

Report of CCEC July 28, 2016 Meeting
By Rivko Knox

1. All five members of the Commission were present.

2. As part of the Executive Director's Report, the following were mentioned:

- * Voters' Guides were being mailed (I know that we already received ours already).

- * There are two changes this year: a) the Guides being mailed to individuals contain ONLY the information for the specific legislative district plus the Corporation Commission; and b) the Spanish version is on the 'flip side'.

- * Voters Guides that cover all the legislative races plus the CC are being provided to libraries and other public institutions.

- * On August 8, the AZ Corporation Commission Debate will be held on the PBS Horizon show; there are 5 Republican candidates for three open seats.

- * There are no enforcement actions relating to current Clean Election candidates.

- * Staff addressed the AZ Municipal Clerks Association.

- * CCEC is involved with/providing funding to the Citizens Initiative Review (CIR) Process, overseen by the ASU Morrison Institute. (You should all have my report from the last CIR Advisory Commission Meeting).

3. Regulatory Issues Related to HB2295 and SB1516 from the 2016 Legislative Session. As you should all be aware from my last report on the CCEC, there is an public comment period seeking input on how the CCEC should react to HB2296 (which is effective very soon) and SB1516 for the next election season. As you will recall, there are 3 options: a) adopt and incorporate all changes from HB2296 & SB516, when it becomes effective; b) make no

changes as a result of HB2296/SB1516 (the option LWVAZ submitted comments supporting); or c) adopt some changes but not others. A unanimous vote for any of the 3 options would allow staff to proceed. However, Director Tom Collins said that a majority vote would provide some confusion for staff. No decision was made on this issue.

4. Five Year Review Submitted to the AZ Department of Administration's Governor's Regulatory Review Council (ADOC GRRC) and Related Matters. As this issue is on going, I have written about it in prior reports also. Collins said that yesterday there was a study session with the GRRC but just prior to it starting the Secretary of State (SOS) submitted a letter strongly objecting to the five year report and seemed to imply that CCEC had not consulted with the SOS in adopting rules in 2015. Collins said that the SOS was informed prior to each of the three rules being adopted. The main issue between the GRRC/CCEC is that the GRRC has refused to approve the five year report but has never specified, according to Collins, what the deficiencies in it are!!! Collins also said that the GRRC staff attorney recommended that the issue of the five year report be postponed until a after the election.

5. ADOA Actions Related to the Commission's Contract for Government Relations Services, e.g. Hiring a Lobbyist. Please see below. This information is from the AZ Yellow Sheet and very well summarizes the discussion and action or lack thereof relating to this topic.

"CCEC GOES THROUGH MOTION OF ASKING FOR AN EXEMPTION from the "AZ Yellow Sheet"

The Clean Elections Commission wants out from under Ducey's executive order barring all state agencies, boards and

commissions from hiring contract lobbyists. The CCEC voted on Thursday to authorize Executive Director Tom Collins to ask DOA for an exemption from the order, though the commission isn't completely convinced that Ducey or DOA actually have the authority to prohibit it from hiring lobbyists in the first place. While Clean Elections will formally ask for an exemption, the prevalent opinion at the commission seems to be that the question of whether to hire a lobbyist is one that should be answered by the commission alone. When Commissioner Galen Paton asked what happens if DOA denies the request, Collins said there are legal issues that would come up. "The essential question would be exactly that – is this worth arguing about further? And what is the place you have that argument? Is that in front of a judge somewhere, or is it some other place?" Collins said at the meeting. In addressing questions of whether the commission had a real need for a contract lobbyist, Collins said "whether or not it's a good idea to have a contract lobbyists, I do think it's important to make clear that in the final analysis it ought to be up to the commission and not the [DOA] procurement director." Commission Chairman Mitch Laird said the governor's executive order deprives the commission of the ability to make those decisions for itself, and the CCEC has a statutory duty to use its best judgment in determining how it carries out its responsibilities. "To the extent that that's being taken away from us... are we carrying out our statutory duty?" asked Laird, who said he believes the commission and the people of Arizona have been well-served by Ballard Spahr attorney Joe Kanefield, whose firm also provides lobbying services for the commission.

DON'T WORRY: IT'S ONLY YOUR LIFE YOUR SIGNING AWAY There was a second question that was a bit trickier for the commission: whether Collins should sign a letter sent by DOA's procurement director to the heads of the entities that are subject to Ducey's

executive order. The letter from Barbara Corella, the chief compliance officer at the State Procurement Office, asks agency, board and commission heads to acknowledge that their entities' procurement delegation now includes a provision that state entities cannot contract for professional lobbying services without the authorization of the DOA director. "For whatever reason, they want this signature," said Collins, who described the request as "sort of weird." He suggested that he sign the letter, but include language specifying why the commission doesn't believe Ducey's executive order necessarily applies to it. "I am unclear about what the legal consequences of signing that are. But I don't particularly want to unnecessarily antagonize the procurement compliance director," he said. Some commissioners were uneasy about the idea of Collins

signing the letter. "I think by signing it, you're... going along with the executive order," Commissioner Mark Kimble said.

Commissioner Damien Meyer also disagreed with Collins' position to sign it for now, and motioned for the commission to discuss the matter in executive session. When the commissioners returned from the lengthy closed-door session, they voted to have Collins and their legal counsel proceed as they discussed in executive session, but did not say what actions they were instructing staff to take."

Editorial Comment by Rivko Knox. It does seem that both the Secretary of State's Office and the GRRC are trying to make life very difficult for the CCEC by challenging it at every turn to include its prerogatives as an initiative protected by the Voter Protection Act.

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