



RICHARD H. AUSTIN
SECRETARY OF STATE

MICHIGAN
DEPARTMENT
OF STATE

LANSING, MICHIGAN 48918

October 13, 1992

Mr. Peter E. Meagher, III
Friends of L. Brooks Patterson
26200 American Drive #500
P.O. Box 5004
Southfield, Michigan 48086-5004

Dear Mr. Meagher:

This is in response to your request for a declaratory ruling concerning the applicability of the Michigan Campaign Finance Act (the Act), 1976 PA 388, as amended, to the proposed establishment of an Employee Suggestion Program to be paid for by disbursements from an officeholder's expense fund.

Specifically, you indicate that L. Brooks Patterson is running for the office of Oakland County Executive. If elected, he will establish an officeholder's expense fund as authorized by section 49 of the Act (MCL 169.249.)

Mr. Patterson has proposed establishing an Employee Suggestion Program. The program would encourage county employees to submit suggestions for cutting the cost of county government. The following prizes would be awarded to those employees whose suggestions save taxpayers the greatest amount of money:

"First prize is a trip to Hawaii for the county employee making the best cost-saving suggestion, and spouse. The prize includes limousine service to and from Metro Airport, round-trip airfare to Maui, and hotel accommodations for one week.

"Additional awards include vacations, television sets and cash awards. . . ."

You ask whether Mr. Patterson may use his officeholder's expense fund to pay for these prizes.

Disbursements from an officeholder's expense fund are limited by section 49 of the Act and Rule 62 of the Department of State's Administrative Rules (1989 AACS R 169.62). Section 49 states that an officeholder's expense fund may be used for "expenses incidental to the person's office". This restriction is clarified by Rule 62(1), which states in pertinent part:

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"Rule 62. (1) An officeholder's expense fund shall be used only for disbursements which are incidental to the office of the elected public official who established the fund. A disbursement is incidental to the office of the official if it is traditionally associated with, or necessitated by, the holding of a particular public office and is included within 1 or more of the following categories:

* * *

"(b) Reasonable and necessary disbursements which are directly related to assisting, serving, or communicating with constituents."

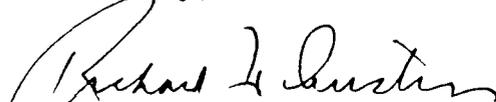
You assert that disbursements for prizes awarded under the Employee Suggestion Program are directly related to assisting, serving, or communicating with constituents and thus authorized by Rule 62(1)(b). However, Rule 62(1) establishes a two part test for determining whether a disbursement is incidental to office. First, the disbursement must be traditionally associated with, or necessitated by, the holding of a particular office. Second, it must be included in one of the seventeen categories listed in subrule (1).

Disbursements for the prizes in question fail to meet the first part of this test. Rewarding employees for cost-saving suggestions by paying for vacations, television sets and other prizes is neither traditionally associated with nor necessitated by holding the office of Oakland County Executive. It is also questionable whether these disbursements are "reasonable and necessary" to serving constituents, as required to meet the second criteria. Consequently, disbursements for these prizes are not incidental to the office of County Executive, and they may not be paid from the executive's officeholder's expense fund.

Award programs of the type you suggest are not uncommon. For example, the State of Michigan pays its employees cash awards under the Grand Idea Employee Suggestion Award Program administered by the Department of Civil Service. Oakland County may wish to consider funding a similar program from its treasury.

This response is a declaratory ruling concerning the applicability of the Act to the facts and question presented.

Sincerely,


Richard H. Austin