

MANUALS: Ballot Question Manual

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1 Introduction

Michigan's Campaign Finance Act (MCFA), P.A. 388 of 1976 [1], as amended, promotes the public disclosure of political contributions and expenditures. The Secretary of State and the County Clerks seek disclosure through voluntary compliance of candidates, groups and committees with the requirements of the MCFA.

The MCFA requires groups participating in Michigan elections to form and register committees. Committees are groups that:

- receive contributions or make expenditures to influence voters for or against the nomination or election of a candidate;
- receive contributions or make expenditures to influence voters for the qualification, passage, or defeat of a ballot question;
- make independent expenditures to influence voters; or
- receive contributions or make expenditures to assist a political party in qualifying for ballot access in Michigan

Exceptions are:

- An individual, other than a candidate, does not constitute a committee.
- A person, other than a registered committee, making an expenditure to a ballot question committee as long as the person does not solicit or receive contributions for the purpose of making an expenditure to that ballot question committee, does not constitute a committee.

The types of committees covered by the MCFA are:

- Candidate Committees
- Political and Independent Committees (PACs)
- Ballot Question Committees
- Political Party Committees

To register, a committee files a Statement of Organization. Statement of Organization forms can be obtained from the Secretary of State's website at www.Michigan.gov/elections [2]. State level filers must file **electronically**. Once a committee is registered, it may be required to file campaign statements and other reports to disclose the committee's campaign finance activity in Michigan elections.

The MCFA specifies when and under what conditions a committee may be dissolved. A dissolved committee has no further filing obligations. All committees are encouraged to request dissolution when activity in the committee ends. A committee that has not been dissolved and does not have a Reporting Waiver must continue to file campaign statements as required by the MCFA.

If you have questions, do not hesitate to seek assistance from the Department of State's Bureau of Elections in Lansing. Possible violations can be avoided with early advice and use of instructional materials provided by the Department. When seeking specific legal advice, always rely on the MCFA and the Rules promulgated to administer the MCFA.

Contact us at:

Michigan Department of State
Bureau of Elections
P.O. Box 20126
Lansing, Michigan 48901-0726
Phone: (517) 373 2540
Fax: (517) 373-0941
Email: Disclosure@Michigan.gov
Follow us on Twitter @MichCFR

Visit us at:

Richard H. Austin Building – 1st Floor
430 West Allegan Street
Lansing Michigan 48918-1700
www.Michigan.gov/elections [3]

(May 04, 2012, at 09:07 PM)

2 The Statement of Organization, Forming and Registering a Ballot Question Committee

BALLOT QUESTION COMMITTEES COVERED BY THE MICHIGAN CAMPAIGN FINANCE ACT (MCFA)

As soon as an organization or group of persons receives \$500.00 in contributions or makes independent expenditures totaling \$500.00 in a calendar year to influence voters for or against the qualification, passage or defeat of one or more ballot questions in Michigan, the organization or group of persons has 10 calendar days to form and register a Ballot Question Committee.

- **DATE COMMITTEE FORMED** Once the \$500.00 threshold is met, the committee has ten (10) calendar days to form and register with the appropriate filing official by submitting the Statement of Organization form. Formation is establishing the information needed to complete the Statement of Organization. The most important elements of formation include selecting a committee treasurer and a committee depository.

Note: Section 3(4) of the MCFA provides that person, other than a committee registered under this act, making an expenditure to a ballot question committee, shall not, for that reason, be considered a committee for the purposes of this act unless the person solicits or receives contributions for the purpose of making an expenditure to that ballot question committee. Therefore, if a Ballot Question Committee receives a contribution from a corporation, labor organization, domestic dependent sovereign or other organization transferring treasury funds to a Ballot Question Committee, the organization is not required to register under the MCFA as long as the funds were not solicited or received for that purpose.

REGISTERING THE COMMITTEE

An organization or group of persons that is covered by the MCFA registers a committee by filing a Statement of Organization form with the appropriate filing official. The Statement of Organization is the first campaign finance form required to be filed by a Ballot Question Committee. Statement of Organization forms can be obtained from the Department of State's Bureau of Elections in Lansing, any County Clerk's office or the Secretary of State's website www.michigan.gov/elections.

Where to File

- If the ballot question supported or opposed by the committee will be voted on in one county, the committee files the Statement of Organization with the clerk of that county.
- If the ballot question supported or opposed by the committee will be voted on in more than one county, the committee files the Statement of Organization with the clerk of the county having the greatest number of registered voters eligible to vote on the ballot question.
- If the ballot question will be voted on statewide, the committee files the Statement of Organization with the Michigan Department of State, Bureau of Elections. This form must be filed **electronically**.

