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Opinion No. 01-121

Definition of Political Campaign Committee

QUESTION

If an organization conducts a poll or if it pays for a poll on an issue and gives the information to a legislative candidate, does the organization have to register as a political action committee?

OPINION

The answer to this question would depend on whether spending money to conduct a poll and sharing its results with a state legislative candidate was made to support or oppose a candidate for nomination for election or election to public office. Whether this action would cause the organization to become a political campaign committee subject to registration and disclosure requirements would depend on all the relevant facts and circumstances, particularly whether the organization shares polling results on issues with all candidates for a public office. The Registry of Election Finance is charged in the first instance with administering and enforcing statutory requirements for registration and disclosure of political campaign committees.

ANALYSIS

This question concerns the requirement for an organization to register as a political action committee in Tennessee. Your question appears to refer to the registration and reporting requirements for a political campaign committee. Under state law, a political campaign committee must register and disclose contributions received and expenditures made "on behalf of" a candidate or committee. The definition of "political campaign committee" provides:

> "Political campaign committee" means:
>
> (A) A combination of two (2) or more individuals, including any political party governing body, whether state or local, making expenditures, *to support or oppose any candidate for public office* or measure, but does not include a voter registration program;
>
> (B) Any corporation or any other organization making expenditures, except as provided in subdivision (3) [listing a series of

> exceptions to the term "contribution"], to support or oppose a measure; or
>
> (C) Any committee, club, association or other group of persons which receives contributions or makes expenditures *to support or oppose any candidate for public office* or measure during a calendar quarter in any aggregate amount exceeding two hundred fifty dollars ($250).

Tenn. Code Ann. § 2-10-102(10) (emphasis added). A "multicandidate political campaign committee" means a political campaign committee to support or oppose two or more candidates for public office or two or more measures. Tenn. Code Ann. § 2-10-102(8).

The statute defines "expenditure" as follows:

> "Expenditure" means a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing a measure or the nomination for election or election of any person to public office.

Tenn. Code Ann. § 2-10-102(5)(A). The Registry of Election Finance is authorized to levy civil penalties for violations of the disclosure laws under Tenn. Code Ann. § 2-10-207(7), after notice and opportunity for a hearing. In addition, where the results of its investigation indicate a "willful or fraudulent violation" has occurred, the Registry may refer the matter to the district attorney general of the district where the alleged violator is a resident for criminal prosecution. Tenn. Code Ann. § 2-10-207(8). A knowing violation of Title 2 is a Class C misdemeanor. Tenn. Code Ann. § 2-19-102.

The question is whether an organization that conducts a poll on an issue or pays for polling on an issue and gives the results to a legislative candidate must register as a political campaign committee under Tennessee law. The answer to this question would depend on whether spending money to conduct a poll and sharing its results with a state legislative candidate was made to support or oppose a candidate for nomination for election or election to public office. The Registry of Election Finance is charged in the first instance with administering and enforcing statutory requirements for registration and disclosure of political campaign committees. Tenn. Code Ann. § 2-10-205(1). Whether this action would cause the organization to become a political campaign committee subject to registration and disclosure requirements would depend on all the relevant facts and circumstances, particularly whether the organization shares polling results on issues with all candidates for a public office.

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