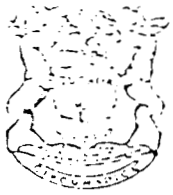
MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING
MICHIGAN 48918

September 29, 1978

Mr. William R. Ralls
Kemp, Klein, Endelman & Ralls
3000 Town Center, Suite 2700
Southfield, Michigan 48075

Dear Mr. Ralls:

This is in response to your request for a ruling by the Department concerning the deadline before which a gubernatorial committee may file an application for public funds available under the Campaign Finance Act, P.A. 388 of 1976, as amended ("the Act"), to retire a debt incurred in the primary election.

Section 61(4) of the Act (MCLA § 169.261) provides (in part):

> "An amount equal to the cumulative amounts designated under subsection (2) each year shall be appropriated annually from the general fund of the state to the state campaign fund to be available <u>beginning January 1 and continuing through December 31</u> of each year in which a governor is elected. The amounts appropriated under this section shall not revert to the general fund but shall remain available to the state campaign fund for distribution without fiscal year limitation except that any amounts remaining in the state campaign fund on December 31 immediately following a gubernatorial general election shall revert to the general fund." (Emphasis supplied)

Section 61(4) indicates the moneys in the State Campaign Fund are available from January 1, 1978, through December 31, 1978, when moneys remaining in the State Campaign Fund revert to the General Fund. The Act does not contain language limiting application during this period to a candidate in either the primary or general election. It appears a gubernatorial candidate committee in either the primary or general election may validly apply for public funds and receive moneys throughout 1978 provided the committee is eligible for funds.

Section 66(3) of the Act (MCLA § 169.266) states "an unexpended balance in this account shall be refunded and credited to the general fund within 60 days after the election for which the moneys were received." The "account" to which reference is made is the separate account a gubernatorial candidate committee must maintain for moneys received from the State Campaign Fund.

The impact of Section 66(3) is upon funds received by the gubernatorial candidate committee from the State Campaign Fund, which remain unspent 60 days after the election for which the moneys were received. Money is considered spent upon incurrence of a debt pursuant to the making of an expenditure as defined in Section 6 of the Act (MCLA § 169.206). Consequently, a candidate who has debts incurred in an election may continue to apply for public moneys, even after the 60-day period, provided the funds in the State Campaign Fund have not reverted to the General Fund because of the December 31 deadline. The gubernatorial candidate committee must provide proof of qualifying contributions (in the case of the primary election) and must apply the moneys received only against qualified campaign expenditures. The committee may receive funds only to the limits authorized by the Act.

Accordingly, your gubernatorial candidate committee may apply to receive public moneys, for which it qualifies, to retire debts validly incurred in the August, 1978, primary election. Application for the public moneys, which will be available through December 31, 1978, must be made a reasonable time prior to that date to permit approval and processing. Moreover, in the period prior to December 31 but subsequent to 60 days after the primary election, the Department will require proof from the committee that moneys applied for are directed to and not in excess of qualified campaign expenditures.

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

Sincerely,

Richard H. Austin

Richard H. Austin
Secretary of State

RHA:pj