



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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July 13, 1990  
AO-90-23

MARY F. MCTIGUE  
DIRECTOR

Pamela H. Wilmot  
Executive Director  
Common Cause/Massachusetts  
59 Temple Place  
Boston, MA 02111

Dear Ms. Wilmot:

This letter is in response to your request for an advisory opinion concerning the application of the provisions of M.G.L. c.55 to certain activities Common Cause proposes to undertake.

You have stated that Common Cause is currently drafting a comprehensive campaign finance reform and ethics bill to be filed in the Massachusetts General Court sometime this year. Common Cause intends to make every effort to enact the legislation including, if necessary, placing the proposal on the 1992 ballot. The intentions of Common Cause are known to some of your members and later this year some of its fundraising solicitations will mention the possibility of a 1992 initiative campaign. All of the funds collected through such a solicitation will go towards the organization's operating budget as well as to promoting the comprehensive bill at the General Court.

You have inquired, given the facts above, whether Common Cause will have "solicited or received contributions . . . for the purpose of . . . opposing or promoting a referendum question" and therefore be subject to the provisions of M.G.L. c.55.

In analyzing this issue, we must first determine whether Common Cause would be functioning as a political committee in soliciting funds which would be used toward its operating budget as well as promoting the bill at the General Court. Additionally, we must examine whether a solicitation which mentioned the possibility of a 1992 ballot initiative would alter the initial analysis.

Section 1 of M.G.L. c.55 defines a political committee as "any committee, association, organization or other group of persons, including a national, regional, state, county or municipal committee, which receives contributions or makes expenditures . . . for the purpose of opposing or promoting a

charter change, referendum question, constitutional amendment, or other question submitted to the voters."

The long-standing and consistent position of this office has been that, if an organization solicits or receives any money or other thing of value for political purposes, including opposing or promoting a question submitted to the voters, the organization is functioning as a political committee, subject to all the provisions of the campaign finance law as of the date of the solicitation or receipt of such money or other thing of value.

It is the opinion of this office that soliciting money for the operating budget of an organization such as Common Cause would not be soliciting for the purpose of opposing or promoting a charter change, referendum question, constitutional amendment, or other question submitted to the voters. Likewise, expenditures made for the purpose of promoting, opposing or influencing legislation, or the governor's veto or approval thereof, including expenditures for lobbyists and lobbying-related activities are not subject to the provisions of M.G.L. c.55. In fact, political committees organized pursuant to M.G.L. c.55 are specifically prohibited from making expenditures related to legislation. See 970 C.M.R. 2.06(6)(b)(3).

The next step in our analysis examines whether a solicitation which mentions the possibility of a future ballot initiative would be subject to the provisions of M.G.L. c. 55 or not. To provide a definitive time at which contributions and/or expenditures (and hence solicitations) will be considered to have been made for the purpose of opposing or promoting a charter change, referendum question, constitutional amendment, or other question submitted to the voters, this office has determined that any expenditures or contributions made to originate an initiative petition, a referendum petition or a public policy petition shall be considered to have been made in order to influence or affect a question submitted to the voters. (See Interpretative Bulletin, OCPF-IB-108, "Disclosure and Reporting of Contributions and/or Expenditures Related to Ballot Questions"). This office has stated that the act of origination in each instance shall be considered as the first step necessary to commence the process and in the case of an initiative petition, such first step is the drawing up and signing by ten qualified voters of an original petition.

It is, therefore, the further opinion of this office that a solicitation for monies to be used as general operating funds and to lobby the legislature which included a reference to a possible ballot initiative in 1992 would not create the inference that Common Cause was functioning as a political committee, provided the definitive steps described in the previous paragraph had not been taken with respect to placing

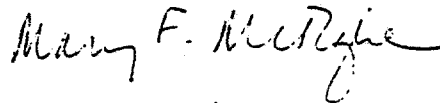
such initiative petition on the 1992 ballot. (Compare AO-90-22, an advisory opinion finding that solicitations which relied in large part on a reference to a ballot initiative for which the origination step had been taken would subject the soliciting organization to the provisions of M.G.L. c.55.)

In summary, it is the opinion of this office that based on the given facts Common Cause will not "have solicited or received contributions . . . for the purpose of . . . opposing or promoting a referendum question" and therefore will not be required to subject to the provisions of M.G.L. c.55.

This opinion has been rendered solely in the context of M.G.L. c.55 and solely on the basis of the representations in your letter.

Should you have any additional questions, please do not hesitate to contact this office.

Very truly yours,



Mary F. McTigue  
Director

MFM/wp