



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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June 14, 1990

Michael T. Hartsough
Hartsough, Kenny & Innes
Attorneys at Law
3490 US Route 1
Princeton, NJ 08540-5920

RE: Advisory Opinion No. 05-1990

Dear Mr. Hartsough:

Kindly be advised that at its public meeting of June 13, 1990 the Commission considered your request for an advisory opinion concerning expenditures by the Township of West Windsor, Mercer County, for circulation of material to the public advocating the approval of a public question.

You have advised the Commission that West Windsor Township has scheduled a special election for June 19, 1990 on a proposed bond ordinance. If adopted, the bond ordinance would provide a supplemental appropriation of \$170,000.00 for planning improvements to the municipal building. You state that the Township Council passed a resolution to appropriate \$29,000.00 to pay for the cost of the special election and for the distribution of material to the public advocating approval of the bond ordinance. You have furnished the Commission with copies of the "West Windsor Township News," Vol. 9, No. 2 (May, 1990), which was distributed to Township residents and contains a specific exhortation to residents to vote "Yes" on the public question. Based on this fact record, you have asked whether the Township, which is a political subdivision of this State, must file reports with the Commission pursuant to the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, the Act).

The Commission has directed me to advise you that under the facts you have presented West Windsor Township does not acquire reporting responsibilities under the Act. The Commission believes that a municipal

government, in the exercise of its official authority, cannot be deemed to be a "political committee" as that term is defined in N.J.S.A. 19:44A-3(i), and therefore cannot be viewed as an entity with campaign reporting obligations pursuant to N.J.S.A. 19:44A-8. Further, pursuant to Commission Regulation N.J.A.C. 19:25-1.7, which defines the term "political committee" (copy enclosed), circulation of a communication concerning a public question to the constituents of a municipal government pursuant to a duly adopted resolution or ordinance of that government does not constitute "political committee" activity as contemplated under paragraph (4) of the regulations.

The Commission notes that under the facts submitted in this request, information concerning expenditures must be contained in the municipal budget, which is available for public inspection. Therefore, the Commission believes that most, if not all, of the expenditure information that would be disclosed in a campaign report is available for public inspection; see N.J.S.A. 47:1A-2.

Nothing contained in this response should be construed to express any opinion concerning the legality of any expenditure by the Township to publicize or advocate adoption of a public question, as that issue is not within the jurisdictional scope of the Act; see Citizens to Protect Public Funds v. Parsippany - Troy Hills Board of Education, 13 N.J. (1953).

Thank you for your inquiry.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

BY:


GREGORY E. NAGY
Legal Director

GEN/lb
Enclosures