

RECORD

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LEGISLATION**FEC TESTIFIES ON FY 1987 BUDGET**

During Congressional hearings held between February 20 and April 23, 1986, FEC Vice Chairman John Warren McGarry requested a \$12.8 million budget for the Commission for fiscal year (FY) 1987. Mr. McGarry, who also serves as chairman of the agency's finance committee, stated that the FEC's budget request "will give [the agency] limited flexibility to build on progress to date."

Accompanied by FEC Chairman Joan D. Aikens and Commissioner Thomas J. Josefiak, vice chairman of the finance committee, Mr. McGarry testified before four Congressional committees: the Subcommittee on Elections of the Committee on House Administration; the House Committee on Appropriations' Subcommittee on Treasury, Postal Service and General Government; the Subcommittee on Treasury, Postal Service and General Government of the U.S. Senate Committee on Appropriations; and the Senate Committee on Rules and Administration.

Vice Chairman McGarry testified that the volume of campaign finance activity monitored by the FEC during the 1983-84 Congressional election cycle had increased by one-third over the activity of each of the two previous election cycles (i.e., the 1979-80 Presidential cycle and the 1981-82 Congressional cycle). Campaign finance activity in 1986 is expected to approximate 1984 activity. Mr. McGarry predicted that in 1988, when the major parties' Presidential nominations may be contested by 20 or more publicly funded candidates, "total spending will surely be astronomical."

Mr. McGarry said that increases in campaign finance activity have implications for the Commission's workload. FEC staff must: field more information calls and press inquiries; process and disclose more pages of campaign finance reports; certify more public funds to Presidential candidates; and handle more complex legal issues through the advisory opinion and enforcement processes. "While improving our timeliness in the face of a growing workload, we have also been able to enhance both our disclosure and outreach programs - up to this point that is," Mr. McGarry stated.

Mr. McGarry explained that, during FY 1986, the Commission was forced to react promptly to unanticipated budget cuts resulting from the Balanced Budget and Emergency Deficit Reduction Act of 1985. This cut followed an earlier Congressional reduction based on a proposed government-wide salary cut, which never went into effect.* "While the combined dollar amount is not significant by overall government standards, these reductions [totaling \$858,000] proved to be extremely disruptive to a small, personnel-intensive agency such as ours," he said. For example, the agency was forced to cut computerized disclosure services which are not mandated by law but which the public has come to expect from the FEC. Budget cuts also required a further reduction in programs of the National Clearinghouse on Election Administration, which had already been cut more than 90 percent since the late 1970's.

**Congress cut the agency's budget request by \$323,000 on the assumption that a 5 percent cut would be imposed on all federal employees. That assumption later proved false, but the Commission's funds were not restored.*

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ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions. The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR Subject

- 1986-8 Contributions to candidate's 1982 Senate campaign refunded by his 1986 Senate campaign. (Date made public: March 20, 1986; Length: 1 page, plus 3-page supplement)
- 1986-9 Campaign funds used for legal expenses pertaining to compliance with House Rules. (Date made public: March 25, 1986; Length: 1 page)
- 1986-10 Affiliated status of two nonconnected PACs using same consulting firm. (Date made public: April 2, 1986; Length: 2 pages)
- 1986-11 Act's preemption of state law governing Congressional campaign's logo. (Date made public: April 2, 1986; Length: 1 page, plus 1-page supplement)
- 1986-12 Funds transferred from former Representative's 1984 House campaign to retire debts of her 1986 Senate exploratory committee. (Date made public: April 3, 1986; Length: 1 page, plus 5-page supplement)
- 1986-13 Eligibility of trade association's corporate members for financing PAC fundraisers. (Date made public: April 4, 1986; Length: 4 pages plus 39-page supplement)

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1986-6: Multicandidate Committee Established by the Vice President for Party Building and Support of Federal/Nonfederal Candidates

Vice President George Bush is the founder and honorary chairman of the Fund for America's Future, Inc. (the Fund), a nonconnected political committee which was established in 1985 to support the Republican Party and Republican candidates at the local, state and federal levels. Since Vice President Bush will not consider a potential Presidential candidacy until after the 1986 elections, he has neither established a testing-the-waters fund nor authorized the Fund to make expenditures or engage in activities on behalf of his potential candidacy.

During 1986, as the election season progresses, Vice President Bush will be involved in a number of party-building and direct candidate support activities on behalf of the Fund. If the Vice President engages in the Fund-sponsored activities described below, the Fund's expenditures for these activities will not be allocable to his potential candidacy for federal office in 1988, provided the activities are restricted in the ways described by the Fund in its advisory opinion request (i.e., the activities do not promote Vice President Bush's potential candidacy).

