

**OPENING STATEMENT OF
COMMISSIONER MICHAEL E. TONER
ON THE FEC'S PROPOSED RULES REGARDING
NATIONAL CONVENTIONS AND PRESIDENTIAL CANDIDATES
APRIL 3, 2003**

The Commission begins considering today key rules will directly affect the 2004 national conventions and presidential election. The Commission's central task in this rulemaking is deciding what impact the new campaign finance law has on convention financing and the presidential public finance system.

In deciding these important questions, I think it is critical that the Commission issue clear rules so that the national convention committees and the presidential campaigns know what they can and cannot do under the new law.

There are obviously a large number of proposed rules before us today, but I'd like to comment briefly on several issues that I think are particularly important.

First and foremost is the question of whether, after BCRA, the convention host committees can continue to raise and spend soft money, as they have in the past, to help underwrite important aspects of staging a successful convention – including convention infrastructure, transportation services, and convention security. A related issue is whether federal officeholders and national party officials under BCRA can legally help host committees raise soft money resources for these activities.

I personally see no evidence that Congress, when it passed BCRA, intended to outlaw these practices; to the contrary, I think every indication is that Congress did not intend to change how national conventions are financed at all. News accounts indicate that a number of prominent federal officeholders, from both sides of the aisle, are currently helping convention host committees raise soft money. I think this is powerful evidence that the Members of Congress who voted for McCain-Feingold do not believe that the new law changes the way convention activities have been historically financed.

I also believe that if the Commission were to prohibit soft money resources from being used, it would have a devastating impact on the ability of the national parties to host successful conventions. All that being said, I look forward to getting comments on this question and having the Commission decide it.

Second, if soft money donations are permitted to convention host committees, I am very interested in abolishing the locality requirement that has long been in our rules for soft money donations to host committees. Under this rule, corporations and individuals must live or do business in the convention locality to be able to contribute to the convention host committee. I am not sure this rule was ever required by FECA.

Equally important, the rule has had the effect of making it much more difficult for smaller and mid-size cities, whose corporate and business presence is not as great as the nation's largest cities, to successfully hold national conventions. For example, this year there is no question that the corporate presence in Boston is not nearly as large as New York's. If we retain the locality rule, it may be more difficult for the Democrats to raise sufficient convention resources than it is for the Republicans. I question why this should be? If it's permissible for soft money resources to be used to help defray convention costs, I don't believe it should matter legally where the donor resides or does business, especially if it makes it more difficult for smaller market cities to hold conventions.

Third, I would like to seek comment on proposed rules that would address Leadership PACs when they are used to pay for expenses that are incurred by Presidential candidates in connection with running for President. During a hearing the Commission held earlier this year on Leadership PACs, there was considerable discussion about past uses of Leadership PACs by presidential candidates to cover certain expenses – such as polling expenses, staff salary, and travel expenses to Iowa, New Hampshire, and other exotic locales – that by most plausible accounts are related to running for President. The proposed rules would make clear that if a Leadership PAC pays for expenses on behalf of a presidential candidate, that are a qualified expense under our law, the payment would be an in-kind contribution to the presidential candidate subject to the limits and would have to be paid for by the presidential campaign.

Finally, I suspect there will be a lot of discussion about whether the FEC has the legal ability to not implement the new campaign finance law for the 2004 convention, given that certain convention contracts have been signed and convention planning is well underway. BCRA went into effect in November, 2002, and contained a limited transition period, which ended in January of this year. The question, then, is whether the Commission has the power, under the Administrative Procedures Act or otherwise, to postpone the effective date of BCRA as it applies to national convention financing until the 2008 national conventions. I am very skeptical that the Commission has such extraordinary legal power, but I look forward to receiving comments on this important legal issue.

The Commission has placed this rulemaking on a fast track, with a hearing scheduled for May 19th and final rules consideration in the end of June. I think it was a very sound decision to expedite this rulemaking, as the convention committees and presidential candidates need to know as soon as possible how the new campaign finance law affects their political activities. I look forward to working with everyone at the Commission to address these issues. Thank you.