KEEPING THE COMMITTEE'S STATEMENT OF ORGANIZATION UP-TO-DATE

The information contained on the Statement of Organization must be kept up-to-date. If a change in the information takes place, the committee treasurer must file an amendment to the form no later than the due date of the first Campaign Statement required of the committee after the change. The treasurer serving at the time of the change must sign the amended Statement of Organization. Committees are encouraged to file the required Statement of Organization amendments early to ensure the committee records are up-to-date and the committee receives all communications sent by the filing official timely.

STATEMENT OF ORGANIZATION Q&A'S

Rather than giving money to a Ballot Question Committee (direct contribution), or paying a printing bill for the committee (in-kind contribution), a community organization buys a full-page ad in the newspaper at a cost of \$650 to advocate a "yes" or "no" vote on the issue. Does this organization have to register as a Ballot Question Committee for an upcoming school millage election?

The community organization would be required to register a Ballot Question Committee with the county clerk's office within 10 days after making the expenditure. The registration of a Ballot Question Committee is required because the expenditure was an independent expenditure and the amount was \$500 or more.

I am the CEO of a corporation that will be affected adversely if an upcoming ballot proposal passes. My company wants to run some ads in the local newspaper, put up several billboards and circulate some brochures in opposition to this proposal. We

would be using approximately \$95,000 of the company's money. Does my company have to form and register a Ballot Question Committee if we pay for these ads?

Yes, because the expenditures would be independent expenditures and exceed the \$500 registration threshold.

What if my corporation contributed the money to an existing Ballot Question Committee?

The corporation would not have to establish and register its own Ballot Question Committee as the expenditure would be a direct contribution to the existing committee and funds involved were not solicited or received for the purpose of making the expenditure to that committee.

The PTA held some bake sales to raise money to support an upcoming millage election. The money from the sales, totaling \$350, was given to the Save Our Schools Ballot Question Committee. Must the PTA form and register a Ballot Question Committee?

No, the PTA would not have to form and register as a committee because the amount of the contribution was less than \$500; however, it would have to provide to the recipient committee the names, addresses, dates and amounts for the contributors who purchased the baked goods.

What if the contribution from the PTA was \$525?

The PTA would be required to form and register a Ballot Question Committee because the money given was \$500 or more and was solicited for the purpose of making a contribution to the Save Our Schools Committee.

We are an out-of-state organization and want to send some people to Michigan to work on a statewide ballot proposal. We will be paying their salaries while they work with a Michigan Ballot Question Committee. Do we have to register a Ballot Question Committee?

No, because your expenditures would be in-kind contributions to the Ballot Question Committee and not made from money solicited or received for that purpose. However, you would be required to provide to the Michigan Ballot Question Committee a certified listing of all persons who had contributed the money your organization is using to pay the salaries of the workers sent to Michigan. If the funds came from the organization's treasury funds, no certified listing would be required. If the out-of-state organization sent out letters to its members and received contributions from them to

cover the cost of sending people and/or money to Michigan for this ballot proposal, the out-of-state organization would be required to register as a Ballot Question Committee.

(May 03, 2017, at 11:59 AM)

3 Campaign Finance Disclosure Requirements

BALLOT QUESTION COMMITTEE - CAMPAIGN STATEMENTS

A committee discloses its campaign finance activity on campaign statements. A campaign statement consists of a cover page, summary page, and a series of schedules that itemize the committee's contributions, other receipts, expenditures and debts. A fund raiser schedule summarizes fund raisers held by the committee.

State level committees that spend or receive (or expect to spend or receive) \$5,000.00 or more in any calendar year must file electronically. Visit www.mertsplus.com for more information.

For state level filers that do not exceed the electronic filing threshold and local committees, paper campaign statement forms and instructions can be obtained from the Department of State's website at www.Michigan.gov/elections. (Wayne County filers are encouraged to contact the Wayne County Clerk's office for specific filing instructions.)

The Reporting Waiver

A Ballot Question Committee that does not expect to receive or spend more than **\$1,000.00 for an election** may obtain a Reporting Waiver that exempts the committee from filing detailed campaign statements unless it exceeds the \$1,000.00 threshold. To obtain a Reporting Waiver the committee must select the **YES** option on the Statement of Organization or on an amended Statement of Organization. The Reporting Waiver is further explained in **Appendix C**.

