

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN      SECRETARY OF STATE

STATE TREASURY BUILDING



2-82-CI

LANSING  
MICHIGAN 48918

March 31, 1982

Honorable Robert A. Welborn  
Michigan House of Representatives  
State Capitol  
Lansing, Michigan 48909

Dear Representative Welborn:

This is in response to your letter requesting a declaratory ruling "relative to section 3 of Public Act 388 of 1976" (the "Act"). You indicate that you have formally announced your candidacy for the office of State Senator, that you will not seek reelection to the House of Representatives and that you wish to "close out" your House campaign committee. You feel you are not permitted to dissolve your House committee and transfer funds to your Senate campaign committee until after the August primary.

Section 21 of the Act requires that, within 10 days after becoming a candidate, a candidate committee shall be formed "for each office for which the person is a candidate." One is considered to be a candidate for the purposes of the Act so long as the person falls within the ambit of section 3. In your case this means that, as an elected officeholder you are considered a candidate for reelection to the same office unless you are "constitutionally or legally barred from seeking reelection or fail to file for reelection to that office by the applicable filing deadline . . . ." You may therefore be a candidate for State Senate while meeting the above definition of "candidate" for your House seat.

Concerning the transfer of funds between two candidate committees of the same person, section 45(1) of the Act (MCL 169.245(1)) provides:

"A person may transfer any unexpended funds from 1 candidate committee to another candidate committee of that person if the contribution limits prescribed in section 52 for the candidate committee receiving the funds are equal to or greater than the contribution limits for the candidate committee transferring the funds and if the candidate committee are simultaneously held by the same person."

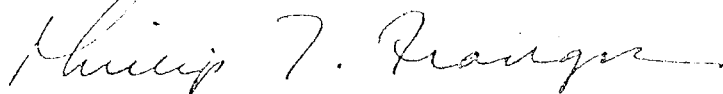
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In your particular case, the committees would appear to be "simultaneously held" by the same person. Section 52 provides that the contribution limit for the committee receiving the funds (i.e., your Senate committee) is "\$450.00 in value for a candidate for State Senator" and the limit for the donor (i.e., your House committee) "is \$250.00 in value for a candidate for State representative." Therefore, and pursuant to section 45(1), because the limit for the recipient (Senate) committee is "equal to or greater than" the limit for the donor (House) committee, and because both candidate committees would be simultaneously held by the same person, unexpended funds could be transferred from your House Committee to your Senate Committee. However, once funds have been transferred from your House to your Senate committee they cannot be transferred back to the House committee if you file for the House instead of the Senate.

So long as you are an officeholder, you must maintain the candidate committee for that office. When the applicable filing deadline has passed and you are no longer eligible for reelection to the House of Representatives, you may dissolve your "House" committee (so long as that committee no longer receives or expends funds and has no debts or assets) pursuant to rule R169.28. Even though you are required to maintain a House committee you may transfer unexpended funds to your Senate committee at any time and in any amount. Both committees must, of course, file the reports required in the Act.

This response is informational only and does not constitute a declaratory ruling because the specificity required by rule 6.3 is absent from your request

Very truly yours,



Phillip T. Frangos, Director  
Office of Hearings and Legislation

PTF/cw