

MICHIGAN DEPARTMENT OF STATE

RICHARD H. ROBINSON

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

November 9, 1978

Mr. Mark K. Wilson  
Hill, Lewis, Adams, Goodrich & Tait  
100 Renaissance Center  
Detroit, Michigan 48243

Dear Mr. Wilson:

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 committee which did not timely file an annual campaign statement because it filed a postelection campaign statement covering the same period of time.

You state the following factual situation:

"On April 8, 1978, a statement of organization was filed by the Committee for the Grosse Pointe School Board election held on June 12, 1978. On June 1, 1978, the preelection campaign statement covering the period from April 4, 1978, to May 27, 1978, was timely filed (an amended preelection statement was filed the following day). Subsequent to our filing the preelection campaign statement and prior to our anticipated filing of the postelection campaign statement, which would have covered the period from May 27, 1978, to July 2, 1978, the Committee received a notice from the Wayne County Clerk's office that it should have filed an annual report pursuant to Section 35(1) of Act 388 of the Public Acts of 1976 (State Campaign Expense Act) by June 30, 1978. This notice was received on July 10, 1978, and an annual report covering the period from May 27, 1978, to June 20, 1978, as indicated in the notice, was filed with the Wayne County Clerk's Office on that day. The notice received from the Wayne County Clerk's Office also stated that the Committee was subject to a penalty of \$10.00 per day for failure to timely file the annual report, resulting in a total penalty amount of \$100.00."

You ask whether the subject committee was required to file an annual report by June 30, 1978, or, in the alternative, whether the penalty for late filing could be waived under the above factual circumstances.

You make three arguments to support the contention the committee was not required to file the annual report and, consequently, that it did not have to pay the late filing fee:

(1) The annual report filed for the period from May 27, 1978, to June 20, 1978, duplicates the information which would have been set forth in the postelection campaign statement had it covered the period from May 27, 1978, to July 2, 1978.

(2) The postelection report, according to Section 33(1) of the Act (MCLA § 169.233), requires the postelection report to cover a period from the end of the preelection report to the closing date of the postelection report.

(3) Section 33(1)(a) and (b) of the Act set forth the periods and the filing dates for the preelection and postelection campaign statements. There is no statutory provision indicating an annual report should be filed under the above factual circumstances for a period of less than a month (May 27, 1978, to June 20, 1978).

Section 25(1) of the Act (MCLA § 169.225) provides the period covered by a campaign statement is the period commencing with the day after the closing date of the most recently filed campaign statement, and ending with the closing date of the campaign statement in question. All campaign statements, whether annual, preelection, or postelection, begin where the previous report left off and end on the closing date as provided by the Act. Moreover, nowhere in the Act is there any requirement that the statement in question covers any number of months, weeks, or days; the only requirement is that there not be any gaps from one report to the other as these reports become due under the Act.

Consequently, your first contention, i.e., the annual report filed for the period from May 27, 1978, to June 20, 1978, duplicates the information which would have been set forth in the postelection campaign statement had it covered the period from May 27, 1978, to July 2, 1978, is immaterial since an annual report was statutorily required on June 30, 1978, with a closing date of June 20, 1978. The fact a postelection report was also due does not obviate the requirement to file the annual report.

As indicated previously, your second and third arguments are not consistent with the requirements of the Act. There is no absolute requirement that the postelection report begin on the closing date of the preelection report, although that will be true generally when there are no intervening required reports; nor is there a prohibition against a report covering a period of less than a month.

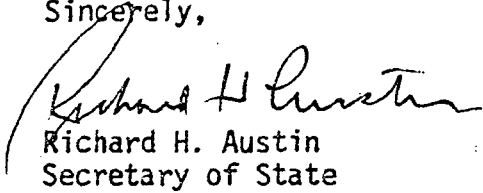
Consequently with respect to the factual situation detailed in your request, the committee which you represent was required to file an annual statement on June 30, 1978, notwithstanding a postelection report was also due shortly afterwards. Failure to file an annual report properly required an imposition of late filing fees.

Section 35(3) (MCLA § 169.235) requires payment of a late filing fee of \$10.00 for each day the annual campaign statement remains not filed, with the total late filing fees not to exceed \$300.00. The Department has no discretion to waive the late filing fees.

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This response constitutes a declaratory ruling concerning the applicability of the Act to the factual situation enumerated in your request.

Sincerely,



Richard H. Austin  
Secretary of State

RHA:pj