

RICHARD H. AUSTIN • SECRETARY OF STATE

LANSING, MICHIGAN

MEMORANDUM



Phillip T. Frangos 48918

DATE: September 3, 1981
 TO: John T. Turnquist, Campaign Finance Reporting
 FROM: Phillip T. Frangos, Office of Hearings & Legislation
 SUBJECT: EXPENDITURES OF PUBLIC FUNDS FOR REPAYMENT OF DEBTS AND OBLIGATIONS

You have asked that we review the question of whether public funds may be used to pay debts and obligations incurred in years prior to the year of an election, and you indicate that you recently had occasion to consider the impact of a declaratory ruling directed to Mr. William R. Ralls on September 29, 1978, on the payment of obligations from public funds which were incurred prior to the election. The Ralls opinion concerned the deadline before which a committee may apply for public funds, and provided that this candidate committee could apply to receive public funds for which it qualified to retire debts incurred in the August 1978 primary election, i.e., that a committee may receive public funds through December 31st of the year of the election in order to pay previously incurred obligations and may even retain public funds on hand after December 31st, provided there are outstanding debts and obligations incurred before that date. You have asked how (or if) this opinion applies to debts incurred in the year(s) prior to the year of the gubernatorial election.

As you point out, section 66(2) of the Campaign Finance Act provides, first that a candidate may only apply public funds against "qualified campaign expenditures" which is defined to mean:

" . . . an expenditure for services, materials, facilities or other things of value by the candidate committee to further the candidate's nomination or election to office during the year in which the primary or general election in which the candidate seeks nomination or election is held"
 (emphasis added)

Clearly the committee may only use public funds to pay those expenditures meeting the definition of "qualified campaign expenditures," which includes (accepting your "underlying necessary assumption" that the date of an expenditure is the date the expenditure is incurred rather than the date of payment) the requirement that the expenditure be incurred "during the year in which the primary or general election in which the candidate seeks nomination or election is held." It would therefore appear that your second alternative is an acceptable analysis of the Act - i.e., that "any debts or obligations incurred in the year(s) prior to the year of the election are not subject to repayment with public funds." Accordingly, the Department should take the following position with respect to committees seeking to apply public funds to such debts and/or obligations:

1. In cases where payment is made prior to the year of the election, public funds may not be used;
2. In cases where a debt or obligation is reported as due in the "1982 Annual Report" (with a closing date of December 31, 1981) public funds may not be used.