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BILL ANALYSIS

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Senate Bill 448 (as enrolled)

Sponsor: Senator Dick Posthumus

Committee: Government Operations

House Committee: House Oversight

PUBLIC ACT 95 of 1989

Date Completed: 8-31-89

SUMMARY OF SENATE BILL 448 as enrolled:

The bill would amend the campaign finance Act to make numerous changes, including the following: establishing new reporting schedules for independent and political committees; revising the provisions that govern gubernatorial campaigns; changing contribution limitations by regulating contributions according to an "election cycle" rather than per election; establishing a procedure for declaratory rulings by the Secretary of State; altering the regulation of committees; and creating a civil enforcement process. Following is a detailed description of the bill.

Disclosure Provisions

Independent committees and political committees currently must file campaign reports 11 days before each election and 30 days after each election in which the committee spends more than \$1,000 on behalf of a candidate. The bill would require instead that these committees file campaign reports three times a year, unless they qualify for a waiver because they did not spend or receive more than \$1,000 for the calendar year. The bill would exempt them from having to file annual campaign reports. If an independent committee or a political committee made an independent expenditure, however, (that is, spent money on behalf of a candidate or a ballot question independent of, and without contributing to, the candidate's committee or the ballot question committee) within 45 days before a special election, the committee would have to file a report with the Secretary of State within 48 hours after the expenditure.

Independent and political committees would have to file campaign statements according to the following schedule:

Odd-numbered years

<u>Due Date</u>	<u>Closing Date</u>
January 31	December 31 (previous year)
July 25	July 20
October 25	October 20

Even-numbered years

<u>Due Date</u>	<u>Closing Date</u>
April 25	April 20
July 25	July 20
October 25	October 20

In addition, political party committees would have to file a pre- or post-election campaign statement, depending on when an expenditure was made to support or oppose a candidate or ballot question; they also would have to file an annual campaign statement. Candidate committees and ballot question committees would continue to file statements according to current requirements.

The Act requires a committee, other than a political party committee, to include certain information in its campaign statement. The bill would delete the requirements that the statement: 1) include the names of persons who attend a fundraising event on a separate fundraising event schedule; and 2) list the money received for the fundraiser by categories, such as tickets, beverages, or bumper stickers.

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The bill instead would require that the statement include the total amount of all contributions of \$20.01 or more, and the total of all contributions of \$20 or less. The statement also would have to itemize of contributions made from a person other than an individual. ("Person" is defined in the Act as a business, individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly.) The itemization would have to include the name and address of the person, amounts contributed, the date when each contribution was received, and the cumulative amount contributed by the person. An itemization also would be required for each expenditure made by a committee to or on behalf of another committee, candidate, or ballot question, regardless of the amount.

Currently, under the Act, a separate schedule of detailed information must be provided by a committee that makes or receives a loan. The bill provides that if a loan were paid off within a reporting period, the loan would not have to be reported on a separate schedule. If a loan were forgiven, however, it would have to be detailed on a separate schedule.

The bill provides that a committee's statement of organization filed under the Act would have to be preserved by the filing official for five years from the date of the committee's dissolution; a statement or report filed by a candidate for an office with a term exceeding four years would have to be reserved for one year beyond the candidate's term of office.

Gubernatorial Election Funding

The bill would make a number of changes in the provisions that regulate public funding of gubernatorial elections, including raising the expenditure limit, allowing a candidate to exceed the expenditure limit under certain circumstances, and allowing public funding of candidates in uncontested primary elections.

Currently, unopposed candidates in gubernatorial primaries are not eligible for public funding unless a major party has a contested nomination for the office (in which case, the unopposed candidate is eligible for

25% of the expenditure limitation). The bill would strike this language, which means that unopposed candidates for Governor would qualify for the maximum public funds of 66% of the expenditure limitation.

The expenditure limit for candidate committees for the office of Governor, which now is \$1 million, would be raised to \$1.5 million in the aggregate for one election, and the State central committee contribution limit would be changed from the present 25% of the candidate's expenditure limit to \$750,000 per election cycle. (Note: By increasing the expenditure limit, the bill also would increase several other gubernatorial spending limits that are expressed as percentages of the expenditure limit in the Act. For instance, to qualify for money from the State Campaign Fund, a candidate committee must receive contributions at least equal to 5% of the expenditure limit--currently \$50,000, but \$75,000, then, under the bill. As a further example, a candidate cannot receive from the Fund for a primary more than 66% of the expenditure limit, or \$660,000 [66% times \$1 million]. Under the bill, the amount would increase to \$990,000 [66% times \$1.5 million].)

