

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

December 8, 1980

Mr. Dallas S. Kelsey
P. O. Box 216
Grösse Isle, Michigan 48138

Dear Mr. Kelsey:

You have requested a declaratory ruling concerning the applicability of the Campaign Finance Act ("the Act"), 1976 PA 388, as amended, to the annual campaign statement filing requirements of the Kelsey for House Committee.

You indicate the Kelsey for House Committee was formed on June 11, 1980, and a statement of organization was filed to reflect that information. The Department of State received your statement of organization on June 16, 1980, and it should be noted item 10, "The committee does not expect to receive or expend an excess of \$500 in an election," was not checked. You also filed an amended pre-primary statement which indicates it covers the period from June 11, 1980 through July 20, 1980. You feel since the committee was not in existence for a year prior to June, 1980, an annual statement should not be required.

The statutory provision which requires the filing of an annual campaign statement is section 35 of the Act (MCL 169.235). Prior to July 18, 1980, this section read as follows:

"(1) In addition to any other requirements of the act to file a campaign statement, a committee shall also file a campaign statement not later than June 30 of each year. The campaign statement shall have a closing date of June 20 of that year. The period covered by the campaign statement filed pursuant to this subsection shall begin from the day after the closing date of the previous campaign statement.

(2) Subsection (1) does not apply to a candidate committee for an officeholder who is a judge or holds an elective office for which the salary is less than \$100.00 a month and does not receive any contribution or make any expenditure during the time which would be otherwise covered in the statement.

(3) A person who fails to file a campaign statement under this section shall pay a late filing fee of \$10.00 for each day the campaign statement remains not filed in violation of this section not to exceed \$300.00. A person who is in violation of this section for more than 7 days 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.

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(4) A committee filing a sworn statement pursuant to section 24(4) need not file a statement in accordance with section 35(1). If a committee receives or expends more than \$500.00 during a period covered by a filing, the committee is then subject to the campaign filing requirements under this act."

Section 25(1) of the Act (MCL 169.225) indicates:

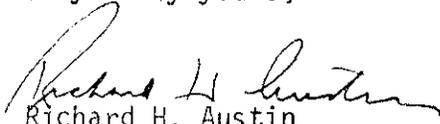
"The period covered by a campaign statement is the period beginning the day after the closing date of the most recent campaign statement which was filed, and ending with the closing date of the campaign statement in question. If the committee filing the campaign statement has not previously filed a campaign statement, the period covered shall begin with the effective date of this section, or the date on which the committee was formed if the committee is formed after the effective date of this section." (emphasis added)

Since the Kelsey for House Committee did not check item 10 on the statement of organization, the exemption in section 35(4) does not apply to the committee. Reading sections 25(1) and 35(1) together, it is clear the Kelsey for House Committee was required to file a campaign statement not later than June 30, 1980, covering the period from June 11, 1980 through June 20, 1980. There was no requirement for the committee to be in existence for any period of time in order for section 35 to apply.

It should be noted section 35 has since been amended by 1980 PA 215, effective July 18, 1980. This act moves the closing date of the section 35 campaign statement from June 20 to December 31 and the reporting date from June 30 to January 31. The amendment also provides for the waiver of the section 35 campaign statement if the committee has filed a post election campaign statement within 30 days of the new closing date (December 31).

This response constitutes a declaratory ruling concerning the applicability of the Act to the facts enumerated in your request.

Very truly yours,


Richard H. Austin
Secretary of State

RHA/jmp