OFFICIAL OPINION NO. 3

April 15, 1976

Honorable Otis R. Bowen, M.D.
Governor and Chairman,
Indiana State Election Board
206 State House
Indianapolis, Indiana 46204

Dear Governor Bowen:

This is in response to your request for an official opinion on the following question:

> "When does P.L. 6 (HEA 1091) of Acts 1976 take effect? When must the state and county election boards start administering this Act, especially Chapter 5, of the new Article 4?"

ANALYSIS

Public Law 6 (House Enrolled Act No. 1091) of the Acts 1976 (hereinafter, the Act) adds to Title 3 of the Indiana Code a new article concerning political contributions and expenses. The Act contains an emergency section which makes effective upon passage (February 25, 1976) the provision found at Indiana Code, section 3-4-3-3 which authorizes limited contributions by corporations and labor unions. With the exception of Code section 3-4-3-3, the remainder of those sections added to the Code, sections 3-4-1-1 through 3-4-7-7, are effective upon publication and circulation (promulgation) of the 1976 Acts pursuant to Article 4, Section 28, of the Constitution of Indiana.

Although it seems plain that the Act becomes law when the 1976 Acts are published and circulated (promulgated), the determination of when state and local officials must begin to administer its provisions is complicated by the inclusion of two somewhat-puzzling references in the Act to the date July 1, 1977.

One of those references is contained in SECTION 2 of the Act which repeals, effective, July 1, 1977, the present Corrupt

Practices Act (Code sections 3-1-30-1 through 3-1-30-15), which contains existing law relating to political contributions and expenses. Whatever the reason for the General Assembly's delaying the specific repeal of the old Corrupt Practices Act for approximately a year after the effective date of the new Act, it would be an unnatural construction to find that the language of SECTION 2 also delayed the effective date for enforcement of the new Act. Rather, the effect of the General Assembly's action is to have in force for one year two separate laws on the same subject. Under well-accepted rules of statutory construction, these laws must be read together—in pari materia, as our judicial brethren would say. *State v. Young* (1958), 238 Ind. 452, 151 N.E. 2d 697.

The second reference in the Act to the July 1, 1977 date is found at Code section 3-4-2-2, which provides the following:

> "Every political committee must file a statement of organization within ten (10) days after its organization or after it becomes a political committee. Each such committee in existence on July 1, 1977 must file a statement of organization with the proper office at such time as the board prescribes."

It is clear from viewing the Act as a whole that a political committee is the focal point for the requirements imposed by the Act with respect to expenditures, contributions, and both pre- and post-election disclosure filings, and that the filing by a political committee of its statement of organization is the initial and critical step on which much of the regulatory scheme of the Act rests. The plain meaning of that section does not support the speculation that the legislature, by including Code section 3-4-2-2, intended to delay enforcement of the Act or to postpone the critical filing of a statement of organization until July 1, 1977.

Whatever the reason for the General Assembly's having included the July 1, 1977 requirement in Code section 3-4-2-2, the effect of the whole section is to require political committees in existence when the Act becomes effective to file their statements of organization both as soon as election officials can implement the Act and again on July 1, 1977.

Having found that the Act is in effect upon publication and circulation (promulgation) of the Acts of 1976, it remains for the election officials noted in Code sections 3-4-5-1 through 3-4-5-18 to implement the Act. Code sections 3-4-5-1 and 3-4-5-2 make it the duty of the State Election Board to develop and furnish prescribed forms for the making of the reports and statements required under the Act and to prepare an instruction manual setting forth the requirements of the Act. As already noted, that duty falls upon the Board on the date the Acts of 1976 are published and circulated (promulgated).

The effective implementation of the fiscal requirements—expenditures, contributions, and reporting provisions—thus cannot commence until the State Election Board has developed and made available to the public the forms and manual required by the Act. Code section 3-4-5-14 expressly authorizes the Board to prescribe rules and regulations needed to carry out the provisions of the Act. Although it may be difficult to estimate just what is a reasonable amount of time for the Board to complete these initial tasks, it appears there is adequate time for the Board to implement the Act prior to the November, 1976, General Election.

CONCLUSION

It is, therefore, my Official Opinion that Public Law 6 (House Enrolled Act No. 1091) of the Acts 1976 takes effect upon publication and circulation (promulgation) of the Acts of 1976. The State Election Board, at that time, is required to prepare the forms and manuals needed to implement the Act. As soon as the State Election Board can complete that mandated duty, the provisions of the Act must be complied with and should be enforced by the officials designated by the Act. This means that these requirements of the Act will apply to the November, 1976, General Election.