



**MICHIGAN  
CHAMBER  
OF  
COMMERCE**

**RECEIVED**

**JUL 31 2009**

Terri Lynn Land  
Secretary of State

July 28, 2009

The Honorable Terri Lynn Land  
Secretary of State  
Executive Office  
Treasury Building – First Floor  
430 W. Allegan Street  
Lansing, MI 48918

Dear Secretary Land:

Re: Declaratory Ruling or Possible Interpretive Statement Request

Pursuant to Section 15(1) (e) and (2) of the Michigan Campaign Finance Act, P.A. 388 of 1976, as amended, MCL 169.201, *et seq.* (sometimes referred to as the "Act") and Rule 169.6 of the Michigan Administrative Code, this is a request for a Declaratory Ruling as to the applicability of the Act. Please note that Section 15(2) of the Act indicates that if the Michigan Department of State does not issue a Declaratory Ruling, the Michigan Department of State must issue an Interpretive Statement providing an informational response to the questions presented within the same time limitations applicable to a Declaratory Ruling.

**STATEMENT OF FACTS**

1. The Michigan Chamber of Commerce (the "Chamber") is a Michigan nonprofit corporation.
2. The Chamber intends to hold an initial press conference in order to publicly announce ballot questions it will be considering placing on the November 2010 general election ballot.
3. The Chamber may conduct certain preparatory activities such as an on-line survey on these ballot questions as it decides which of these proposals it will put on the November 2010 general election ballot.
4. The Chamber may also conduct certain other preparatory activities with respect to these proposals, including, but not limited to, conducting focus groups, polling, ballot testing, petition drafting, consultation, research, legal review, and fundraising.



5. After the completion of some of the focus group, polling, and ballot testing activities, the Chamber will also conduct certain activities designed to encourage support for these ballot proposals, including, but not limited to, the preparation of a power point presentation to be used to address groups of potential supporters for these ballot proposals.
6. The costs associated with these ballot question preparatory activities will exceed \$500. In fact, the costs associated with the initial press conference and the announcement of the consideration of these ballot proposals will likely exceed \$500.
7. The Chamber will not circulate any petitions (to be signed by registered voters) associated with these ballot questions before November 27, 2009 which is 180 days before the May 26, 2010 deadline for the filing of petitions for initiative legislation.
8. In a timely manner, the Chamber will file a Statement of Organization as a ballot question committee with the Michigan Department of State with respect to these ballot questions.

#### DISCUSSION

1. Section 2(2) of the Michigan Campaign Finance Act defines a "ballot question" as a "question that is submitted or is intended to be submitted to a popular vote at an election whether or not it qualifies for the ballot."
2. Section 2(3) of the Michigan Campaign Finance Act defines a "ballot question committee" as a "committee acting in support of, or in opposition to, the qualification, passage or defeat of a ballot question . . . ."
3. Section 3(4) of the Michigan Campaign Finance Act defines a "committee" as a "person who receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, or the qualification, passage, or defeat of a ballot question, if contributions received total \$500 or more in a calendar year or expenditures made total \$500 or more in a calendar year."
4. Once the person achieves "committee" status, Section 24(1) of the Michigan Campaign Finance Act requires the committee to file a Statement of Organization within ten (10) days.
5. Previous interpretive rulings of the Michigan Department of State demonstrate that actions taken which directly influence or attempt to influence the qualification of a ballot question or the outcome of an election regarding that question qualify as contributions or expenditures under the Michigan Campaign Finance Act. See, for example, Declaratory

Ruling Issued to Peter Ellsworth dated April 3, 1995 and Interpretive Statement Issued to David Savu dated March 4, 1983.

6. In Michigan Attorney General Opinion No. 6710 (February 13, 1992), the Michigan Attorney General opined:

"[T]he Michigan Campaign Finance Act applies to activities of a group with regard to the preparation, circulation and filing of a petition . . ." (Emphasis supplied).

### LEGAL QUESTIONS PRESENTED

1. Whether payment for the Chamber's preparatory activities referenced in this Request directly influence or attempt to influence the qualification of a ballot question or an election regarding that question?
2. Does the answer in Question No. 1 above change if the Chamber never circulates a petition containing the ballot question to registered voters?
3. Does the answer in Question No. 1 above change if the Chamber never seeks the approval of the ballot petition from the Board of State Canvassers as to form?
4. When does a ballot question exist for the purposes of the Michigan Campaign Finance Act?
5. Are the Chamber's preparatory activities referenced in this Request sufficient to establish that a question is intended to be submitted to a popular vote at an election whether or not it qualifies for the ballot?
6. Is the initial press conference to be held by the Chamber (when the Chamber announces ballot questions it will be considering placing on the November 2010 general election ballot) sufficient to establish that a question is intended to be submitted to a popular vote at an election whether or not it qualifies for the ballot?
7. With respect to the Chamber's proposed activities referenced in this Request, when is a ballot question committee formed?
8. When is the Chamber required to file a Statement of Organization to form a ballot question committee with the Michigan Department of State with respect to these ballot questions?

To the extent that the Michigan Department of State declines to issue a Declaratory Ruling as to the above-referenced questions, please issue an Interpretive Statement in accordance with Section 15(2) of the Act.

Thank you for your consideration of our request. If you have any questions, or require any additional information whatsoever, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert S. LaBrant". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Robert S. LaBrant  
Senior Vice President, Political Affairs  
and General Counsel