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Pennsylvania Supreme Court Commission Announces Recommendations to Reform Judicial Campaigns

PHILADELPHIA, April 16, 1998 – Eight recommendations designed to cap the skyrocketing cost of running for judicial seats in Pennsylvania were announced by James F. Mundy, Esq., chair of the Supreme Court's Special Commission to Limit Campaign Expenditures, during a press conference today at the Administrative Office of Pennsylvania Courts.

This past September the Pennsylvania Supreme Court created the Special Commission to determine if public perception of judicial elections had caused a loss of respect for the judiciary and, if so, what, if anything, might be done by the Supreme Court to improve this problem.

"The Commission is extremely pleased to have been of service to the Supreme Court," said Mundy. "We look forward to the opportunity to be of continued assistance to the Court in its efforts to reform judicial campaigns and increase public trust and confidence in the judiciary as a whole."

Because the Commission was created by the Supreme Court, the group's recommendations focus on possible solutions which could be implemented by the Supreme Court by virtue of its power to modify the Code of Judicial Conduct.

Recommendations to the Supreme Court include: limits on judicial campaign contributions; limits on judicial campaign expenditures; mandatory recusal related to judicial campaign contributions; improved judicial campaign finance disclosure; improved public education; expedient enforcement procedures; restrictions on partisan political activity by court-appointed employees; and adoption of judicial campaign advertising guidelines.

Public hearings were held by the Commission in Harrisburg, Pittsburgh, Erie, Wilkes-Barre and Philadelphia. The Commission also traveled to Ohio to meet with officials from that state's Supreme Court and members of the Ohio Bar Association; commissioned a statewide poll combining the efforts of two national pollsters; and observed a presentation by the principles of both polling groups.

Results of the poll conducted in mid-January led the Commission to conclude that "changes are indeed needed in order to restore confidence in the judiciary."

According to Mundy, ample anecdotal as well as empirical evidence supports the Commission's finding that Pennsylvanians believe there are serious problems connected with judicial elections. He further stated, "these problems are of such magnitude that they have caused an erosion in public confidence, not only in judicial elections but also in the integrity of the courts as well."

While many Pennsylvanians believe the judicial election system should be reformed, particularly with respect to contributions, "fortunately, also by overwhelming numbers, they believe these changes as they pertain to judicial elections will work," the report states.

The eight recommendations contained in the Commission's "Report of the Special Commission to Limit Campaign Expenditures" are:

1. Judicial campaign contributions should be limited to \$1,000 per individual and \$5,000 per legal entity for statewide races, and \$500 per individual and \$2,500 per legal entity for common pleas races.
2. Judicial campaign expenditures should be limited as follows: \$1 million for Supreme Court office; \$500,000 for Superior Court and Commonwealth Court office; and \$250,000 for Court of Common Pleas office.
3. In addition to the campaign contribution and expenditure reporting requirements currently prescribed by law, candidates for judicial office should: 1) file a copy of all reports electronically with the Administrative Office of Pennsylvania Courts (AOPC); 2) within the last 10 days prior to election day, report the receipt of any contribution in excess of \$249 electronically to the AOPC within 24 hours of receipt. All such reports shall be made publicly accessible by publication on a "web page" designed by the AOPC.
4. A judge or justice should recuse, upon motion of an opposing party, if: 1) as a candidate for a seat on the Supreme Court, Superior Court or Commonwealth Court, he or she received any contribution in excess of the mandatory contribution limits from opposing counsel or his or her client; or 2) as a candidate for a seat on a court of common pleas, he or she received any contribution in excess of the mandatory contribution limits from opposing counsel or his or her client. For purposes of this rule, a contribution by a lawyer or litigant to a third party which actively supported the judge or justice shall be considered to be a contribution to the judge or justice.
5. The Supreme Court should seek the assistance of all parties of interest to undertake a public education program designed to inform the voters of the importance of judicial office and the qualifications of individuals who seek election to judicial office.
6. The Judicial Conduct Board and the Court of Judicial Discipline should adopt procedures, similar to those in place in Ohio, to assure timely enforcement of judicial election reform measures. The Commission also recommends that Rule 8.4 of the Rules of Professional Conduct should be amended to add to its subsets as follows: It is professional misconduct for a lawyer to violate the Code of Judicial Conduct as a candidate for judicial office; or knowingly contribute to or on behalf of a candidate for judicial office an amount of money which in of itself or in the aggregate exceeds the maximum contribution limits established in the Code of Judicial Conduct.

(Rule 8.4 of the Rules of Professional Conduct pertains to professional misconduct by a lawyer.)

7. Canon 7 of the Code of Judicial Conduct should be amended to explicitly prohibit a judicial candidate from encouraging or allowing any court-appointed employee to engage in partisan political activity.

(Canon 7 of the Code of Judicial Conduct prohibits judicial candidates from engaging in conduct inappropriate to judicial office.)

8. Canon 7 should be amended to incorporate the judicial campaign advertising guidelines, as promulgated by the Pennsylvania Bar Association.

Other attorneys serving with Mundy on the Commission composed of present, past and future presidents of the Pennsylvania Bar Association are: Thomas L. Cooper and Vincent J. Grogan, both of Pittsburgh; H. Robert Fiebach and Leslie A. Miller, both of Philadelphia; Arthur L. Piccone, of Wilkes-Barre; and Paul L. Stevens, of Doylestown.

A copy of the Commission's "Report of the Special Commission to Limit Campaign Expenditures" is available on the Supreme Court's home page: <http://www.courts.state.pa.us>.