

SUBSTITUTE FOR
HOUSE BILL NO. 5059

A bill to amend 1976 PA 388, entitled
"Michigan campaign finance act,"
by amending sections 3, 4, 6, 11, 33, and 34 (MCL 169.203, 169.204,
169.206, 169.211, 169.233, and 169.234), section 3 as amended by
1989 PA 95, sections 4, 6, and 11 as amended by 2012 PA 31, and
sections 33 and 34 as amended by 1999 PA 238.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Candidate" means an individual ~~:- (a) who files~~
2 **WHO MEETS 1 OR MORE OF THE FOLLOWING CRITERIA:**

3 **(A) FILES** a fee, **AN** affidavit of incumbency, or **A** nominating
4 petition for an elective office.; ~~(b) whose nomination~~

5 **(B) IS NOMINATED** as a candidate for elective office by a
6 political party caucus or convention **AND WHOSE NOMINATION** is
7 certified to the appropriate filing official.; ~~(c) who receives~~

1 **(C) RECEIVES** a contribution, makes an expenditure, or gives
 2 consent for another person to receive a contribution or make an
 3 expenditure with a view to bringing about the individual's
 4 nomination or election to an elective office, whether or not the
 5 specific elective office for which the individual will seek
 6 nomination or election is known at the time the contribution is
 7 received or the expenditure is made., ~~or (d) who is~~

8 **(D) IS** an officeholder who is the subject of a recall vote.
 9 ~~Unless~~

10 **(E) HOLDS AN ELECTIVE OFFICE, UNLESS** the officeholder is
 11 constitutionally or legally barred from seeking reelection or fails
 12 to file for reelection to that office by the applicable filing
 13 deadline. ~~, an elected officeholder shall be~~ **AN INDIVIDUAL**
 14 **DESCRIBED IN THIS SUBDIVISION IS** considered to be a candidate for
 15 reelection to that same office for the purposes of this act only.

16 For purposes of sections 61 to 71, "candidate" only means, in
 17 a primary election, a candidate for the office of governor and, in
 18 a general election, a candidate for the office of governor or
 19 lieutenant governor. However, the candidates for the office of
 20 governor and lieutenant governor of the same political party in a
 21 general election shall be considered as 1 candidate.

22 (2) "Candidate committee" means the committee designated in a
 23 candidate's filed statement of organization as that individual's
 24 candidate committee. A candidate committee shall be under the
 25 control and direction of the candidate named in the same statement
 26 of organization. Notwithstanding subsection (4), an individual
 27 shall form a candidate committee ~~pursuant to~~ **UNDER** section 21 ~~when~~

1 IF the individual becomes a candidate under subsection (1).

2 (3) "Closing date" means the date through which a campaign
3 statement is required to be complete.

4 (4) "Committee" means a person who receives contributions or
5 makes expenditures for the purpose of influencing or attempting to
6 influence the action of the voters for or against the nomination or
7 election of a candidate, ~~or~~ the qualification, passage, or defeat
8 of a ballot question, **OR THE QUALIFICATION OF A NEW POLITICAL**
9 **PARTY**, if contributions received total \$500.00 or more in a
10 calendar year or expenditures made total \$500.00 or more in a
11 calendar year. An individual, other than a candidate, does not
12 constitute a committee. A person, other than a committee registered
13 under this act, making an expenditure to a ballot question
14 committee, shall **NOT**, for that reason, ~~not~~ be considered a
15 committee for the purposes of this act unless the person solicits
16 or receives contributions for the purpose of making an expenditure
17 to that ballot question committee.

18 Sec. 4. (1) "Contribution" means a payment, gift,
19 subscription, assessment, expenditure, contract, payment for
20 services, dues, advance, forbearance, loan, or donation of money or
21 anything of ascertainable monetary value, or a transfer of anything
22 of ascertainable monetary value to a person, made for the purpose
23 of influencing the nomination or election of a candidate, ~~or~~ for
24 the qualification, passage, or defeat of a ballot question, **OR FOR**
25 **THE QUALIFICATION OF A NEW POLITICAL PARTY.**

26 (2) Contribution includes the full purchase price of tickets
27 or payment of an attendance fee for events such as dinners,

1 luncheons, rallies, testimonials, and other fund-raising events; an
2 individual's own money or property other than the individual's
3 homestead used on behalf of that individual's candidacy; the
4 granting of discounts or rebates not available to the general
5 public; or the granting of discounts or rebates by broadcast media
6 and newspapers not extended on an equal basis to all candidates for
7 the same office; and the endorsing or guaranteeing of a loan for
8 the amount the endorser or guarantor is liable. Except for the
9 purposes of section 57, contribution does not include a
10 contribution to a federal candidate or a federal committee.

