

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

October 10, 1978

Honorable Barbara-Rose Collins
Michigan House of Representatives
State Capitol
Lansing, Michigan 48909

Dear Representative Collins:

This is in response to your request for a declaratory ruling concerning the applicability of the Campaign Finance Act, P.A. 388 of 1976, as amended ("the Act"), to a candidate who files as a candidate for an elective office and withdraws within three days of filing.

You state that three days after filing as a candidate for election to State Senator from the 4th Senatorial District you withdrew from the race. After reading Section 24(1) of the Act (MCLA § 169.224), which provides a candidate has 10 days after forming a candidate committee in which to file a statement of organization, you did not file a statement because a candidate committee was never formed. Subsequently, you received a notice of failure to file a statement of organization and a notice providing for payment of late filing fees.

Section 3(1) of the Act (MCLA § 169.203) defines "candidate" to include an individual who files a fee, affidavit of incumbency, or nominating petition for an elective office. Section 21(1) of the Act (MCLA § 169.221) requires a candidate to form a candidate committee within 10 days after becoming a candidate. Section 24(1) requires a committee to file a statement or organization within 10 days after its formation.

Upon becoming a candidate, an individual enters the disclosure system established by the Act by forming a committee and filing certain reports to serve disclosure purposes. The public is informed who is in the system through the filing of a statement of organization; what financial activities are being performed by committees in the system through the filing of appropriate campaign statements; and who has left the system through the filing of a dissolution statement.

The obligation to form a committee and file pursuant to the Act are independent of the deadlines for forming a committee or filing a report. Once the disclosure system is entered by becoming a candidate, a statement of organization must be filed, and the filing of a dissolution statement is a prerequisite to leaving the system.

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Section 164 of the Michigan Election Law, P.A. 116 of 1954, as amended (MCLA § 168.164), provides a candidate for the Michigan Senate may withdraw within three days of filing. It states:

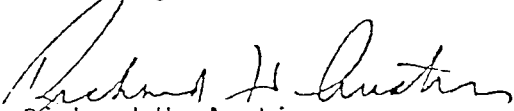
"After the filing of a nominating petition or filing fee by or in behalf of a proposed candidate for the office of state senator or representative, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the official with whom his nominating petitions or filing fee were filed, or his duly authorized agent, not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petition."

This statutory provision does not relieve an individual from meeting requirements of the Act under the circumstances of the present case since the pertinent definition of "candidate" is that found in the Act. It must be recognized the Act's definition of "candidate" goes far beyond that found in other statutes, e.g., Section 3(1) states that "candidate" includes an individual who receives a contribution, makes an expenditure, or gives consent for another person to receive a contribution or make an expenditure with a view to bringing about the individual's nomination or election to an elective office, whether or not the specific elective office for which the individual will seek nomination or election is known at the time the contribution is received or the expenditure is made. Therefore, once an individual becomes a candidate as defined in the Act, he or she is not relieved from the obligation of forming a committee or reporting pursuant to the Act by withdrawing under the Michigan Election Law prior to the date for filing the statement of organization or forming a committee.

As to the specific facts of your request, you are required to file a statement of organization and a statement of dissolution for the office of State Senator. However, since the question you raised is answered for the first time with this ruling, you shall have ten days from the receipt of this ruling to file your statement of organization. A statement of dissolution should accompany the statement of organization. Compliance with the preceding will constitute timely compliance for meeting the requirements of the Act as they apply to this particular factual situation.

This response constitutes a declaratory ruling as to the applicability of the Act to the facts provided in your request.

Sincerely,


Richard H. Austin
Secretary of State

RHA:pj