

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN      o      SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING  
MICHIGAN 48918

February 1, 1980

Honorable Gary G. Corbin  
Michigan State Senate  
State Capitol  
Lansing, Michigan 48909

Dear Senator Corbin:

You requested a declaratory ruling concerning contributions made to officeholder expense funds (O.E.F.) by corporations. You inquired whether an O.E.F. may accept corporate contributions and, if so, how such contributions should be reported. You specifically ask whether a corporation may pay the telephone bill for a legislator's district office.

O.E.F.'s were created by section 49 (MCLA §169.249) of the Campaign Finance Act ("the Act"), 1976 PA 388, as amended, which reads as follows:

"Sec. 49. (1) An elected public official may establish an officeholder expense fund. The fund may be used for expenses incidental to the person's office. The fund may not be used to make contributions and expenditures to further the nomination or election of that public official.

(2) The contributions and expenditures made pursuant to subsection (1) are not exempt from the contribution limitations of this act but any and all contributions and expenditures shall be recorded and shall be reported on forms provided by the secretary of state and filed not later than January 31 of each year and shall have a closing date of January 1 of that year.

(3) A person who knowingly violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.00 or imprisoned for not more than 90 days or both."

It is the position of the Department of State that O.E.F.'s may receive corporate contributions (or more accurately, "donations." Since these funds may not be used to further the nomination or election of the recipient, they should be distinguished from the definitions of "contribution" or "expenditure" found at sections 4 and 6 of the Act (MCLA §163.204 and 163.206)).

In view of the fact these monies are not "contributions" or "expenditures," an officeholder is not precluded from accepting such funds and placing them in his or her O.E.F. It must be noted, however, that the inclusion of corporate contributions will "taint" the O.E.F. and thereby greatly limit the uses for which the O.E.F. may be utilized. For example, funds from an O.E.F. into which corporate contributions have been deposited may not thereafter be used to purchase tickets to the fund raiser of another candidate or utilized for any other purpose for which corporate contributions may not be used.

Honorable Gary G. Corbin  
page 2  
February 1, 1980

It has been suggested that this "taint" might be avoided by creating two separate accounts, one for corporate contributions and another for funds from other sources. The Act, however, favors the creation of single depositories for monies reported pursuant to the Act's provisions.

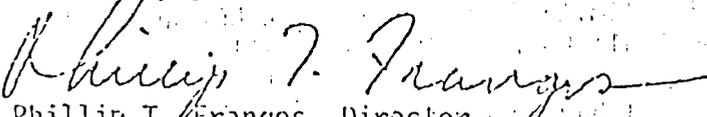
Although applicable to contributions, section 21(3) (MCLA §169.21) provides that "except as permitted by law, a committee shall have one account in a financial institution in this state as an official depository . . . for all contributions which it receives." Similarly, section 21(8) prohibits the commingling of committee funds. Rule R169.39(3), directly applicable to O.E.F.'s, provides that "money received by an officeholder expense fund shall be kept in a depository account separate from the candidate committee funds." This rule, written in the singular, contemplates a single account; and does not permit O.E.F. monies to be kept in several accounts.

Corporate donations are to be reported as required by section 49(2) of the Act. This provision mandates the filing of reports not later than January 31 of each year; with a closing date of January 1 of that year.

Pursuant to the above discussion, a corporation is permitted to pay the telephone bill for a legislator's district office so long as the office is not used for the purpose of influencing the nomination or election of the officeholder. Such payment shall be reported as an "in kind" corporate donation to the O.E.F.

This response may be considered as informational only and does not constitute a declaratory ruling.

Very truly yours,

  
Phillip T. Frangos, Director  
Office of Hearings and Legislation

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