The Commission noted that its conclusion applies only to expenditures the Fund makes for activities the Vice President participates in before he qualifies as a candidate under the election law.

1. Candidate and Party Appearances

Travel expenses the Fund absorbs for the Vice President's appearances at party functions, candidate rallies, fundraisers and hospitality suite gatherings will not be allocable to his potential

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candidacy in 1988, provided these public appearances do not include:

- o Any public references to the Vice President's potential candidacy (e.g., possible intent to campaign in 1988) or to the candidacies of his potential opponents;
- o Any solicitations on behalf of his candidacy;
- o Any meetings with individuals and with the press regarding his candidacy or the formation of a campaign organization; or
- o Any campaign paraphernalia distributed in support of his candidacy.

Any reference to the Vice President's potential candidacy must be incidental, i.e., incidental contacts and incidental remarks, such as responses to questions. 11 CFR 106.1(a) and (b).

2. Publications and Solicitations

Commission Regulations provide that a political committee's expenditures for newsletters and fundraising solicitations need not be attributed to individual candidates, unless these expenditures are: 1) made on behalf of a clearly identified candidate and 2) can be directly attributed to that candidate. 11 CFR 106.1(c)(1). The Fund's expenditures for publications that describe the Fund's purposes and solicit contributions to the Fund need not be allocated to the Vice President's potential candidacy. The materials will not refer to his potential candidacy. Nor will the materials suggest that contributors will be viewed as early supporters of his candidacy. Rather, the publications will merely note Vice President Bush's association with the Fund and his desire for individuals to contribute to the Fund as a means of supporting Republican candidates and the Republican party.

3. Steering Committees

The Fund has established steering committees to involve party officials, leaders and officeholders in the Fund's activities and to solicit their advice on candidate support. The Fund need not allocate expenditures for the steering committees to Vice President Bush's potential candidacy in 1988, provided:

- o The steering committees do not promote Mr. Bush's potential candidacy by forming a campaign organization on his behalf or by influencing his nomination (e.g., by participating in the delegate selection process on his behalf); and
- o The steering committees will not make support for Mr. Bush's potential candidacy a requirement for the committees' aid to Republican candidates and organizations.

4. Volunteer Program

To assist Republican candidates and party-building activities (local, state and federal) during 1986, the Fund has been recruiting volunteers and

conducting volunteer programs outside the Washington, D.C. area. Expenditures the Fund makes for these volunteer training programs will not be allocable to Vice President Bush's potential candidacy. 11 CFR 106.1(c)(2). The activity will not be conducted to:

- o Establish a campaign organization for Vice President Bush; or
- o Participate in the Presidential nomination process—such as delegate selection—on his behalf.

However, if the Fund conducts volunteer activities that aid other clearly identified federal candidates, some of its expenditures may be allocable to those candidates.

5. Precinct Delegate Recruitment and Assistance

The Fund plans to recruit and offer financial assistance to individuals who seek election as Republican precinct delegates in Michigan's August 1986 precinct delegate election. In addition, the Fund will disseminate information with regard to this election. Expenses the Fund incurs for these specific activities will not be considered contributions or expenditures to influence the nomination or election of Vice President Bush, or of any other candidate, for federal office. Nor will the Fund's expenditures: 1) be allocable to any federal candidate or 2) trigger his/her candidacy.

The Act and FEC Regulations govern only those delegate selection activities related to national nominating conventions because contributions and expenditures made in conjunction with such activities are for the purpose of influencing a federal election. Individuals seeking election as precinct delegates are not necessarily or presumptively seeking positions as national or state convention delegates in 1988. Election as a precinct delegate is not a requirement for selection as a delegate to the Party's national nominating convention in 1988. Furthermore, individuals seeking election as precinct delegates will not be identified on the ballot as committed to or supporting any potential Presidential candidate. Nor is such a commitment a requirement for selection as a delegate. Finally, individuals elected as precinct delegates in 1986 will not select national convention delegates. Rather, they will select delegates to a 1988 state party convention which, in turn, will choose the national convention delegates.

The Commission noted that, should the Fund's support for potential precinct delegates exceed those activities described in its advisory opinion request, a different conclusion might be warranted. Vice Chairman John Warren McGarry and Commissioner Thomas E. Harris each filed a dissent. (Date issued: March 14, 1986; Length: 23 pages, including dissents)

CAMPAIGN FINANCE LAW 86: A SUMMARY OF STATE CAMPAIGN FINANCE LAWS

Recently published by the Clearinghouse, this volume contains state contribution and solicitation limitations, expenditure limitations, reporting requirements and other campaign finance information, with citations to the respective state codes and quick reference charts.

