

HOUSE BILL No. 4531

March 11, 1991, Introduced by Reps. Gire, Gubow, Emerson, Scott, Allen, Strand, McBryde, Kosteva, Barns and Ciaramitaro and referred to the Committee on House Oversight.

A bill to regulate certain political activity; to require state officials and candidates for state office to make certain financial reports; to prescribe the powers and duties of certain state officers; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan financial disclosure act".

3 Sec. 2. As used in this act:

4 (a) "Candidate" means that term as defined in section 3 of
5 the Michigan campaign finance act, Act No. 388 of the Public Acts
6 of 1976, being section 169.203 of the Michigan Compiled Laws.

7 (b) "Candidate for state office" means a candidate for any
8 of the following:

9 (i) The office of governor.

1 (ii) The office of lieutenant governor.

2 (iii) The office of state representative.

3 (iv) The office of state senator.

4 (v) The office of attorney general.

5 (vi) The office of secretary of state.

6 (c) "Earned income" means that term as defined in section 32
7 of the internal revenue code.

8 (d) "Gift" means a payment, subscription, advance, forbear-
9 ance, rendering, or deposit of money, services, or anything of
10 value, unless consideration of equal or greater value is given
11 therefor. Gift does not include a campaign contribution other-
12 wise reported as required by law, a commercially reasonable loan
13 made in the ordinary course of business, or a gift received from
14 a member of the individual's immediate family or from a relative
15 within the third degree of consanguinity, or from a spouse of a
16 member of the immediate family or of a relative within the third
17 degree of consanguinity.

18 (e) "Immediate family" means a child residing in an
19 individual's household, a spouse of an individual, or a person
20 claimed by that individual or that individual's spouse as a
21 dependent for federal income tax purposes.

22 (f) "Income" means money or a thing of value received, or to
23 be received as a claim on future services, whether in the form of
24 a fee, salary, expense, allowance, forbearance, forgiveness,
25 interest, dividend, royalty, rent, capital gain, or any other
26 form of recompense that is considered income under the internal
27 revenue code.

1 (g) "Secretary of state" means the secretary of state or the
2 designee of the secretary of state.

3 (h) "State official" means all of the following:

4 (i) The governor.

5 (ii) The lieutenant governor.

6 (iii) A state senator.

7 (iv) A state representative.

8 (v) The head of each principal department as provided in
9 section 3 of article V of the state constitution of 1963.

10 (vi) The members of a board or commission heading a princi-
11 pal department as provided in section 3 of article V of the state
12 constitution of 1963.

13 (vii) The person appointed by a board or commission to be
14 the principal executive officer of a principal department as pro-
15 vided in section 3 of article V of the state constitution of
16 1963.

17 (viii) A justice of the supreme court.

18 (ix) A judge of the court of appeals.

19 Sec. 3. A state official or candidate for state office
20 shall not accept a payment of money or any thing of ascertainable
21 monetary value as consideration for an appearance, a speaking
22 engagement, an article, or other activity related to the office
23 held or being sought.

24 Sec. 4. If an individual was a state official or candidate
25 for state office at any time during the preceding calendar year
26 or during the period from January 1 to April 15 of the present
27 year, that individual shall file with the secretary of state by

1 May 1 of the present year a report that meets the requirements of
2 section 5.

3 Sec. 5. Except as provided in section 7, the report
4 required by section 4 shall include a complete statement of all
5 of the following:

6 (a) The source, type, and amount or value of earned income
7 received during the preceding calendar year by the individual
8 filing the report or a member of the immediate family of that
9 individual if the total earned income from that source equals
10 \$100.00 or more during that calendar year.

11 (b) The source, type, and amount or value of all other
12 income not reported under subdivision (a) that is received during
13 the preceding calendar year by the individual filing the report
14 or a member of the immediate family of that individual if the
15 total income from that source equals \$100.00 or more during that
16 calendar year.

17 (c) The source and a brief description of each gift received
18 during the preceding calendar year by the individual filing the
19 report or a member of the immediate family of that individual if
20 the value of the gift is \$100.00 or more.

21 (d) The identity and value of each asset held during the
22 preceding calendar year by the individual filing the report or a
23 member of the immediate family of that individual, including real
24 or personal property or cash, if the asset had a fair market
25 value of \$1,000.00 or more at any time the asset was held during
26 the preceding calendar year.

1 (e) The identity and value of each liability owed during the
2 preceding calendar year by the individual filing the report or a
3 member of the immediate family of that individual if the amount
4 of the liability was \$10,000.00 or more at any time during the
5 preceding calendar year, excluding a loan secured by the personal
6 residence of the individual filing the report or by a personal
7 motor vehicle, household furniture, or appliance, if the loan
8 does not exceed the purchase price of the item that secures the
9 liability.

10 (f) A brief description and value of a purchase, sale, or
11 exchange during the preceding calendar year by the individual
12 filing the report or a member of the immediate family of that
13 individual that is equal to an amount of \$1,000.00 or more.

14 (g) The identity of all positions held by the individual
15 filing the report during the preceding calendar year as an offi-
16 cer, director, trustee, partner, proprietor, representative,
17 employee, or consultant of a corporation, partnership, or other
18 business enterprise; of a nonprofit organization; of a labor
19 organization; or of an educational or other institution. This
20 subdivision does not require the reporting of a position held in
21 a religious, social, fraternal, or political entity, or of a
22 position solely of an honorary nature.

