



Municipal Law News

May 2012

ELECTION LAW Q & A

- Ronald D. Richards

With an election year comes questions on municipal election matters. This month, we answer a few commonly asked questions about municipal elections, qualifications for office, events that disqualify one from running for office, and receipt of donations.

Q. Is a candidate for public office disqualified if the candidate files bankruptcy?

A. Generally speaking, no. Though qualifications for municipal office depend to some extent on whether you're talking about county, city, village, or township offices, there are very few transgressions that prevent a person from seeking office. For township offices, a person is eligible to a township office only if the person is a registered and qualified elector of the township in which election is sought by the filing deadline. A person is not eligible for election or appointment if the person has been convicted of a violation of MCL 38.412a (unlawful providing the exam or answers to classified service exam) in the past 20 years. As to city and village offices, the respective charters typically govern qualifications.

The Michigan Constitution has another clause regarding who is disqualified for elective or appointed local office. A person is ineligible for election or appointment to any state or local elective office – and ineligible to hold a position in public employment that is policy-making or that has discretionary authority over public assets – if within the immediately preceding 20 years, the person was convicted of a felony involving dishonesty, deceit, fraud, or a breach of the public trust and the conviction was related to the person's official capacity while the person was holding any elective office or position of employment in local, state, or federal government.

Q. What about state senators and representatives? Are they prohibited from running for office if they file bankruptcy?

A. Generally speaking, no. Each senator and representative must be a citizen of the United States, at least 21 years of age, and an elector of the district he or she represents. A person is not eligible for either house of the legislature if the person has been convicted of subversion or has, within the preceding 20 years, been convicted of a felony involving a breach of public trust.

Q. A township board adopted an ethics ordinance stating that anyone seeking township office may not accept donations from any company doing business with the Township. Is this enforceable under the United States Supreme Court's 2010 ruling in Citizens United v Federal Election Commission?

A. Citizens United concerned spending that was independent of candidates and did not concern contributions directly to candidates. This question relates to direct contributions to candidates, which Citizens United does not disturb. There may be other reasons to challenge a "no contribution" clause in an ethics ordinance, but not Citizens United.

If you have any questions about municipal election laws, please contact Ron Richards. ■■



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RECENT AWARDS

FOSTER SWIFT NAMED "2012 TOP RANKED LAW FIRM BY MARTINDALE-HUBBELL"

Foster Swift was named a "2012 Top Ranked Law Firm" Martindale Hubbell® in Fortune Magazine. The list of Top Ranked Law Firms features US law firms with 21 or more attorneys in which at least 1 in 3 of their lawyers earned the AV® Preeminent™ Peer Review Rating. Currently Foster Swift has 46 attorneys with an "AV Rating."

FOSTER SWIFT EARNS TOP HONORS FROM LOCAL VOTERS

Foster Swift was voted number one for Best Services Lawyer in the 2012 Top of the Town Awards. Each year, the community newspaper, Lansing City Pulse sponsors this survey that recognizes individuals and businesses who are essential to making the Lansing area a great place to live, work, play, raise a family and do business. This accolade appeared in Lansing City Pulse on March 28th.



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FOSTER SWIFT FREE WEBINARS

An Update on the 2011 Labor Law Changes and the Impact on Michigan Municipalities

June 6, 2012: 12pm - 1pm

Presenters: Michael Blum & Johanna Novak

In 2011, the Legislature passed the Publicly Funded Health Insurance Contribution Act and the Municipal Partnership Act, and amended the Public Employment Relations Act (PERA). These changes in the law will significantly impact public sector finances, and limit the topics for bargaining between public sector unions and management.

REGISTRATION LINK

www.gotomeeting.com/register/505813664

This webinar will discuss the new legal requirements and restrictions required under these new laws, and the impact they likely will have on Michigan municipalities. Time will be scheduled to respond to your questions.

UPCOMING WEBINAR SERIES FOR NEW MUNICIPAL OFFICIALS

From December 2012 through May 2013, the Foster Swift Municipal Law Group will conduct a series of free webinars to help newly elected municipal officials come up to speed on the laws that govern Michigan municipalities. The webinars will outline basic municipal law principles, along with suggested "best practices" to avoid pitfalls. This is a "can't miss" for new township officials! It can also be a nice refresher for even veteran municipal officials.

The webinar series will consist of six seminars. The planned topics are as follows:

December 2012	Planning Commission & ZBA nuts and bolts
January 2013	Open Meetings Act
February 2013	Freedom of Information Act
March 2013	Labor Law Basics and Update
April 2013	Municipal Ethics
May 2013	Municipal Bonds

Look for specific dates and more details in upcoming newsletters.

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