When Campaign Statements are Required

Ballot Question Committees that do not maintain a Reporting Waiver are required to file Campaign Statements according to the schedule detailed below. Any due dates that fall on a weekend or state observed holiday are moved to the next business day. See *Campaign Finance Disclosure* [4] website for more information.

Type of Statement	Closing Date of Statement	Statement Due Date
Pre-Election Campaign Statement	16 days before election	11 days before election
Post Election Campaign Statement	20 days after election	30 days after election
Annual Campaign Statement (Not owed by local committees)	December 31	January 31
February Quarterly Campaign Statement	February 10	February 15
April Quarterly Campaign Statement	April 20	April 25
July Quarterly Campaign Statement	July 20	July 25
October Quarterly Campaign Statement (Odd Years only)	October 20	October 25
Petition Proposal Campaign Statement (State Filers only)	28 days after filing	35 days after filing

- An **Annual** Campaign Statement is required by state level Ballot Question Committees each year on January 31 (closes on December 31). The Annual Campaign Statement is waived if the committee files a Post-General Campaign Statement during the month of December. The Annual Campaign Statement is not owed by local level Ballot Question Committees.
- A **Pre-Election** Campaign Statement is required 11 days before any election in which the committee participates (closes 16 days before the election).
- A **Post-Election** Campaign Statement is required 30 days after any election in which the committee participates (closes 20 days after the election). A committee that files a Pre-Election Campaign Statement for an election is automatically required to file a Post-Election Campaign Statement for that election.
- **Quarterly** Campaign Statements are due each year in February, April and July. In odd years, an additional statement is owed in October. See chart above for specific closing dates and due dates.
- A Ballot Question Committee that submits a petition proposal as required by section 483a of Michigan Election Law is required to file a **Petition Proposal Campaign Statement** 35 days after the filing of the petition proposal (closes 28 days after the filing date). A Reporting Waiver does not waive the Petition Proposal Campaign Statement.

Definition of Election

The term “election” is used to mean a primary, general, special, recall, or millage election held in Michigan. A committee is considered to be a participant in an election if it makes a contribution or an expenditure to support or oppose a ballot question on the election ballot. This includes a contribution made or an independent expenditure made on behalf of another Ballot Question Committee participating in the election.

Campaign Statement Closing Dates, Due Dates and Coverage Dates

Campaign statements have specific coverage dates. The first campaign statement filed by a committee “opens” on the day the committee formed and extends through the “closing date” of the statement that is due. Subsequent campaign statements “open” on the day after the last day covered by the previous campaign statement filed by the committee and extend through the “closing date” of the statement that is due.

Annual Campaign Statement Filing Exemption

A state level Ballot Question Committee that files a Post-General Campaign Statement due between December 1 and January 30 is not required to file the Annual Campaign Statement that is due on January 31 immediately following the Post-General. However, the committee would be required to file the next campaign statement that is owed by the committee. The Annual Campaign Statement is not owed by local level Ballot Question Committees.

Immediate Disclosure Reports: See **Appendix G**

Late Filing Fees: See **APPENDIX E**

(May 03, 2017, at 12:12 PM)

4 Contributions And Other Receipts

BALLOT QUESTION COMMITTEE - RECORDING AND REPORTING CONTRIBUTIONS AND OTHER RECEIPTS

Committees receive monies, goods and services from a variety of sources. Any items of value received by the committee are called receipts. The receipts are separated into two types by the MCFA; “contributions” and “other receipts”.

- **“Contributions”** are the monies, goods and services **donated or loaned** to the committee. Contributions of monies donated to the committee are called “direct” contributions. Contributions of goods and services donated to the committee are called “in-kind” contributions.
- **“Other Receipts”** are the monies received by the committee that are not contributions. Common examples include interest, refunds, rebates received by the committee and un-cashed or returned checks. A loan from a financial institution is also an “other receipt”.

TYPES OF CONTRIBUTIONS

Contribution of Money: A Committee may accept direct contributions of money from legal sources. Direct contributions of \$20.01 or more must be on written instruments such as a check, money order or credit card. Direct contributions of \$20.00 or less may be received in cash.

In-kind Contribution: In-kind contributions are goods, services and facilities donated or loaned to the committee at no cost or at a discount. An in-kind contribution could be a donation of postage stamps, paying off a debt incurred by the committee or donating professional services to the committee. The value of an in-kind contribution is the fair market value of the goods or services or the usual rental charge of the facility. If the committee receives a discount unavailable to the general public, the value of the in-kind contribution is the amount discounted.

