the certified candidates seeking election to the General Assembly in the same legislative district who are not benefiting from such an expenditure would be provided with money in an amount not exceed \$50,000.

Public Information

The law requires ELEC to prepare a voter guide for each of the elections in which certified candidates are seeking office this year, listing which candidates are certified candidates and providing all candidates the opportunity to insert a statement that cannot exceed 500 words. A certified candidate must include in any campaign advertisement paid for by the candidate and transmitted through radio or television, or through any broadcast, cable, or satellite transmission, or via the Internet, or in any other communication, a statement, in the candidate's own voice, that he or she approved the advertisement. The law also requires ELEC to sponsor debates among the candidates and assess a penalty for a participating candidate failing to participate in such a debate.

The New Jersey Citizens' Clean Elections Commission

P.L.2004, c.121 establishes a nine-member commission, to be known as the "New Jersey Citizens' Clean Elections Commission" (NJCCCEC). It is made up of legislative members and members of the public who will review the pilot project and recommend the criteria the Legislature should adopt to select districts from which candidates could seek nomination and election to the Senate and General Assembly in 2007 using the clean elections system. It is also to recommend whether to make the New Jersey Fair and Clean Elections pilot project a permanent option available to provide public financing for legislative candidates.

Penalties

The law contains penalty provisions. Any person found to be in violation of the law will be liable to a penalty of not more than \$6,000 for the first offense and not more than \$12,000 for the next and each subsequent offense. Any individual who is found to have knowingly and willfully given any amount of money to another person for the purpose of having that other person give that money to a participating candidate as a qualifying contribution is guilty of a crime of the fourth degree. Any person, candidate or official associated with the campaign of a participating or certified candidate

candidate who knowingly and willfully makes false statements or files false reports is guilty of a crime of the third degree. Any participating candidate who files a report found to be in violation of the seed money and qualifying contributions provisions of the bill would be disqualified as a candidate for the public office sought or would forfeit such office if elected.

Estimated Costs

P.L.2004, c.121 contains no appropriation. A fiscal estimate of the law in bill form (Assembly, No. 1 of 2004) by the Office of Legislative Services does not estimate the cost of the project. It does, however, note that the cost to administer the bill should be minimal. The law provides that the members of the New Jersey Citizens' Clean Elections Commission be reimbursed for expenses, which for past commissions have averaged \$25,000 and above. According to the estimate, ELEC's current staffing is adequate to administer the project.