23 (h) A description, including the dates, parties, and terms,
24 of an agreement or arrangement by or with the individual filing
25 the report with respect to future employment, a leave of absence
26 during that individual's term of office, continuation of payments

1 by a former employer, or continuation of participation in an
2 employee benefit plan maintained by a former employer.

3 (i) A brief description and value of each reimbursement of
4 \$100.00 or more received during the previous calendar year by the
5 individual filing the report, a member of the immediate family of
6 that individual, or a staff member of that individual for the
7 cost of transportation, accommodation, or meals.

8 Sec. 6. (1) Except as provided in subsection (2), an amount
9 or value included in a report under section 5 shall be reported
10 as an exact amount or value.

11 (2) An amount or value reported under section 5(b) to (f)
12 may be reported by category as follows:

13 (a) Less than \$1,000.00.

14 (b) \$1,000.00 or more but less than \$2,500.00.

15 (c) \$2,500.00 or more but less than \$5,000.00.

16 (d) \$5,000.00 or more but less than \$10,000.00.

17 (e) \$10,000.00 or more but less than \$15,000.00.

18 (f) \$15,000.00 or more but less than \$25,000.00.

19 (g) \$25,000.00 or more but less than \$50,000.00.

20 (h) \$50,000.00 or more but less than \$100,000.00.

21 (i) \$100,000.00 or more but less than \$250,000.00.

22 (j) \$250,000.00 or more but less than \$500,000.00

23 (k) \$500,000.00 or more but less than \$1,000,000.00

24 (l) \$1,000,000.00 or more.

25 Sec. 7. A report under section 5 may omit any of the
26 following:

1 (a) Information required to be reported under the Michigan
2 campaign finance act, Act No. 388 of the Public Acts of 1976,
3 being sections 169.201 to 169.282 of the Michigan Compiled Laws.

4 (b) A gift from the individual filing the report or a rela-
5 tive within the third degree of consanguinity to that individual
6 if received by the individual filing the report or a relative
7 within the third degree of consanguinity to that individual.

8 (c) A liability owed to the individual filing the report or
9 a relative within the third degree of consanguinity to that indi-
10 vidual if lent by the individual filing the report or a relative
11 within the third degree of consanguinity to that individual.

12 (d) An item otherwise required to be reported under
13 section 5(d), (e), or (f) about which all of the following are
14 true:

15 (i) The item represents the sole financial interest and
16 responsibility of a member of the immediate family of the indi-
17 vidual filing the report of which that individual does not have
18 actual knowledge.

19 (ii) The item is not in any way, past or present, derived
20 from the income, assets, or activities of the individual filing
21 the report.

22 (iii) The individual filing the report does not derive, or
23 expect to derive, financial benefit from the item.

24 (e) An item that concerns a spouse who is living separate
25 and apart from the individual filing the report with the inten-
26 tion of terminating the marriage or maintaining a legal
27 separation.

1 (f) An item that concerns income or obligations of the
2 individual filing the report arising from dissolution of his or
3 her marriage or a permanent legal separation from his or her
4 spouse.

5 Sec. 8. The secretary of state shall do all of the
6 following:

7 (a) Prepare and make available appropriate forms and
8 instructions for the reports required by this act.

9 (b) Receive reports required by this act.

10 (c) Make available for public use a report filed under this
11 act within 30 days after the report is filed as provided in the
12 freedom of information act, Act No. 442 of the Public Acts of
13 1976, being sections 15.231 to 15.246 of the Michigan Compiled
14 Laws.

15 (d) Promulgate rules and issue declaratory rulings to imple-
16 ment this act pursuant to the administrative procedures act of
17 1969, Act No. 306 of the Public Acts of 1969, being sections
18 24.201 to 24.328 of the Michigan Compiled Laws.

19 (e) Conduct investigations as may be necessary to determine
20 if there is reason to believe a violation of this act occurred.
21 Investigations shall be pursuant to the procedures set forth in
22 Act No. 306 of the Public Acts of 1969.

23 Sec. 9. (1) A citizen of this state may file a complaint
24 with the secretary of state alleging a violation of this act.
25 The secretary of state, upon receipt of a complaint, shall inves-
26 tigate the allegations as provided in section 8.

1 (2) If the secretary of state, upon investigation,
2 determines that there is reason to believe a violation of this
3 act occurred, the secretary of state shall forward the results of
4 that investigation to the attorney general for enforcement of
5 this act.

6 Sec. 10. (1) The attorney general shall enforce this act
7 against an individual who violates this act.

8 (2) A default in the payment of a civil fine ordered under
9 this act or an installment of the fine may be remedied by any
10 means authorized under the revised judicature act of 1961, Act
11 No. 236 of the Public Acts of 1961, being sections 600.101 to
12 600.9947 of the Michigan Compiled Laws.

13 Sec. 11. (1) Except as provided in subsection (2), an indi-
14 vidual who fails to file a report required by this act is liable
15 for a civil fine of \$500.00 or less.

16 (2) An individual who knowingly falsifies or knowingly fails
17 to file a report required by this act is liable for a civil fine
18 of \$5,000.00 or less.