

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

October 22, 1980

Honorable William Faust
The Senate
Capitol Building
Lansing, Michigan

Dear Senator Faust:

This is in response to your recent request for an interpretation of various provisions of the Campaign Finance Act (the Act), 1976 PA 388, as amended. Your first two questions deal with the relationship between an officeholder expense fund and a ballot question committee. Specifically you ask:

- 1) Is it permissible for an officeholder to transfer funds from an established officeholder expense account to a committee supporting or opposing a ballot question?
- 2) If the answer to 1) is affirmative, may the funds be contributed directly to the ballot question committee account, or may the moneys only be used to purchase tickets to a fund raising event sponsored by the ballot question committee?"

Section 49 of the Act (MCL 169.249) permits a public official to establish an officeholder expense fund. The fund "may be used for expenses incidental to the person's office." The fund may not be used for making contributions and expenditures to further the election of the public official establishing the fund.

Your first question focuses on the issue of whether a disbursement by an officeholder expense fund to a ballot question committee is an expense incidental to office. In answering this question it could be said that an officeholder, like any other person, may take positions on issues and support or oppose a ballot question with his or her personal funds. However, it is also true that officeholders, because of their office, are in a unique position, they are elected to office with the expectation that they will be more active than other citizens. By virtue of being an officeholder an individual is expected and obliged to take positions on issues facing the community. In this political system the expenditure of money in support or opposition to an issue is one of the fundamental ways of promoting a particular political view. Since an officeholder has a special obligation to take positions on issues facing his or her constituency,

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it is clear that such an activity is incidental to the person's office. Since support or opposition to a ballot question is incidental to the office, an officeholder may use an officeholder expense fund to support or oppose a ballot question. Such support or opposition can be manifested by making either contributions or independent expenditures in support or opposition to the ballot question.

With respect to your second question, support or opposition to a ballot question is quite different from purchasing tickets to another candidate's fund raiser. In a letter to Senator Gary D. Corbin on March 21, 1978 the Department indicated that the purchase of tickets to another candidate's fund raiser was incidental to the candidate's office because it has long been customary for candidates to purchase such tickets. Since the support or opposition to the ballot question is itself the activity which is incidental to the office, there is no prohibition against direct contribution from an officeholder expense fund to a ballot question committee.

Your third and fourth questions deal with contributions by one ballot question committee to another ballot question committee. Specifically you ask:

- "3) May a committee formed to support a ballot question contribute or transfer its funds to the account of another committee formed to support or oppose another, separate ballot question?
- 4) If the answer to question 3) is affirmative, are there conditions or restrictions which would apply to this transfer?"

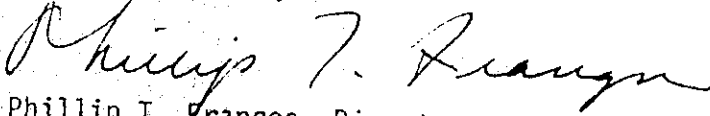
A review of the Act discloses no direct or indirect prohibition against contributions by one ballot question committee to another. Candidate committees are prohibited from making contributions to other candidate committees by section 44(2) of the Act (MCL 169.244) and corporate separate segregated funds are not permitted by section 55(2) (MCL 169.255(2)) to make contributions or expenditures on behalf of political committees. The only limitations on ballot question committees are that section 2(2) of the Act limit a ballot question committee to activities for or against ballot questions and does not permit such a committee to contribute or make 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.

The restrictions that apply to such contributions by one ballot question committee to another are the Act's requirements that all such contributions be reported by both the committee making the expenditure and the committee receiving the contribution. A ballot question committee which supports or opposes a question must also file a post qualification statement required by section 34(2) of the Act (MCL 169.235) if it has made contributions or expenditures in support or opposition of the question during the period covered by the report.

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This letter is an interpretative statement and is not a declaratory ruling.

Very truly yours,



Phillip T. Prangos, Director
Office of Hearings and Legislation

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