The bill provides that if a gubernatorial candidate committee did not apply for State Campaign Fund money, and accepted from the candidate and candidate's immediate family contributions for an election cycle over \$340,000, the expenditure limits for all the candidates would be waived for the remainder of the election.

Currently, public funds used for a campaign expenditures for a gubernatorial election can include up to \$2,000 per month for the salary of an individual. The bill would increase this amount to \$5,000 per month.

Under the Act, a candidate is not entitled to money from the Fund for a primary if it is determined that he or she is ineligible to appear on the ballot. The bill would require a candidate who did not file nominating petitions or who filed an insufficient petition for the office of Governor to return all funds received from the Fund for the primary election.

Contributions/Election Cycle

The Act sets limits on how much persons can contribute to candidates for State office. The bill would limit contributions to candidates for State elective office to an "election cycle", rather than per election as is currently required. An "election cycle" would be, for a general election, the period beginning the day after the last general election and ending on the day in which the office next appeared on the ballot. For a special election, an election cycle would be the period beginning the day a special election was scheduled or the date the office became vacant, whichever was earlier, and ending on the day of the election.

Following is an example of current and proposed limits:

	<u>House</u>	<u>Senate</u>	<u>Other State Office</u>
Current per election	\$250	\$450	\$1,700
Current primary and general . . .	500	900	3,400
S.B. 448 per election cycle . .	500	1,000	3,400

The per election cycle contribution limits would not increase the combined primary and general limits for House candidates and candidates for other State elective offices, except for the Senate. Senate candidates would receive an increase of \$100 per election cycle.

Independent committees and political party committees, other than State central committees, would continue to be allowed to contribute 10 times the above amounts. State central committees could continue to contribute up to 10 times the amounts for candidates for the Legislature, and up to 20 times the amounts for candidates for other State offices.

The bill would require an individual who obtained possession of one committee's contribution, for the purpose of delivering the contribution to another committee, either to deliver the contribution to the committee or the committee's treasurer or agent, or to return the contribution to the contributor, within 10 business days after obtaining possession. This provision would not apply to a committee treasurer.

Committee Operations

The bill would make several changes in the regulation of committees. The definition of "committee" would be amended to require that a committee register as a committee when a person received or spent, in a calendar year, \$500 (rather than the current \$200) for the purpose of influencing or attempting to influence the action of voters for or against a candidate or ballot question. A person who contributed to a ballot question committee would not have to register as a committee based solely on the contribution; however, if the person collected contributions for the purpose of making an expenditure to a ballot question committee, the person would have to register once \$500 or more was received or spent.

The bill would amend the definition of "independent committee" to require that a committee, in order to qualify as an independent committee: 1) file as an independent committee at least six months before an election; 2) receive contributions from at least 25 persons; and, 3) make expenditures in support of or opposition to at least three candidates for nomination or election to State elective office in the same year.

The Act provides that if a committee fails to file required reports within the time prescribed in the Act, a late filing fee can be charged to the committee. The bill provides that a committee, other than a candidate committee or a committee that made expenditures for or against a ballot question, and that was required to file a report with the Secretary of State, would not have to pay a late filing fee if the following conditions were met.

- The committee failed to file a statement of organization, and the Secretary of State sent notice to the committee of its failure to file a statement.
- Within 10 business days after the notice of failure to file a statement was sent, the committee filed a statement of organization, and every other campaign statement that was due.

In addition, if a committee (other than a candidate committee) failed to file a statement of organization, it would not be required to pay late filing fees if it filed an organization

statement, and all other required statements, before the Secretary of State sent a notice to the committee of its failure to file.

The bill allows for the designation of someone other than the committee treasurer as the person responsible for a committee's records and reports, and provides that the responsibilities and duties of the designated recordkeeper would be those of the treasurer. The bill provides that a committee's treasurer, or designated recordkeeper, would be responsible for paying late filing fees. A treasurer or designated recordkeeper of a committee (other than an independent or political committee required to file a campaign statement with the Secretary of State) who knowingly filed an incomplete or inaccurate statement or report would be subject to a civil fine of up to \$1,000.