11 (3) Contribution does not include any of the following:

12 (a) Volunteer personal services provided without compensation,
13 or payments of costs incurred of less than \$500.00 in a calendar
14 year by an individual for personal travel expenses if the costs are
15 voluntarily incurred without any understanding or agreement that
16 the costs shall be, directly or indirectly, repaid.

17 (b) Food and beverages, not to exceed \$100.00 in value during
18 a calendar year, which are donated by an individual and for which
19 reimbursement is not given.

20 (c) An offer or tender of a contribution if expressly and
21 unconditionally rejected, returned, or refunded in whole or in part
22 within 30 business days after receipt.

23 Sec. 6. (1) "Expenditure" means a payment, donation, loan, or
24 promise of payment of money or anything of ascertainable monetary
25 value for goods, materials, services, or facilities in assistance
26 of, or in opposition to, the nomination or election of a candidate,
27 ~~or~~ the qualification, passage, or defeat of a ballot question, **OR**

1 **THE QUALIFICATION OF A NEW POLITICAL PARTY.** Expenditure includes,
2 but is not limited to, any of the following:

3 (a) A contribution or a transfer of anything of ascertainable
4 monetary value for purposes of influencing the nomination or
5 election of a candidate, ~~or~~ the qualification, passage, or defeat
6 of a ballot question, **OR THE QUALIFICATION OF A NEW POLITICAL**
7 **PARTY.**

8 (b) Except as provided in subsection (2)(f) or (g), an
9 expenditure for voter registration or get-out-the-vote activities
10 made by a person who sponsors or finances the activity or who is
11 identified by name with the activity.

12 (c) Except as provided in subsection (2)(f) or (g), an
13 expenditure made for poll watchers, challengers, distribution of
14 election day literature, canvassing of voters to get out the vote,
15 or transporting voters to the polls.

16 (d) Except as provided in subsection (2)(c), the cost of
17 establishing and administering a payroll deduction plan to collect
18 and deliver a contribution to a committee.

19 (2) Expenditure does not include any of the following:

20 (a) An expenditure for communication by a person with the
21 person's paid members or shareholders and those individuals who can
22 be solicited for contributions to a separate segregated fund under
23 section 55.

24 (b) An expenditure for communication on a subject or issue if
25 the communication does not support or oppose a ballot question or
26 candidate by name or clear inference.

27 (c) An expenditure for the establishment, administration, or

1 solicitation of contributions to a separate segregated fund if that
2 expenditure was made by the person who established the separate
3 segregated fund as authorized under section 55.

4 (d) An expenditure by a broadcasting station, newspaper,
5 magazine, or other periodical or publication for a news story,
6 commentary, or editorial in support of or opposition to a candidate
7 for elective office or a ballot question in the regular course of
8 publication or broadcasting.

9 (e) An offer or tender of an expenditure if expressly and
10 unconditionally rejected or returned.

11 (f) An expenditure for nonpartisan voter registration or
12 nonpartisan get-out-the-vote activities made by an organization
13 that is exempt from federal income tax under section 501(c)(3) of
14 the internal revenue code of 1986, 26 USC 501, or any successor
15 statute.

16 (g) An expenditure for nonpartisan voter registration or
17 nonpartisan get-out-the-vote activities performed under chapter
18 XXIII of the Michigan election law, 1954 PA 116, MCL 168.491 to
19 168.524, by the secretary of state and other registration officials
20 who are identified by name with the activity.

21 (h) An expenditure by a state central committee of a political
22 party or a person controlled by a state central committee of a
23 political party for the construction, purchase, or renovation of 1
24 or more office facilities in Ingham county if the facility is not
25 constructed, purchased, or renovated for the purpose of influencing
26 the election of a candidate in a particular election. Items
27 excluded from the definition of expenditure under this subdivision

1 include expenditures approved in federal election commission
2 advisory opinions 1993-9, 2001-1, and 2001-12 as allowable
3 expenditures under the federal election campaign act of 1971,
4 Public Law 92-225, 2 USC 431 to 457, and regulations promulgated
5 under that act, regardless of whether those advisory opinions have
6 been superseded.

7 (i) Except for the purposes of section 57, an expenditure to
8 or for a federal candidate or a federal committee.

9 Sec. 11. (1) "Payroll deduction plan" means any system in
10 which an employer deducts any amount of money from the wages,
11 earnings, or compensation of an employee.

