

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48218

September 4, 1980

Mr. Anthony Raduazo
Assistant City Attorney
161 West Michigan
Jackson, Michigan 49201

Dear Mr. Raduazo:

This is in response to your inquiry concerning the Campaign Finance Act, 1976 PA 388, as amended (the "Act").

Specifically, you ask whether a home rule city, or municipal corporation, may make expenditures in support of a local ballot question without violating the Act.

Corporate contributions and expenditures are governed by sections 54 and 55 of the Act (formerly section 95 of 1975 PA 227). Pursuant to section 54 (MCL 169.254) a corporation may not make a contribution or expenditure except as provided in sections 54 and 55. Of particular relevance to your inquiry are subsections (3) and (4) of section 54, which provide for limited corporate activity with respect to ballot questions.

Section 54(3) of the Act (MCL 169.254(3)) provides:

"(3) A corporation or joint stock company, whether incorporated under the laws of this or any other state or foreign country, except a corporation formed for political purposes, shall not make a contribution or provide volunteer personal services which services are excluded from the definition of a contribution pursuant to section 4(3)(a), in excess of \$40,000.00, to each ballot question committee for the qualification, passage, or defeat of a particular ballot question." (Emphasis supplied)

Thus, if a municipal corporation is created for political purposes, it may contribute to ballot question committees without regard to the spending limitation found in section 54(3). Otherwise, it may contribute to ballot question committees, but such contributions may not exceed \$40,000.00.

"Corporation formed for political purposes" is not defined in the Act, and Michigan case law is of little value in determining whether a municipal corporation is within the term's meaning. However, Professor McQuillan, in his treatise on municipal corporations, states:

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"Strictly speaking, a public corporation is one that is created for political purposes only, with political powers to be exercised for purposes connected with the public good in the administration of civil government . . . All municipal corporations are public corporations, but all public corporations are not municipal corporations."
(Emphasis supplied) 1 McQuillan, Municipal Corporations, (3d ed), §2.03, p 130.

Similarly, 17 Michigan Law & Practice, Municipal Corporations, §1, p 8, defines "municipal corporation" as follows:

"It is, in short, a public corporation, created by the government for political purposes, and having subordinate and local powers of legislation." (Emphasis supplied)

Other secondary authorities, including 17 Callaghan's Michigan Civil Jurisprudence, Municipal Corporations, §1, p 430, concur in this definition.

It must be concluded, therefore, that a municipal corporation is a "corporation formed for political purposes" and, consequently, is not subject to the limitations found in section 54(3).

In addition to section 54(3), section 54(4) of the Act (MCL 169.254(4)) permits a corporation to make an independent expenditure "in any amount for the qualification, passage or defeat of a ballot question." If such expenditures total \$100.01 or more, the corporation must file a report of an independent expenditure within 10 days pursuant to section 51 (MCL 169.251). If the expenditures total \$200.00 or more, the corporation must register as a ballot question committee and will be subject to all of the reporting requirements of the Act.

Pursuant to the above, a home rule city may make a contribution or an expenditure in support of a local ballot question without violating the Campaign Finance Act. However, it is well established that a municipal corporation possesses only those powers granted to it by the state. Accordingly, there may be other statutory or constitutional provisions which would prohibit the use of public money for political purposes.

This response is informational only and does not constitute a declaratory ruling.

Very truly yours,

Phillip T. Frangos, Director
Office of Hearings & Legislation

PTF/jmp