Loan as a Contribution: A committee may accept loans from legal sources. A loan is considered a contribution for the same amount as the loan. Therefore, a loan of \$100.00 is a contribution of \$100.00. A loan can be a loan of money or an in-kind contribution. A Loan Endorsement is an in-kind contribution to the committee in the amount of the endorsement.

RECORDING AND REPORTING RECEIPTS

The committee treasurer or designated record keeper must:

- Record and report all contributions from individuals, regardless of amount, by the amount, date received, and the donor's name and address. If single or cumulative contributions received from the same individual during a calendar year total \$100.01 or more, the donor's occupation, employer and principal place of business must also be recorded.

Joint Checking Accounts: Record and report contributions received on a joint personal checking account as being received by the person who has signed the check. If the committee has knowledge that the check was intended to be split among contributors, record and report each contributor separately. This is common for joint checking accounts between spouses.

- Record and report all contributions received from other committees, regardless of amount, by the amount, date received, and the committee's name and address.
- Record and report all contributions received from groups, businesses, firms or any other types of organizations that are not registered as a committee under the MCFA by amount, date received and the contributing organization's name and address. If an individual gave toward the organization's contribution, the amount the individual gave, the date the organization received the individual's contribution, and the individual's name and address must be recorded and reported as a "memo-itemization". If an individual gave \$100.01 or more toward the organization's contribution, the individual's occupation, employer and principal place of business (address) must also be recorded.
- Record and report all "other receipts" by the amount, date received, the name and address of the source and a short description.

The date of receipt is not the date the check or other written instrument was written or the date the contribution was deposited into the committee's account. The committee **receives** a contribution on the date that the monetary funds, written instrument, or in-kind contribution of goods from the contributor come into the physical possession of the committee treasurer, designated record keeper or other person acting as an agent of the committee.

An in-kind contribution of services is considered to be received by the committee on the date the committee treasurer, designated record keeper or other person acting as an agent of the committee receives verbal or written notice from the contributor that the contribution has been made.

Refer to the Ballot Question Committee Campaign Statement Instructions and Forms booklet for specific information on how receipts are reported.

Prompt Deposit Required

The Committee Treasurer or agent must promptly deposit all funds received by the committee in the committee's depository. The committee receives a contribution as soon as the committee treasurer or an agent designated by the treasurer receives it.

When a Written Instrument Is Required

Contributions of \$20.01 or more must be made by a written instrument such as a check or money order that must show the name of the person making the contribution and the name of the committee accepting the contribution. A committee may not accept contributions of \$20.01 or more in cash. The committee must record the same type of detailed information for a credit card or electronically transferred contribution as for any other type of contribution.

Contribution Limits

Ballot Question Committees may receive unlimited contribution amounts from any legal source. See **Appendix O** for a list of prohibited sources.

ACCEPTABLE CONTRIBUTIONS AND EXEMPTIONS

Contribution of Money: A Committee may accept direct contributions of money from legal sources in the form of cash (\$20.00 or less), check, money order, credit cards and other electronic transfers.

Loan as a Contribution: A Committee may accept loans from individuals, Independent Committees, Political Committees, Political Party Committees, Super PACs and financial institutions. Loans are recorded as contributions with the exception of loans made to the committee by financial institutions.

Loan as an "Other Receipt" – Financial Institution Loan: A loan made by a financial institution is recorded as an "other receipt."

In-Kind Contributions: In-kind contributions are goods, services and facilities provided to the committee at no cost or at a discount. An in-kind contribution could be a donation of office supplies to the committee, a person paying off a debt incurred by the committee or someone paying the salaries of persons who are working on the ballot question campaign.

The value of an in-kind contribution is the fair market value of the goods or services or the usual rental charge of a facility for office space or a fund raiser. If the committee receives a discount unavailable to the general public, the value of the in-kind contribution is the amount discounted.

Contribution from an Out-of-State Group: See **Appendix K**

Partnership, Limited Liability Company (LLC) or Professional Limited Liability Company Contributions: Contributions can be received from partnerships, LLCs and PLLCs, but special conditions exist for reporting the contributions. For more information see **Appendix O2**

Contribution Exemptions

An individual can assist a committee in a number of ways without the assistance counting as a contribution to the committee. For more information see **Appendix O1**

Prohibited Contributions: See **Appendix O**

RETURNING CONTRIBUTIONS

Funds received by a committee which are returned to the contributor **within 30 business days** after receipt are not viewed as a “contribution” under the MCFA.

- Funds, which have **not** been deposited in the committee’s account and are returned to the contributor, are **not** reported on the next Campaign Statement required of the committee.
- Funds deposited in a committee’s account that are subsequently returned to the contributor must be reported as a contribution on the Itemized Contribution Schedule, of the Campaign Statement covering the period during which the contribution was received and returned. The expenditure to return the contribution is reported on the Itemized Expenditures Schedule.