12 (2) "Person" means a business, individual, proprietorship,
13 firm, partnership, joint venture, syndicate, business trust, labor
14 organization, company, corporation, association, committee, or any
15 other organization or group of persons acting jointly.

16 (3) "Political committee" means a committee that is not a
17 candidate committee, political party committee, independent
18 committee, or ballot question committee.

19 (4) "Political merchandise" means goods such as bumper
20 stickers, pins, hats, beverages, literature, or other items sold by
21 a person at a fund raiser or to the general public for publicity or
22 for the purpose of raising funds to be used in supporting or
23 opposing a candidate for nomination for or election to an elective
24 office, ~~or~~ in supporting or opposing the qualification, passage, or
25 defeat of a ballot question, **OR IN SUPPORTING OR OPPOSING THE**
26 **QUALIFICATION OF A NEW POLITICAL PARTY.**

27 (5) "Political party" means a political party that has a right

1 under law to have the names of its candidates listed on the ballot
2 in a general election.

3 (6) "Political party committee" means a state central,
4 district, or county committee of a political party **OR A PARTY**
5 **ATTEMPTING TO QUALIFY AS A NEW POLITICAL PARTY UNDER SECTION 685 OF**
6 **THE MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.685**, that is a
7 committee. Each state central committee shall designate the
8 official party county and district committees. There shall not be
9 more than 1 officially designated political party committee per
10 county and per congressional district.

11 (7) "Public body" means 1 or more of the following:

12 (a) A state agency, department, division, bureau, board,
13 commission, council, authority, or other body in the executive
14 branch of state government.

15 (b) The legislature or an agency, board, commission, or
16 council in the legislative branch of state government.

17 (c) A county, city, township, village, intercounty, intercity,
18 or regional governing body; a council, school district, special
19 district, or municipal corporation; or a board, department,
20 commission, or council or an agency of a board, department,
21 commission, or council.

22 (d) Any other body that is created by state or local authority
23 or is primarily funded by or through state or local authority,
24 ~~which~~ **IF THE** body exercises governmental or proprietary authority
25 or performs a governmental or proprietary function.

26 Sec. 33. (1) A committee, other than an independent committee
27 or a political committee required to file with the secretary of

1 state, supporting or opposing a candidate shall file complete
2 campaign statements as required by this act and the rules
3 promulgated under this act. The campaign statements shall be filed
4 according to the following schedule:

5 (a) A preelection campaign statement shall be filed not later
6 than the eleventh day before an election. The closing date for a
7 campaign statement filed under this subdivision shall be the
8 sixteenth day before the election.

9 (b) A postelection campaign statement shall be filed not later
10 than the thirtieth day following the election. The closing date for
11 a campaign statement filed under this subdivision shall be the
12 twentieth day following the election. A committee supporting a
13 candidate who loses the primary election shall file closing
14 campaign statements in accordance with this section. If all
15 liabilities of such a candidate or committee are paid before the
16 closing date and additional contributions are not expected, the
17 campaign statement may be filed at any time after the election, but
18 not later than the thirtieth day following the election.

19 (2) For the purposes of subsection (1):

20 (a) A candidate committee shall file a preelection campaign
21 statement and a postelection campaign statement for each election
22 in which the candidate seeks nomination or election, except if an
23 individual becomes a candidate after the closing date for the
24 preelection campaign statement only the postelection campaign
25 statement is required for that election.

26 (b) A committee other than a candidate committee shall file a
27 campaign statement for each period during which expenditures are

1 made for the purpose of influencing the nomination or election of a
2 candidate or for the qualification, passage, or defeat of a ballot
3 question.

4 (3) An independent committee or a political committee other
5 than a house political party caucus committee or senate political
6 party caucus committee required to file with the secretary of state
7 shall file campaign statements as required by this act according to
8 the following schedule:

9 (a) In an odd numbered year:

10 (i) Not later than January 31 of that year with a closing date
11 of December 31 of the previous year.

12 (ii) Not later than July 25 with a closing date of July 20 **OF**
13 **THAT YEAR.**

14 (iii) Not later than October 25 with a closing date of October
15 20 **OF THAT YEAR.**

16 (b) In an even numbered year:

17 (i) Not later than April 25 of that year with a closing date of
18 April 20 of that year.

19 (ii) Not later than July 25 with a closing date of July 20 **OF**
20 **THAT YEAR.**

21 (iii) Not later than October 25 with a closing date of October
22 20 **OF THAT YEAR.**

23 (4) A house political party caucus committee or a senate
24 political party caucus committee required to file with the
25 secretary of state **OR A POLITICAL PARTY COMMITTEE FOR A PARTY**
26 **ATTEMPTING TO QUALIFY AS A NEW POLITICAL PARTY UNDER SECTION 685 OF**
27 **THE MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.685,** shall file

1 campaign statements as required by this act according to the
2 following schedule:

3 (a) Not later than January 31 of each year with a closing date
4 of December 31 of the immediately preceding year.