To purchase your copy, indicate the title and order number 052-006-000-35-0, and make your check or money order for \$19.00 payable to Superintendent of Documents.

Send your order to:
Superintendent of Documents
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Washington, D.C. 20402

CLEARINGHOUSE

1986 CLEARINGHOUSE PROJECTS

The FEC's National Clearinghouse on Election Administration serves as a central exchange point for research and information regarding the administration of federal elections. A staff of four provides information services to state and local election agencies by publishing research studies, conducting workshops and responding to telephone and letter inquiries.

Under the guidance of Penelope Bonsall, appointed as director in July 1985, the Clearinghouse currently is focusing on three on-going projects discussed below.

Voting System Standards

The first volume of a study on voting system standards addresses standards for hardware components. The second and third volumes, now under way, will consider, respectively, software standards and management guidelines for punchcard and marksense voting systems. The project is the result of an earlier study conducted by the Clearinghouse in 1983 in response to a specific request from Congress. The 1983 study, entitled Voting System Standards: A Report to the Congress on the Feasibility of Developing Voluntary Standards for Voting Equipment, noted that the proliferation of voting devices had created a compelling need to develop minimum standards for use by the states in assessing a voting system's reliability, security and performance. In recognition of this need, the Clearinghouse began a long-term commitment in September 1984 to develop standards for voting devices.

Voting Accessibility Act

Congress granted the Commission new responsibilities under the Voting Accessibility for the Elderly and Handicapped Act, signed by the President on September 28, 1984. The Act stipulates that registration and polling places for federal elections must be accessible to handicapped and elderly individuals. For the next five election cycles, the states will report to the Commission on the accessibility of polling places, giving reasons for the inaccessibility of any particular site. The Clearinghouse will consolidate this information in annual reports to Congress beginning in 1987, following the 1986 elections.

Computerizing Election Administration

This three-volume project will pool state-of-the-art information on using computers to administer elections. During 1985, the Clearinghouse published Computerizing Election Administration, Volume 1, Current Applications. During 1986, a second volume will be published which presents a comprehensive computerized election system model that can be implemented incrementally. A third volume is currently under way on how to implement computerized election systems that respond to varied situations (e.g., shared versus in-house computer equipment).

COURT CASES

FEC v. ELLIOTT S. MAGGIN FOR CONGRESS COMMITTEE

On April 2, 1986, the U.S. District Court for the District of New Hampshire found in default the Elliott S. Maggin for Congress Committee (the Committee), the principal campaign committee for Mr. Maggin's 1984 House campaign. The Committee had failed to respond to a complaint filed against it by the FEC on January 29, 1986. (FEC v. Elliott S. Maggin for Congress Committee; Civil Action No. C86-40-L)

In its complaint, the FEC had asked the court to:

- o Declare that the Committee and the Committee's treasurer, Andi T. Johnson, had violated the election law by failing to file a quarterly report on time (2 U.S.C. §434(a)(2)(A)(iii));
- o Assess civil penalties against each defendant amounting to the greater of \$5,000 or an amount equal to 100 percent of the amount involved in the violation; and
- o Permanently enjoin defendants from further violations of the election law.

NEW LITIGATION**FEC v. Pryor for Congress Committee**

The FEC asks the district court to:

- o Declare that the Pryor for Congress Committee, the principal campaign committee for Nancy Pryor's 1984 House campaign, violated the election law by failing to file quarterly and pre-general election reports with the Commission (2 U.S.C. §§434(a)(2)(A)(i) and (iii));
- o Assess a civil penalty against the defendant amounting to the greater of \$5,000 or an amount equal to 100 percent of the amount involved in each violation; and
- o Permanently enjoin defendant from further violations of the election law.

U.S. District Court for the Western District of Pennsylvania, CA86-580, March 18, 1986.


COMPLIANCE
FEC PUBLISHES ILLINOIS NONFILERS

On March 14, 1986, as required by the election law, the Commission published the names of two Illinois campaigns for the House of Representatives that had failed to file the pre-primary report required for the March 18, 1986, Congressional primary. Due by March 6 (or March 3 if sent by certified mail), the pre-primary report should have covered activity from January 1 through February 26.

Commission compliance actions against nonfilers are decided on a case-by-case basis. The election law gives the Commission broad authority to initiate enforcement actions resulting from infractions of the law, including civil court enforcement and imposition of civil penalties.