Fund Raisers: See **Appendix F**

(June 02, 2017, at 02:06 PM)

5 Expenditures

BALLOT QUESTION COMMITTEE - RECORDING AND REPORTING EXPENDITURES

“**Expenditures**” are anything of monetary value spent by the committee to influence the qualification, passage or defeat of a ballot question. When a committee makes an expenditure to, or on behalf of another committee, it is an “expenditure” by the spending committee and a “contribution” to the recipient committee.

The committee treasurer or designated record-keeper must:

- Record and report all expenditures over \$50.00 from the committee account by the amount, purpose, date made, and the recipient’s name and address.
- Record and report all expenditures (regardless of amount) made to or on behalf of another Ballot Question Committee by the amount, date made, and the recipient committee’s name and address, including the name and address of the vendor or person paid. Record the proposal letter or a brief description of the ballot question supported by the recipient committee and the county, city, township or village where it appears on the ballot.
- Record and report all expenditures made to support or oppose a ballot question by the amount, date made and a description of the question. Indicate whether the question is a statewide, multi-county or single-county issue and whether the committee is supporting or opposing the issue. For multi-county issues, indicate the name of the county with the greatest number of voters eligible to vote on the issue.

Refer to the Ballot Question Committee Campaign Statement Instructions and Forms booklet for specific information on how expenditures are reported.

Treasurer’s Responsibility: See **Appendix A**

When a Written Instrument Is Required

An expenditure of \$50.01 or more must be made by a written instrument such as a check or money order. The written instrument must show the committee’s name, date, amount, and the name of the recipient. A committee may not make expenditures of \$50.01 or more in cash.

ACCEPTABLE EXPENDITURES AND EXEMPTIONS

Petty Cash Fund

- The committee treasurer may establish a petty cash fund with funds withdrawn from the committee's official depository.
- The committee must record the name, date and amount of each expenditure made from the petty cash fund.
- Single cash expenditures of \$50.00 or less may be made from the petty cash fund.

In-Kind Expenditures

In-kind expenditures are goods, services and facilities provided to another committee at no cost or at a discount.

The value of an in-kind expenditure is the fair market value or usual rental charge of the good, service or facility. If the committee provides a good, service or facility to another committee at a discount, the value of the in-kind expenditure is the amount discounted.

A Ballot Question Committee may not make an in-kind expenditure to a Candidate Committee or to any type of committee that supports or opposes candidates.

Independent Expenditures

Independent expenditures are expenditures made to support or oppose a ballot question without the direction or control of another person or committee, including supporting or opposing the primary Ballot Question Committee that is supporting or opposing the ballot question. Independent expenditures are never made under the control of or at the direction of another person or committee and are not contributions to any committee. Independent expenditures can be made in any amount.

Loans By Ballot Question Committees

A Ballot Question may make a loan, or guarantee or endorse a loan, only to another Ballot Question Committee or a Super PAC.

DELIVERY OF A CONTRIBUTION TO ANOTHER COMMITTEE BY A THIRD PARTY

An individual who obtains possession of a contribution that a committee registered under the MCFA wishes to give to another committee registered under the MCFA has 10 business days to take one of the following actions:

1. Deliver the contribution to the appropriate committee treasurer;
2. Deliver the contribution to any agent of the appropriate committee; or
3. Return the contribution to the payor.

The 10-day time limit for these actions does not apply if the individual in possession of the contribution is the treasurer of the contributing committee or the contributing committee's designated record keeper.

Use of Independent Contractors: See **Appendix L**

Expenditure Exemptions

The MCFA exempts the following activities from the expenditure definition:

- A group or committee may communicate with its paid members or shareholders without having to report the expenses involved as expenditures. The communication can support or oppose ballot questions.
- A group or committee may communicate with anyone on a subject or an issue without having to report the expenses involved as expenditures if the communication does not support or oppose a ballot question by name or clear inference.

PROHIBITED EXPENDITURES

- A committee may not make a single expenditure from petty cash that exceeds \$50.00.
- A committee may not make a cash expenditure that exceeds \$50.00.
- A Ballot Question Committee may not make expenditures to, in support of, or in opposition to, a Candidate Committee, Political Party Committee, Political Committee (PAC), Independent Committee (PAC) or any committee that supports or opposes candidates.

Dissolution of Committee: See **Appendix W**

(May 03, 2017, at 12:29 PM)