5 (b) Not later than April 25 of each year with a closing date
6 of April 20 of that year.

7 (c) Not later than July 25 of each year with a closing date of
8 July 20 of that year.

9 (d) Not later than October 25 of each year with a closing date
10 of October 20 of that year.

11 (e) For the period beginning on the fourteenth day immediately
12 preceding a primary or special primary election and ending on the
13 day immediately following the primary or special primary election,
14 not later than 4 p.m. each business day with a closing date of the
15 immediately preceding day, only for a contribution received or
16 expenditure made that exceeds \$1,000.00 per day.

17 (f) For the period beginning on the fourteenth day immediately
18 preceding a general or special election and ending on the day
19 immediately following the general or special election, not later
20 than 4 p.m. each business day with a closing date of the
21 immediately preceding day, only for a contribution received or
22 expenditure made that exceeds \$1,000.00 per day.

23 (5) Notwithstanding subsection (3) or (4) or section 51, if an
24 independent expenditure is made within 45 days before a special
25 election by an independent committee or a political committee
26 required to file a campaign statement with the secretary of state,
27 a report of the expenditure shall be filed by the committee with

1 the secretary of state within 48 hours after the expenditure. The
2 report shall be made on a form provided by the secretary of state
3 and shall include the date of the independent expenditure, the
4 amount of the expenditure, a brief description of the nature of the
5 expenditure, and the name and address of the person to whom the
6 expenditure was paid. The brief description of the expenditure
7 shall include either the name of the candidate and the office
8 sought by the candidate or the name of the ballot question and
9 shall state whether the expenditure supports or opposes the
10 candidate or ballot question. This subsection does not apply if the
11 committee is required to report the independent expenditure in a
12 campaign statement that is required to be filed before the date of
13 the election for which the expenditure was made.

14 (6) A candidate committee or a committee other than a
15 candidate committee that files a written statement under section
16 24(5) or (6) need not file a campaign statement under subsection
17 (1), (3), or (4) unless it received or expended an amount in excess
18 of \$1,000.00. If the committee receives or expends an amount in
19 excess of \$1,000.00 during a period covered by a filing, the
20 committee is then subject to the campaign filing requirements under
21 this act.

22 (7) A committee, candidate, treasurer, or other individual
23 designated as responsible for the committee's record keeping,
24 report preparation, or report filing who fails to file a statement
25 as required by this section shall pay a late filing fee. If the
26 committee has raised \$10,000.00 or less during the previous 2
27 years, the late filing fee shall be \$25.00 for each business day

1 the statement remains unfiled, but not to exceed \$500.00. If the
2 committee has raised more than \$10,000.00 during the previous 2
3 years, the late filing fee shall not exceed \$1,000.00, determined
4 as follows:

5 (a) Twenty-five dollars for each business day the report
6 remains unfiled.

7 (b) An additional \$25.00 for each business day after the first
8 3 business days the report remains unfiled.

9 (c) An additional \$50.00 for each business day after the first
10 10 business days the report remains unfiled.

11 (8) If a candidate, treasurer, or other individual designated
12 as responsible for the committee's record keeping, report
13 preparation, or report filing fails to file 2 statements required
14 by this section or section 35 and both of the statements remain
15 unfiled for more than 30 days, that candidate, treasurer, or other
16 designated individual is guilty of a misdemeanor ~~—~~punishable by a
17 fine of not more than \$1,000.00 ~~—~~or imprisonment for not more than
18 90 days, or both.

19 (9) If a candidate is found guilty of a violation of this
20 section, the circuit court for that county, on application by the
21 attorney general or the prosecuting attorney of that county, may
22 prohibit that candidate from assuming the duties of a public office
23 or from receiving compensation from public funds, or both.

24 (10) If a treasurer or other individual designated as
25 responsible for a committee's record keeping, report preparation,
26 or report filing knowingly files an incomplete or inaccurate
27 statement or report required by this section, that treasurer or

House Bill No. 5059 (H-1) as amended March 13, 2012

other designated individual is subject to a civil fine of not more than \$1,000.00.

Sec. 34. (1) A ballot question committee shall file a campaign statement as required by this act according to the following schedule:

(a) A preelection campaign statement, the closing date of which shall be the sixteenth day before the election, shall not be filed later than the eleventh day before the election.

