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STATE OF ALABAMA

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Honorable Bobby Day
Probate Judge
Morgan County
P. O. Box 848
Decatur, AL 35602

Corrupt Practices Act - Candidates -
Municipal Elections - Financial
Statements

Act No. 88-873 repealed Chapter 22 of Title 17, Code of Alabama 1975. Candidates for municipal office are required by Act No. 88-873 to file statements of the names of their principal campaign committees, and statements of the contributions received by and expenditures made by these committees with the probate judge of the county in which the office is sought.

Dear Judge Day:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

Are Code of Alabama 1975, Sections 17-22-9 and 17-22-10 applicable to candidates in city elections in view of the fact that pursuant to Act No. 88-117 such candidates must file certain statements with the judge of probate?

FACTS AND ANALYSIS

Code of Alabama 1975, Section 17-22-1, et seq., contained the Corrupt Practices Act for candidates for office in this state. Act No. 88-117 of the 1988 Regular Session amended Section 17-22-5 by requiring candidates for city offices to file statements of their campaign finance committees with the probate judge of their county. However, the entire Chapter 22 of Title 17 (Section 17-22-1, et seq.) has been repealed by Act No. 88-873 of the 1988 First Special Session of the Legislature. Therefore, the provisions about which you asked have been repealed. However, I will answer your questions in light of the newly enacted provisions of Act No. 88-873.

Act No. 88-873 was enacted as the Fair Campaign Practices Act. It provides for the designation, organization and registration of campaign committees, the reporting of contributions received and expenditures made by these campaign committees, proper political advertising and certain voting and election violations and penalties therefor. Act No. 88-873 further specifically repealed Chapter 22 of Title 17, Code of Alabama 1975.

As to whether the provisions of Act No. 88-873 are applicable to candidates in municipal elections under Section 2(1), "candidate" includes individuals qualifying for nomination or election to any state or local office. In the definition of "local office" found at Section 2(7), elected offices of a municipality are included. Thus, the provisions of Act No. 88-873 are applicable to candidates for city offices.

Section 4 of Act No. 88-873 requires candidates to file statements of the names of their principal campaign committee with the probate judge or the Secretary of State, as the case may be. Statements of other campaign committee names must also be filed under certain conditions.

Pursuant to Section 8(1) of Act No. 88-873, reports of campaign contributions received and expenditures made must be filed by the treasurer of each principal campaign committee or other committee with the probate judge or Secretary of State. Section 8(2) requires all candidates, political committees and elected state and local officials covered under Act No. 88-873 to file annual statements of contributions received and expenditures made during the year.

Therefore, candidates for city offices must file statements listing the names of their principal campaign committee and other committees when applicable, and their committees must file statements of the contributions received and expenditures made. According to Section 9(l) of Act No. 88-873, these statements of candidates for local office or of local elected officials are filed in the office of the probate judge of the county in which the office is sought.

CONCLUSION

Act No. 88-873 repealed Chapter 22 of Title 17, Code of Alabama 1975. Candidates for municipal office are required by Act No. 88-873 to file statements of the names of their principal campaign committees, and statements of the contributions received by and expenditures made by these committees with the probate judge of the county in which the office is sought.

Act No. 88-873 must be submitted to the United States Justice Department for preclearance as required by Section 5 of the Voting Rights Act of 1965 as amended. Act No. 88-873 has been submitted for preclearance but, at the present time, there has been no determination by the Justice Department.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN
Attorney General
By:


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