The bill would change the calculation of late filing fees from calendar days to business days. Late filing fees, under the bill, would be assessed at a rate of \$25 per business day, rather than \$10 per calendar day.

A candidate, independent, political, or political party committee that filed a statement of organization, that included a statement that the committee did not expect to receive or spend over \$1,000 in a calendar year, would not have to file campaign statements if it received or spent under \$1,000. A candidate committee that filed a statement of organization, that included a statement that the committee did not expect to receive or spend over \$1,000, would not be required to file a statement of dissolution if it failed to receive or spend over \$1,000 and either: 1) the candidate was defeated and had no outstanding debts or assets; or, 2) the candidate vacated an elective office and had no outstanding campaign debts or assets.

The bill would allow a committee's statement of organization to be amended when the next campaign statement was required to be filed, rather than within 10 days of the change in organization as is currently required. The bill would require that the campaign statement of a political party committee be filed with the Secretary of State. The Secretary of State would be required to reproduce a copy of the campaign statement of a political party

committee that was a county committee, and file the copy with the clerk of the county where the committee operated.

Currently, the Act requires that the treasurer of a committee be a qualified voter in Michigan and that the committee have an account in a financial institution located in Michigan. The bill would delete these requirements, and would allow a committee (other than a candidate committee) to have a treasurer who was not a qualified voter in Michigan if the committee were not conducting business through an office or other facility located in Michigan. A committee with a nonresident treasurer also would be required to appoint the Secretary of State as the committee's agent so that legal process affecting the committee would be served on the Secretary of State and would have the same effect as if served on the committee itself. A committee that conducted business through an office or facility located in the State would have to have a treasurer who was a qualified elector of Michigan, and have an account in an in-State financial institution.

Joint Fundraisers

The bill would allow the holding of joint fundraisers, if receipts and expenses were shared proportionately. If an officeholder held a joint fundraiser for the officeholder's candidate committee and officeholder expense fund (OEF), the candidate committee would have to pay the expenses of the fundraiser and all corporate money received would have to be deposited in the OEF account.

Civil Enforcement

Under the Act, nearly all of the penalties imposed for violations of the Act are criminal penalties. The bill would establish a civil hearing process for the processing of complaints and other violations, and would give the Secretary of State the authority to issue an order requiring someone who made an improper contribution or expenditure to pay a civil fine equal to the amount of the improper contribution or expenditure plus up to an additional \$1,000 for each violation. In addition, the bill would decriminalize certain violations of the Act, imposing instead civil fines of up to \$1,000.

Declaratory Ruling

The bill would provide a mechanism for public comment and a 60-day timetable for the release of declaratory rulings and interpretive statements by the Secretary of State.

A declaratory ruling would be issued by the Secretary of State if the person who requested the ruling provided a "reasonable complete" statement of facts necessary for the ruling, or if the Secretary of State permitted the person who requested the ruling an opportunity to supply supplemental facts necessary for the ruling. A request for a ruling would have to be made available to the public within 48 hours after its receipt. Interested persons could submit written comments regarding a request within 10 business days after the date the request was made available to the public. Within 45 business days after receiving a request, the Secretary of State would have to make a proposed response available to the public, and interested persons could submit written comments, within five business days after the proposal was made public, regarding the proposal. The Secretary of State would have to issue a declaratory ruling within 60 business days after receiving a request. The Secretary of State could refuse to issue a ruling, but would have to notify the person who requested the ruling of the reasons for refusal. Under "extenuating circumstances", the Secretary of State could extend by 30 business days the time allowed for a ruling, but could issue only one extension per request. The person who requested a ruling could waive the time limit.

Miscellaneous

The bill would change the definition of "contribution" to provide that a contribution would not include volunteer personal services or payments of costs for personal travel expenses for amounts under \$500 (currently \$250). A contribution also would not include costs for food and beverage under \$100 in a calendar year (up from \$50).

The bill provides that "elective office" would not include school board members in a fourth class school district (under 2,400 students), meaning that such persons would not be subject to the Act's filing and reporting requirements.

MCL 169.201 et al.

FISCAL IMPACT

The bill would have a minimal fiscal impact on the Department of State. Administrative changes outlined under this bill may increase administrative costs to the Department. However, these costs cannot be estimated at this time.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

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