(b) A postelection campaign statement, the closing date of which shall be the twentieth day following the election, shall not be filed later than the thirtieth day following an election. If all liabilities of the committee are paid before the closing date and additional contributions are not expected, the campaign statement may be filed at any time after the election, but not later than the thirtieth day following the election.

(C) CAMPAIGN STATEMENTS NOT LATER THAN THE FOLLOWING DATES EVERY YEAR:

[(i) FEBRUARY 15 WITH A CLOSING DATE OF FEBRUARY 10 OF THAT YEAR.
]

(ii) APRIL 25 WITH A CLOSING DATE OF APRIL 20 OF THAT YEAR.

(iii) JULY 25 WITH A CLOSING DATE OF JULY 20 OF THAT YEAR.

(D) IN EVERY ODD NUMBERED YEAR, A CAMPAIGN STATEMENT NOT LATER THAN OCTOBER 25 WITH A CLOSING DATE OF OCTOBER 20 OF THAT YEAR.

(2) A ballot question committee supporting or opposing a statewide ballot question shall file a campaign statement, of which the closing date shall be the twenty-eighth day after the ~~qualification of the measure~~ **APPROVAL OF THE PETITION FORM**, not

1 later than 35 days after the ~~ballot question is qualified for the~~
2 ~~ballot.~~ **PETITION FORM IS APPROVED UNDER SECTION 483A OF THE**
3 **MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.483A.** If the ~~ballot~~
4 ~~question fails to qualify for the ballot~~ **PETITION FORM IS NOT**
5 **APPROVED**, the ballot question committee shall file the campaign
6 statement within 35 days after the final deadline for qualifying
7 **FOR THE BALLOT**, the closing date of which shall be the twenty-
8 eighth day after the deadline.

9 (3) If a ballot question committee supporting or opposing a
10 statewide ballot question fails to file a preelection statement
11 under this section, that committee or its treasurer shall pay a
12 late filing fee for each business day the statement remains not
13 filed in violation of this section, not to exceed \$1,000.00,
14 pursuant to the following schedule:

15 (a) First day--\$25.00.

16 (b) Second day--\$50.00.

17 (c) Third day--\$75.00.

18 (d) Fourth day and for each subsequent day that the statement
19 remains unfiled--\$100.00.

20 (4) If a treasurer or other individual designated as
21 responsible for the record keeping, report preparation, or report
22 filing of a ballot question committee supporting or opposing a
23 statewide ballot question fails to file a statement, other than a
24 preelection statement, under this section, that committee,
25 treasurer, or other designated individual shall pay a late filing
26 fee. If the committee has raised \$10,000.00 or less during the
27 previous 2 years, the late filing fee shall be \$25.00 for each

1 business day the campaign statement remains unfiled, but not to
2 exceed \$1,000.00. If the committee has raised more than \$10,000.00
3 during the previous 2 years, the late filing fee shall be \$50.00
4 for each business day the campaign statement remains unfiled, but
5 not to exceed \$2,000.00.

6 (5) If a treasurer or other individual designated as
7 responsible for the record keeping, report preparation, or report
8 filing of a ballot question committee supporting or opposing other
9 than a statewide ballot question fails to file a statement under
10 this section, that committee, treasurer, or other designated
11 individual shall pay a late filing fee. If the committee has raised
12 \$10,000.00 or less during the previous 2 years, the late filing fee
13 shall be \$25.00 for each business day the campaign statement
14 remains unfiled, but not to exceed \$1,000.00. If the committee has
15 raised more than \$10,000.00 during the previous 2 years, the late
16 filing fee shall be \$50.00 for each business day the campaign
17 statement remains unfiled, but not to exceed \$2,000.00.

18 (6) If a treasurer or other individual designated as
19 responsible for the record keeping, report preparation, or report
20 filing of a ballot question committee fails to file a statement as
21 required by subsection (1) or (2) for more than 7 days, that
22 treasurer or other designated individual is guilty of a misdemeanor
23 ~~—~~punishable by a fine of not more than \$1,000.00 ~~—~~or imprisonment
24 for not more than 90 days, or both.

25 (7) If a treasurer or other individual designated as
26 responsible for the record keeping, report preparation, or report
27 filing of a ballot question committee knowingly files an incomplete

1 or inaccurate statement or report required by this section, that
2 treasurer or other designated individual is subject to a civil fine
3 of not more than \$1,000.00.

4 Enacting section 1. This amendatory act does not take effect
5 unless House Bill No. 5063 of the 96th Legislature is enacted into
6 law.