



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN  
DIRECTOR

October 19, 1995  
AO-95-36

Paul A. Simmons, Jr., Treasurer  
Black People's Political Action Committee  
3476 Washington Street  
Boston, MA 02130-2602

Re: Ballot Question Expenditures by PAC

Dear Mr. Simmons:

This letter is in response to your request for an advisory opinion regarding the Black People's Political Action Committee's (the PAC's) involvement in a municipal ballot question campaign.

You have asked if the PAC may solicit contributions and make expenditures to support or oppose a municipal ballot question or otherwise become involved in municipal ballot question campaigns. You have stated that the PAC would only become involved with a municipal ballot question which is within the scope of the PAC's statement of purpose and list of interests, and that to require the creation of a separate ballot question committee would be redundant.

Your letter raises several issues, each of which I will address separately.

1. May the PAC make expenditures to support or oppose a municipal ballot question?

Yes. A PAC may make expenditures from its existing funds to support or oppose a ballot question if the expenditures enhance the principle for which the PAC was created. If money is raised specifically to influence a ballot question, however, a ballot question committee must be organized (see response to Question 2).

M.G.L. c. 55, s. 6 provides, in pertinent part, that any political committee not organized on behalf of an individual candidate:

may receive, pay and expend money or other things of value for the enhancement of the . . . principle, for which the committee was organized so long as such expenditure is not primarily for the candidate's or any other person's personal use, provided, however, that the director shall establish reasonable rules and regulations concerning such expenditures.  
[Emphasis added].

Accordingly, a PAC may make expenditures to support or oppose a ballot question without limit if the expenditures are consistent with the purpose for which the PAC was organized.

As discussed in response to Question #3, a PAC may also contribute to a ballot question committee, if the making of the contribution is consistent with the principle for which the PAC was organized. "Contributions" include payments "of money or anything of value" to ballot question committees. See M.G.L. c. 55, s. 1. In contrast, "expenditures" include payments to promote or oppose a ballot question which are not made to ballot question committees. For example, if a PAC provides a voter list to a ballot question committee, the voter list would be an "in-kind" contribution, since something of value would be given by the PAC to the ballot question committee, and the contribution would have to be disclosed by both the PAC and the ballot question committee. On the other hand, if the PAC, on its own initiative, buys an advertisement supporting the ballot question, the payment would be an "expenditure."

2. Must a separate ballot question committee be set up if the PAC intends to solicit contributions from others primarily to support or oppose a ballot question?

Yes. If the PAC intends to solicit contributions to support or oppose a ballot question it must organize a separate ballot question committee for this purpose. If the ballot question is on a city or town ballot, the committee must register with the city or town clerk or election commission, not with this office.

The campaign finance law categorizes committees based on the purpose for which funds are received or expended. Ballot question committees are defined as any "political committee which receives or expends money or other things of value for the purpose of favoring or opposing the adoption or rejection of a specific question or questions submitted to the voters . . . ." See M.G.L. c. 55, s. 1, as amended. The longstanding position of this office, however, has been that if an organization only makes expenditures to influence a ballot question, and does not solicit funds to influence the question, the organization will not be considered to be a political committee. See IB-88-01.

Therefore, if a political committee intends to solicit anything of value to support or oppose a ballot question, the political committee would be required to organize a "ballot question committee." A separate committee would have to be organized even if supporting or opposing the ballot question would be consistent with the principle for which the PAC was organized, and even if it would appear more efficient to have the PAC manage the campaign. See AO-94-28 (a copy of which is enclosed, for information).

A segregated account, separate and distinct from the PAC account, must be established and managed by the ballot question committee to ensure full compliance with chapter 55 and the regulations issued by this office. The ballot question

committee, like all political committees, must register and file periodic reports specified in chapter 55, section 18. You should also note that the ballot question committee must dissolve after final determination is made by the voters on the question for which the committee was organized, if the committee has no outstanding liabilities. Upon dissolution, all residual funds remaining in the committee's account must be donated to a fund or organization specified in section 18, such as a religious or charitable organization subject to M.G.L. c. 67 or c. 12, s. 8, the Local Aid Fund, or any city or town in the commonwealth. See AO-93-30.

3. May the PAC contribute to a ballot question committee established to support or oppose a ballot question?

Yes, provided the making of such contribution "enhances the principle for which the PAC was organized" and is otherwise consistent with the campaign finance law. See AO-94-28. Section 6 of G.L. c. 55 contains certain limitations on contributions by political committees. In particular, the third paragraph of section 6 states that political committees which are not organized to support an individual candidate may not contribute more than \$500 in any one calendar year to another political committee "not organized on behalf of an individual candidate."

Although this paragraph of the statute, on its face, would appear to limit receipt of contributions by ballot question committees to \$500, Supreme Court decisions considering the constitutionality of such limitations would not support such an application. See AO-94-28. In this context, the language "not organized on behalf of an individual candidate" means "organized on behalf of more than one candidate," *i.e.*, a PAC or people's committee. Therefore, the PAC is not subject to the \$500 limit on contributions to a ballot question committee during a calendar year if such contributions "enhances the principle for which the PAC was organized."

4. May the PAC file duplicate copies of its reports with the city clerk, rather than organize a separate municipal ballot question committee?

No. The duplication of PAC reports filed with OCPF and the filing of copies with city and town clerks or election commissions would not comply with the requirements established by c. 55.

The campaign finance law requires the organization of a separate political committee, using a separate, segregated account, to raise funds to support or oppose a ballot question. The PAC cannot undertake the activity which the statute sets apart for ballot question committees. Ballot question committees and political action committees have different contribution limits, different reporting schedules, and different reporting venues determined by the ballot on which the question or candidates appear. Moreover, as previously noted, ballot question committees, unlike PACs, must dissolve after the vote on a question by voters.

Paul A. Simmons, Jr.  
October 19, 1995  
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This opinion has been rendered solely in the context of M.G.L. c. 55. Please do not hesitate to contact this office if you have any additional questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in black ink and is positioned above the typed name and title.

Michael J. Sullivan  
Director

MJS/cp  
Enclosure