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LETTER OPINION
2025-L-01

The Honorable Todd Porter
State Representative
District 34
4604 Borden Harbor Drive SE
Mandan, ND 58554-7961

Dear Representative Porter:

Thank you for your letter requesting my opinion about the reporting requirements of a political committee making expenditures for political purposes in the state of North Dakota. Specifically, you asked whether a political action committee registered with the Federal Election Commission and subject to the reporting requirements of North Dakota Century Code (N.D.C.C.) § 16.1-08.1-03.7 is exempt from the reporting requirements of N.D.C.C. § 16.1-08.1-02.4. It is my opinion that reporting under N.D.C.C. § 16.1-8.1-03.7 does not create an exemption from reporting under N.D.C.C. § 16.1-08.1-02.4, and a political action committee that meets the criteria to report under both statutes must comply with both statutes separately.

ANALYSIS

The main reporting requirements for political committees receiving contributions or making expenditures for political purposes in North Dakota are found in N.D.C.C §§ 16.1-08.1-02.3, 16.1-08.1-02.4, and 16.1-08.1-03.7. Political committees are defined in N.D.C.C. ch. 16.1-08.1 to include “[a] political action committee not connected to another organization and free to solicit funds from the general public, or derived from . . . an association that solicits or receives contributions from its employees or members or makes expenditures for political purposes on behalf of its employees or members.”¹² Therefore, a political action committee (PAC) is a type of “political committee” for the reporting requirements at issue in this opinion.

¹ N.D.C.C. § 16.1-08.1-01(12)(a).

² In addition to political action committees, N.D.C.C. § 16.1-08.1-01(12) defines “political committee” to include the following different types of associations: a “candidate committee established to support an individual candidate seeking public office,” a “multicandidate political committee . . . established to support multiple groups or slates of candidates seeking public office,” a “political organization registered with the federal election commission,” and a “measure committee . . . which solicits or receives contributions or makes expenditures for the purpose of aiding or opposing a measure sought to be voted upon by the voters of the state.”

N.D.C.C. § 16.1-08.1-02.3 describes reporting requirements for candidates, candidate committees, multicandidate political committees, and non-statewide political parties.³ It does not, however, apply to PACs. If a political committee is not required to file statements under N.D.C.C. § 16.1-08.1-02.3, then it must comply with the reporting requirements found in N.D.C.C. § 16.1-08.1-02.4.⁴ A political committee subject to this section which is soliciting or accepting contributions “shall file a campaign disclosure statement that includes all [reportable] contributions received and expenditures made from January first through the fortieth day before the election.”⁵

There is a separate reporting requirement found in N.D.C.C. § 16.1-08.1-03.7 for political committees that organize and register according to federal law, such as the PAC you describe in your letter. When such a committee “makes an independent expenditure or makes a disbursement . . . to a nonfederal candidate seeking public office or to a political party or political committee in this state” the committee is required to file with the Secretary of State “a copy of that portion of the committee’s federal report detailing the independent expenditure or the disbursement made,” along with other supplementary information.⁶

To determine whether compliance with N.D.C.C. § 16.1-08.1-03.7 creates an exemption from applicable reporting requirements under § 16.1-08.1-02.4, we look to some general rules of statutory interpretation.

Our primary goal in statutory construction is to ascertain the intent of the Legislature. In ascertaining the Legislature’s intent, we first look to the plain language of the statute and give each word of the statute its ordinary meaning. We construe the statute as a whole and give effect to each of its provisions, if possible. If the language of the statute is clear and unambiguous when read as a whole, we cannot ignore that language under the pretext of pursuing its spirit because the legislative intent is presumed clear from the face of the statute. If, however, the statute is ambiguous or if adherence to the strict letter of the statute would lead to an absurd or ludicrous result, a court may resort to extrinsic aids, such as legislative history, to interpret the statute. A statute is ambiguous if it is susceptible to meanings that are different, but rational.⁷

³ N.D.C.C. § 16.1-08.1-02.3(1).

⁴ N.D.C.C. § 16.1-08.1-02.4(1).

⁵ *Id.* In addition to the aforementioned pre-election statement, N.D.C.C. § 16.1-08.1-02.4(2) requires the filing of a supplemental statement for the period of the 39th day before the election through the day before the election, and N.D.C.C. § 16.1-08.1-02.4(3) requires the filing of a year-end statement addressing the whole year.

⁶ N.D.C.C. § 16.1-08.1-03.7.

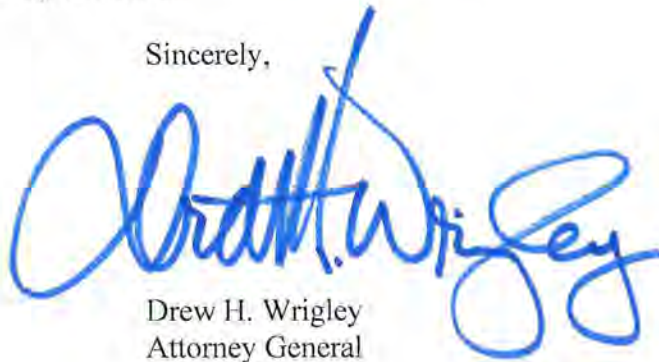
⁷ *Workforce Safety & Ins. v. Avila*, 2020 ND 90, ¶ 7, 942 N.W.2d 811, quoting *Shiek v. N.D. Workers Comp. Bureau*, 2002 ND 85, ¶ 12, 643 N.W.2d 721.

Sections 16.1-08.1-02.4 and 16.1-08.1-03.7, N.D.C.C., are unambiguous when read both separately and together. By itself, N.D.C.C. § 16.1-08.1-02.4 requires any political committee that does not have to file a statement under N.D.C.C. § 16.1-08.1-02.3 to file pre-election, supplemental, and year-end campaign disclosure statements in accordance with N.D.C.C. § 16.1-08.1-02.4, if the political committee is soliciting or accepting contributions.⁸ A PAC plainly falls under this category. Separately, N.D.C.C. § 16.1-08.1-03.7 requires a political committee that registers according to federal law to file certain reports and supplementary information in accordance with that section of law, if the political committee makes an independent expenditure or makes a disbursement to a nonfederal candidate seeking public office or to a political party or political committee in North Dakota.⁹ Again, a PAC plainly falls under this category.

There is nothing in the text of either N.D.C.C. § 16.1-08.1-02.4 or § 16.1-08.1-03.7 – or any other provision in N.D.C.C. ch. 16.1-08.1 – that states or implies that compliance with one exempts compliance with the other. Additionally, it is possible to give effect to both provisions without creating a conflict or an absurd result. Under well-established principles of statutory interpretation, therefore, no reporting exemption is created.

Because it is possible to interpret the statutes as a whole and give effect to each of the provisions at issue, it is my opinion that a PAC subject to the reporting requirements of N.D.C.C. § 16.1-08.1-03.7 that also falls under the reporting requirements of N.D.C.C. § 16.1-08.1-02.4 must file all reports and information mandated in the two provisions.

Sincerely,



Drew H. Wrigley
Attorney General

JBG/mjh

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.¹⁰

⁸ See N.D.C.C. § 16.1-08.1-02.4.

⁹ See N.D.C.C. § 16.1-08.1-03.7.

¹⁰ See *State ex rel. Johnson v. Baker*, 21 N.W.2d 355 (N.D. 1946).