

May 27, 1992

SUBJECT: FILING REQUIREMENTS OF TAXPAYERS ASSOCIATION

SUMMARY:

A taxpayers association which expends funds for a newsletter or other expenses advocating the election or defeat of clearly identified candidates must file a statement of organization and Campaign Disclosure Form.

QUESTION:

The Chairman of the Greenville County Taxpayers Association questions whether that group is required to file a Statement of Organization and Campaign Disclosure Form. The Association is composed of a group of citizens with interest in government activities. A newsletter is published for the membership and also distributed to county elected officials to announce meetings and to provide information on public issues.

DISCUSSION:

This opinion is rendered in response to a letter dated March 20, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-1304 provides in part as follows:

A committee, except an out-of-state committee, which receives or expends more than five hundred dollars in the aggregate during an election cycle to influence the outcome of an elective office or ballot measure must file a statement of organization with the State Ethics Commission no later than five days after receiving the contribution or making the expenditure...

Committee is defined in Section 8-13-1300(6) as:

Committee means an association, a club, an organization, or a group of persons which, to influence the outcome of an elective office or a ballot measure, receives contributions or makes expenditures in excess of five hundred dollars in the aggregate during an election cycle. It also means an individual who, to influence the outcome of an elective office or a ballot measure, makes contributions aggregating at least fifty thousand dollars during an election cycle to, or at the request of, a candidate or a committee, or a combination of them. 'Committee' includes a party

committee, a legislative caucus committee, a noncandidate committee, or a committee that is not a campaign committee for a candidate but that is organized for the purpose of influencing an election.

Thus, a committee which receives or expends more than five hundred dollars to influence the outcome of an election is required to file a statement of organization within five days after reaching that level. Section 8-13-1308(A) provides in part as follows:

(A) Upon the receipt or expenditure of campaign contributions totaling, in an accumulated aggregate, five hundred dollars or more, a candidate or committee required to file a statement of organization pursuant to Section 8-13-1304 must file an initial certified campaign report within ten days of these receipts or expenditures. However, a candidate or a committee that does not receive or expend campaign contributions totaling, in an accumulated aggregate, five hundred dollars or more must file an initial certified campaign report fifteen days before an election as provided in subsection (D).

The intent of the new statute is for disclosure of campaign activities by candidates and committees. While Sections 8-13-1300(6) and 8-13-1304 provide for a committee to reach a threshold level of five hundred dollars (\$500) prior to filing a statement of organization, Section 8-13-1308(A) provides for disclosure of campaign finances, regardless of whether the committee or candidate reaches the five hundred dollar level. Since such reporting is consistent with the intent of the statute, the State Ethics Commission would advise that a committee or group which expends funds to influence the outcome of an election shall file a statement of organization and a Campaign Disclosure Form. If the committee does not reach the five hundred dollar threshold, the statement of organization and Campaign Disclosure Form shall be filed at least fifteen days prior to each election.

Based upon the facts as submitted, it does not appear that the mere publication of a newsletter providing meeting information and policy information is an expense to "influence the outcome of an election". However, the use of the newsletter to encourage the election of or defeat or clearly identified candidates is an expenditure for the purpose of influencing an election. Expenditures associated with newsletters encouraging the election or defeat or clearly identified candidates triggers the reporting as noted above, i.e., the filing of the statement of organization and Campaign Disclosure.