PUBLIC APPEARANCES

- 5/7 Minnesota State Conference
Minnesota Ethical Practices
Board and the Office of the
Secretary of State of Minnesota
St. Paul, Minnesota
Chairman Joan D. Aikens
Bradley Litchfield, Assistant
General Counsel
Bobby Werfel, Chief
Information Services
Paul Kolesa, Public
Affairs Specialist
- 5/7 Hope College
Washington, D.C.
Vice Chairman John Warren
McGarry
- 5/12-13 Practising Law Institute
Washington, D.C.
Chairman Joan D. Aikens
Charles N. Steele, General
Counsel
Kenneth Gross, Associate General
Counsel
- 5/29-30 Mini Conference for Candidates
6/6 Federal Election Commission
Washington, D.C.
Chairman Joan D. Aikens
Vice Chairman John Warren
McGarry
FEC Staff
- 6/20 FEC Conference for Corporations
and Labor Organizations
George Mason University
Fairfax Virginia
Commissioners and Staff
- 6/27 Investigative Reporters and
Editors
Portland, Oregon
Kent Cooper, Assistant Staff
Director for Disclosure



**COMMITTEE TREASURERS
BROCHURE NOW AVAILABLE**

During March, the Commission published Committee Treasurers, a new brochure to help treasurers of political committees carry out their duties under the federal election law.

Before a political committee conducts financial activities, it must have a treasurer, who is responsible for the committee's compliance with the law. The brochure briefly explains the treasurer's responsibilities and liability under the law and summarizes procedures for designating an assistant treasurer and other committee officers. Finally, the brochure provides a convenient index to provisions of the election law and FEC Regulations governing treasurer's responsibilities.

Copies of Committee Treasurers and other brochures may be obtained free of charge from the FEC's Information Services Division, 202/376-3120 or toll free 800/424-9530.

FREE PUBLICATIONS

The FEC offers the following free publications. To order, return the completed form below.

Federal Election Campaign Laws

Complete compilation of Federal election campaign laws prepared by FEC.

FEC Regulations (11 CFR)

FEC regulations; subject indexes prepared by FEC.

FEC Record

Monthly newsletter covering reporting, advisory opinions, litigation, legislation, statistics, regulations, compliance, Federal Register notices, FEC procedures and staff, and publications.

Campaign Guides

Clear explanation and illustration of election law requirements. Separate Guide for:
 Congressional Candidates and Committees
 Party Committees
 Corporations and Labor Organizations
 Nonconnected Political Committees

House and Senate Bookkeeping Manual

Recommended method of bookkeeping and reporting for Federal candidates and their committees.

FEC and Federal Election Law

Brief overview of major provisions of the Federal Election Campaign Act and the Commission's role in administering it.

Using FEC Campaign Finance Information

Brochure explaining how to gather information on financial activity of political committees and candidates by using reports and FEC's computer indexes.

Order Form

NAME	
STREET	
CITY, STATE, ZIP CODE	
CONNECTED ORGANIZATION	PHONE (Optional)

Please indicate quantity in box to left of each item.

General

	Federal Election Campaign Laws		Bookkeeping Manual for Candidates
	FEC Regulations		Annual Report
	FEC Record (subscription)		

Campaign Guides

	Congressional Candidates		Corporations and Labor Organizations
	Party Committees		Nonconnected Committees

Brochures

	Advisory Opinions		Local Party Activity
	Candidate Registration		Political Ads and Solicitations
	Committee Treasurers		Public Funding of Presidential Elections
	Contributions		State Elections & Federal Campaign Law
	Corporate/Labor Communications		Trade Associations
	Corporate/Labor Facilities		Using FEC Campaign Finance Information
	FEC and Federal Election Law		Volunteer Activity
	Independent Expenditures		

Mail to: Federal Election Commission
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 Local: 202/376-3120

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REMINDER: MINI CONFERENCE FOR CANDIDATES

A Mini Conference for candidates will be held in Washington, D.C. on May 29-30 (mornings only) and repeated on June 6 (all day). The series will consist of two workshops, an introductory session covering candidate support and reporting and an advanced course covering common problems to avoid and joint fundraising. There is a \$10 registration fee to cover refreshments. Because space is limited, pre-registration is required. For more information, see the April issue of the Record or call Ian Stirton at 800/424-9530 or 202/376-3120.

FEC WILL SPONSOR CONFERENCE IN WASHINGTON, D.C. AREA

On Friday, June 20, 1986, the FEC will sponsor a one-day conference at George Mason University, Fairfax, Virginia, which focuses exclusively on the activities of corporations and labor organizations. The conference will include sessions on: the basics about PACs, such as setting up a PAC; PAC reporting requirements; corporate and labor fundraising; and corporate and labor involvement beyond the PAC, such as sponsoring partisan and nonpartisan communications.

The registration deadline for the conference is June 6, 1986. For more information, contact the FEC at 202/376-3120 or toll free at 800/424-9530.

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