

MINUTES OF COMMISSION MEETING
June 13, 2002

Present at the meeting of the New Jersey Law Revision Commission held at 153 Halsey Street, 7th Floor, Newark, New Jersey, were Commissioners Albert Burstein, Vito Gagliardi, Jr., and Peter Buchsbaum. Professor Bernard Bell of Rutgers Law School, Newark, attended on behalf of Commissioner Stuart Deutsch and Professor William Garland of Seton Hall Law School attended on behalf of Commissioner Patrick Hobbs.

Minutes

The Commission approved the Minutes of the May 23, 2002 meeting as submitted.

Games of Chance

John Cannel said that the current draft incorporates concerns raised by individuals and groups keenly interested in games of chance issues. Judy Ungar reported that Mr. Cannel and she recently spent considerable time with William Yorke, Executive Officer, Legalized Games of Chance Control Commission, and had incorporated the changes he advocated, where possible. However, Mr. Yorke remains concerned with the children's games exception even as now limited. The exception which was an exception to the licensing requirement is now only an exception to the location limitation. The Commission discussed the fact that New Jersey is the only state to regulate the types of games falling within the children's games exception, and that arguably, these games are not gambling because the player can never come out ahead. Chairman Burstein directed staff to elaborate in commentary on this rationale.

Mr. Cannel noted that no exception has ever been drafted to address contests that technically are considered gambling, but which are tolerated. For example, chess, tennis and 'hole-in-one' tournaments presently are considered gambling according to the old New Jersey Supreme Court opinions. The Commission asked staff to address the older case law in this area which finds that a combination of skill and chance constitutes gambling. Mr. Cannel will work on the difficulties raised by the Court opinions and the Constitutional definition of gambling.

Commissioner Gagliardi asked that the extra "or" between "religious" and "public-spirited" in section 5-5(a)(3) be deleted.

Chairman Burstein said that the Commission will carry this project over to the July meeting. Interested individuals or entities may submit additional comments prior to that meeting. The Commission will address those comments, then prepare and disseminate a Final Report.

Elections

Mr. Cannel advised that a single federal bill is expected to be released from the Senate-House Conference Committee by July 4, 2002.

Commissioner Burstein noted that some source notes and comments include references to the NJELRC. Staff was directed to delete the references to the NJELRC and to relate the proposed sections to current election law.

A discrepancy in the draft exists pertaining to the inclusion of languages other than English on election materials. Sections 2-3(f) and 4-13(b) reference English, Spanish and other languages found to be the primary language of a substantial number of persons eligible to register to vote. Section 4-2(d), however, mentions only English and any other language found to be the primary language. After discussion of the issue, the Commission decided to use the phrase "English and any other language."

Following considerable discussion regarding the threshold at which a language other than English would be required to be included on election materials, the Commission decided that 10% would be left as the figure, and that the considerable discretion reposed in the Commission would be relied upon to produce materials in other languages when it is appropriate. The Commission recognized that if large numbers of individuals whose primary language is not English were left out of the process as a result of a failure to include their primary language in election materials, political pressure likely would correct the problem.

Language will be added to section 2-12(c) indicating that any private person or the Attorney General may bring an action for injunctive relief to prevent improper use of the personal information. The criminal penalty language will be placed with the other election offenses. The comments will indicate that there is civil as well as criminal recourse for the improper use of the information.

In sections 3-2(c) 3-2(d), "currently approved" will replace "existing."

In section 4-11, the language will be modified to provide that the Commission on Elections shall specify the number of provisional and emergency ballots to be available in any election, and that the number shall be based on information provided by each County Board. References to a "formula" will be deleted.

The Commission accepted changes made to 7-4(b) indicating that challengers have a right to be present to observe the confirmation of the identification of the voter.

In section 7-8(d)(1), "30 days" will be changed to "14 days". Section 7-8(d) will be changed to read "ballot be counted, if the judge finds that the challenged voter" and subsections (1) through (4) will be modified accordingly.

The Commission directed that after changes are made, staff should disseminate a tentative report widely and solicit comments from people who deal with the relevant issues. The Report should indicate that the Commission project on election law revision is continuing.

Commissioner Gagliardi said that bills are circulating that deal with some sections included in the current revision. The sponsors of those bills are to be included in the distribution of the tentative report. In addition, the tentative report will go to the Office of Legislative Services, the Attorney General's Office, Governor's Counsel, pertinent individuals at New Jersey universities, the leadership of the Assembly and of the Senate, Political Party officials, County Boards of Elections, Municipal Clerks, County Clerks, civil rights advocates, associations for the handicapped, the State Bar, all persons who appeared before the Commission during the preparation of the draft and to legislators who have expressed an interest in the project including Senator Furnari and Assemblyman Kean.

Uniform Arbitration Act

The Commission accepted a project to consider the Uniform Arbitration Act. Preliminary discussion concerned the standards for summary disposition and the manner and circumstances in which it can be reviewed. Staff was directed to examine Section 15 (Arbitration Process) in regard to summary judgment and to consult the commentary to the Uniform Act. Other issues raised included: confidentiality, opting in or out, the attorney fee/fee shifting provisions (Section 14), and the applicability of certain of the provisions to court compelled arbitration to make more uniform the three tracks of arbitration (court compelled, contractually selected, and alternative dispute resolution).

Mr. Cannel said that staff would prepare Arbitration for the September meeting,

Miscellaneous

The next meeting is scheduled for July 18, 2002.