

# HOUSE BILL No. 6077

September 16, 1992, Introduced by Reps. Randall, Bender, Dolan, Dalman and Gnodtke and referred to the Committee on House Oversight.

A bill to amend sections 1, 2, 3, 6, and 7 of Act No. 169 of the Public Acts of 1976, entitled as amended

"An act to regulate certain political activities by certain public employees; to prescribe the powers and duties of certain state agencies; and to provide penalties,"

being sections 15.401, 15.402, 15.403, 15.406, and 15.407 of the Michigan Compiled Laws; and to add section 4a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 2, 3, 6, and 7 of Act No. 169 of the  
2 Public Acts of 1976, being sections 15.401, 15.402, 15.403,  
3 15.406, and 15.407 of the Michigan Compiled Laws, are amended and  
4 section 4a is added to read as follows:

5 Sec. 1. As used in this act: ~~—, "public"~~

6 (A) "BALLOT QUESTION" MEANS THAT TERM AS DEFINED IN  
7 SECTION 2 OF THE MICHIGAN CAMPAIGN FINANCE ACT, ACT NO. 388 OF

1 THE PUBLIC ACTS OF 1976, BEING SECTION 169.202 OF THE MICHIGAN  
2 COMPILED LAWS.

3 (B) "CANDIDATE" MEANS ANY OF THE FOLLOWING:

4 (i) AN INDIVIDUAL WHO FILES A FEE, AFFIDAVIT OF INCUMBENCY,  
5 OR NOMINATING PETITION FOR AN ELECTIVE OFFICE.

6 (ii) AN INDIVIDUAL WHOSE NOMINATION AS A CANDIDATE FOR ELEC-  
7 TIVE OFFICE BY A POLITICAL PARTY CAUCUS OR CONVENTION IS CERTI-  
8 FIED TO THE APPROPRIATE FILING OFFICIAL.

9 (iii) AN INDIVIDUAL WHO RECEIVES A CONTRIBUTION, MAKES AN  
10 EXPENDITURE, OR GIVES CONSENT FOR ANOTHER PERSON TO RECEIVE A  
11 CONTRIBUTION OR MAKE AN EXPENDITURE WITH A VIEW TO BRINGING ABOUT  
12 THE INDIVIDUAL'S NOMINATION OR ELECTION TO AN ELECTIVE OFFICE,  
13 WHETHER OR NOT THE SPECIFIC ELECTIVE OFFICE FOR WHICH THE INDI-  
14 VIDUAL WILL SEEK NOMINATION OR ELECTION IS KNOWN AT THE TIME THE  
15 CONTRIBUTION IS RECEIVED OR THE EXPENDITURE IS MADE.

16 (iv) AN INDIVIDUAL WHO IS AN OFFICEHOLDER WHO IS THE SUBJECT  
17 OF A RECALL VOTE.

18 (v) A HOLDER OF ELECTIVE OFFICE, UNLESS THE OFFICEHOLDER IS  
19 CONSTITUTIONALLY OR LEGALLY BARRED FROM SEEKING REELECTION OR  
20 FAILS TO FILE FOR REELECTION TO THAT OFFICE BY THE APPLICABLE  
21 FILING DEADLINE.

22 (C) "CONTRIBUTION" MEANS THAT TERM AS DEFINED IN SECTION 4  
23 OF ACT NO. 388 OF THE PUBLIC ACTS OF 1976, BEING SECTION 169.204  
24 OF THE MICHIGAN COMPILED LAWS.

25 (D) "ELECTION" MEANS A PRIMARY, GENERAL, SPECIAL, OR MILLAGE  
26 ELECTION HELD IN THIS STATE OR A CONVENTION OR CAUCUS OF A

1 POLITICAL PARTY HELD IN THIS STATE TO NOMINATE A CANDIDATE.

2 ELECTION INCLUDES A RECALL VOTE.

3 (E) "ELECTIVE OFFICE" MEANS A PUBLIC OFFICE FILLED BY AN  
4 ELECTION, OTHER THAN A FEDERAL OFFICE. A PERSON WHO IS APPOINTED  
5 TO FILL A VACANCY IN A PUBLIC OFFICE THAT IS ORDINARILY FILLED BY  
6 AN ELECTION HOLDS AN ELECTIVE OFFICE.

