

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

January 29, 1980

Mr. Gene E. Overbeck, Chairman  
American Airlines Political Action Committee  
P. O. Box 61616  
Dallas Fortworth Airport, Texas 75261

Dear Mr. Overbeck:

This is in response to your request for a declaratory ruling concerning the applicability of the Campaign Finance Act ("the Act"), 1976 PA 388, as amended, to your Committee, which is an out-of-state political action committee registered with the Federal Election Commission. You inquire as to whether American Airlines P.A.C. must also register with the Michigan Department of State in order to make contributions to candidates for a non-federal Michigan office.

You indicate that American Airlines P.A.C. is registered with the F.E.C., has supported various federal candidates in the past, and now desires to support candidates for state offices in Michigan. You point out a possible conflict between sections 3(4), 4(1) and 28(3) of the Act. You note that an interpretation of section 28(3) which would permit contributions by committees such as yours without complying with the registration and other requirements of the Act "could be construed as being inconsistent with the registration and reporting scheme outlined by the Act."

In an advisory opinion (A.O. #1975-59, dated November 13, 1975) the Federal Election Commission ruled that the state central committee may receive corporate contributions and use them for state candidates only where such candidates are permitted by state law to receive such contributions. Of significance in resolving the problem you posed is the statement by the F.E.C. that the matter of making contributions to or expenditures on behalf of state candidates "is a matter governed by state law." (40 F.R. 53722, November 19, 1975)

The F.E.C. clearly believes state election requirements are a proper subject for state law to control. In reviewing Michigan law which may impinge upon the issues presented, one should be aware of Rule R169.27, which provides:

"A committee supporting a candidate for federal office and a candidate for office in this state shall file a statement of organization for the committee of the candidate for office in this state."

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It is difficult for a state agency, operating under the limitations imposed by state law, to place mandatory filing or other requirements upon out-of-state corporate P.A.C.'s. For this reason, the Legislature included section 42(2) in the Act. This section provides:

"A contribution of \$20.01 or more from a committee or person whose treasurer does not reside in, whose principal office is not located in or whose funds are not kept in this state, shall not be accepted by a person for purposes of supporting or opposing candidates for elective office . . . unless accompanied by a statement certified as true and correct by an officer of the contributing committee . . . setting forth . . . certain information."

The same sort of information is required by section 28(3) to accompany a campaign statement reporting the receipt of a contribution from outside this state. Through these enactments, Michigan exercises its authority over the recipients of such contributions, rather than the contributors themselves. Committees may not accept contributions from out-of-state committees unless certain conditions are met and certain information is provided. These are not registration or "filing" requirements but "tracking" requirements.

Section 24(1) requires that a "committee" file a statement of organization with the appropriate filing official. "Committee" is defined by section 3(4) as meaning:

"(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 \$200.00 or more in a calendar year or expenditures made total \$200.00 or more in a calendar year . . . "

"Person" is defined in section 11(1) to include:

"(A) business, individual . . . joint venture . . . business trust . . . company, corporation, association, committee, or any other organization or group of persons acting jointly."

Clearly a "person" as defined above which "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 . . . if expenditures made total \$200.00 or more in a calendar year . . ." is a committee, and is required to comply with section 24(1) and file a statement of organization. It is also required to comply with the periodic filing requirements of the Act.

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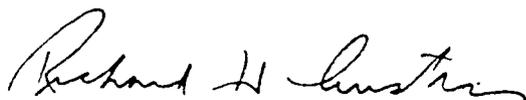
The Act also includes a series of provisions controlling and limiting corporate participation in Michigan elections in section 54 of the Act. Section 55 of the Act permits a corporation to make expenditures of corporate funds for the:

"Establishment and administration and solicitation of contributions to a separate segregated fund to be used for political purposes."

Based upon the information you have provided, if your particular entity falls within the above definitions, it will be required to register and made periodic filings with the Michigan Department of State so long as it supports candidates (as defined at section 3(1) of the Act) in this state to the extent provided in section 3(4).

This response constitutes a declaratory ruling concerning the applicability of the Act to the specific statement of facts presented.

Sincerely,



Richard H. Austin  
Secretary of State

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