



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

September 16, 2020

Brett J. McRae
403 West Fourth Street
Charlotte, MI 48813

Dear Mr. McRae:

This interpretive statement concerns your written request for a declaratory ruling or interpretive statement, submitted to the Michigan Department of State (Department) on June 10, 2020 regarding the applicability of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.*

The MCFA and Administrative Procedures Act (APA), 1969 PA 306, MCL 24.201 *et seq.*, require the Department to issue a declaratory ruling if an interested person submits a written request that presents a question of law and a reasonably complete statement of facts. MCL 24.263, 169.215(2). If the Department declines to issue a declaratory ruling, it must instead offer an interpretive statement “providing an informational response to the question presented[.]” MCL 169.215(2).

In your letter requesting a declaratory ruling, you have stated that you are the designated record keeper for the late Senator Morris Hood’s candidate committee (#514820). In support of this request, you stated that Sen. Hood was the candidate and the treasurer for the committee and was the only signatory on the committee’s bank account. You further provide that the committee has remaining funds which must be disbursed in accordance with section 45. MCL 169.245.

In accordance with the MCFA and APA’s publication and public comment period requirements, the Department posted your request on its website and informed e-mail subscribers of the deadline to file written comments. MCL 169.215(2). To date, no public comments have been received on your question. The Department posted its preliminary response to your request on August 25, 2020 but received no public comments.

As this question presented does not contain sufficient facts, the Department declines to issue a declaratory ruling and issues this interpretive statement in response to your request.

Your question is straightforward: who has the authority to appoint a new treasurer where the registered treasurer (also the candidate) passes away? You ask this question because Sen. Hood’s committee has an outstanding asset that must be disbursed prior to dissolution, and a committee may not dissolve if it has outstanding assets, unpaid debts, or late filing fees. R. 169.28. But, given that assets may not be disbursed by a committee without a treasurer, MCL 169.221(8), this committee is then unable to dissolve without having a treasurer in place.

The Act and the Department's administrative rules do not appear to contemplate this situation, and the Department must interpret the statute's plain meaning. *South Dearborn Environmental Improvement Ass'n, Inc. v. Dep't of Environmental Quality*, 502 Mich. 349, 360 (2018) (When interpreting a statute, the principal goal "is to give effect to the Legislature's intent, and the most reliable evidence of that intent is the plain language of the statute."). Yet, it is a "recognized rule of statutory interpretation" to "not construe a statute so as to achieve an absurd or unreasonable result." *Luttrell v. Dep't of Corr.*, 421 Mich. 93, 107 (1984).

The "absurd result" rule has been substantially limited by the Michigan Supreme Court so that the literal application of statute may not be set aside merely because the result is unwise or unintended. see *People v McIntire*, 461 Mich. 147, 156 n 2 (1999); *McGhee v. Helsel*, 262 Mich. App. 221, 226 (2004); see also *McGhee*, 262 Mich. App. at 226 (defining "absurd" as "utterly or obviously senseless, illogical, or untrue; contrary to all reason or common sense; laughably foolish or false.").

However, regarding your question, the MCFA is silent as to what happens to a committee where the candidate and treasurer pass away. While the Department is cognizant that it should not create new regulations via the declaratory ruling process, if the Department interprets the plain language of the Act as written, a void would be created never letting a committee appoint a new treasurer or dissolve after the candidate who is also the treasurer has died. The result would mean that the committee's assets would either be left in an account or untouched for an indeterminate amount of time, or the assets would be disbursed without disclosure in contravention to the goals of the MCFA. Such outcome would be classified as "absurd" as that term is defined above.

So, based on the above, the Department addresses each situation similar to what you have presented in your letter on a case by case basis. This approach is consistent with the Federal Elections Commission and other states' practices. See, e.g. Ohio Election Commission Advisory Opinion, 97ELC-04. To assist with the final disposition of committee assets and any outstanding disclosure obligations, the treasurer and/or designated recordkeeper should attempt to identify the deceased candidate's next-of-kin or his or her authorized representative (such as the executor of the estate or legal counsel). This person could then direct committee activities for purposes of engaging in any transactions or disclosure relative to winding down in consultation with the Department. If the surviving treasurer and/or designated recordkeeper is unable to identify next-of-kin or an authorized representative, disposition will be handled on a case-by-case basis.

The foregoing represents an interpretive statement concerning the applicability of the MCFA.

Sincerely,



Melissa J. Smiley, PhD
Chief of Staff