7 (F) "EXPENDITURE" MEANS THAT TERM AS DEFINED IN SECTION 6 OF  
8 ACT NO. 388 OF THE PUBLIC ACTS OF 1976, BEING SECTION 169.206 OF  
9 THE MICHIGAN COMPILED LAWS.

10 (G) "NONCLASSIFIED STATE EMPLOYEE" MEANS AN EMPLOYEE OF THE  
11 STATE WHO IS NOT IN THE STATE CLASSIFIED CIVIL SERVICE. AN INDI-  
12 VIDUAL WHO HOLDS STATE ELECTIVE OFFICE IS NOT, BY VIRTUE OF THAT  
13 OFFICE, A NONCLASSIFIED STATE EMPLOYEE.

14 (H) "POLITICAL ACTIVITY" MEANS ACTIVITY UNDERTAKEN FOR THE  
15 PURPOSE OF INFLUENCING THE NOMINATION OR ELECTION OF A CANDIDATE  
16 OR THE QUALIFICATION, PASSAGE, OR DEFEAT OF A BALLOT QUESTION.

17 (I) "PUBLIC employee" means an employee of the state classi-  
18 fied civil service, or an employee of a political subdivision of  
19 the state who ~~is not an elected official~~ DOES NOT HOLD AN ELEC-  
20 TIVE OFFICE.

21 (J) "STATE ELECTIVE OFFICE" MEANS THE OFFICE OF GOVERNOR,  
22 LIEUTENANT GOVERNOR, SECRETARY OF STATE, ATTORNEY GENERAL, JUS-  
23 TICE OF THE SUPREME COURT, JUDGE OF THE COURT OF APPEALS, CIRCUIT  
24 JUDGE, PROBATE JUDGE, DISTRICT JUDGE, JUDGE OF A MUNICIPAL COURT  
25 OF RECORD, MEMBER OF THE STATE BOARD OF EDUCATION, REGENT OF THE  
26 UNIVERSITY OF MICHIGAN, MEMBER OF THE BOARD OF TRUSTEES OF

1 MICHIGAN STATE UNIVERSITY, MEMBER OF THE BOARD OF GOVERNORS OF  
2 WAYNE STATE UNIVERSITY, STATE REPRESENTATIVE, AND STATE SENATOR.

3 Sec. 2. An employee of the state classified civil service  
4 may DO 1 OR MORE OF THE FOLLOWING:

5 (a) Become a member of a political party committee formed or  
6 authorized under the election laws of this state.

7 (b) Be a delegate to a state, ~~convention, or a~~ district,  
8 or county convention held by a political party in this state.

9 (c) Become a candidate for nomination and election to ~~any~~  
10 A district, county, city, village, township, school district, or  
11 other local elective office without first obtaining a leave of  
12 absence from his OR HER employment. If the person becomes a can-  
13 didate for elective office in the executive or legislative  
14 branches of the state or for the supreme court or court of  
15 appeals, the person shall request and shall be granted a leave of  
16 absence without pay when he OR SHE complies with the candidacy  
17 filing requirements, or 60 days before ~~any~~ AN election relating  
18 to that position, whichever date is closer to the election.

19 (d) Engage in ~~other political activities on behalf of a~~  
20 ~~candidate or issue in connection with partisan or nonpartisan~~  
21 ~~elections~~ ACTIVITY.

22 Sec. 3. (1) An employee of a political subdivision of the  
23 state may DO 1 OR MORE OF THE FOLLOWING:

24 (a) Become a member of a political party committee formed or  
25 authorized under the election laws of this state.

26 (b) Be a delegate to a state, ~~convention, or a~~ district,  
27 or county convention held by a political party in this state.

1 (c) Become a candidate for nomination and election to ~~any~~  
2 A state elective office, or ~~any~~ A district, county, city, vil-  
3 lage, township, school district, or other local elective office  
4 without first obtaining a leave of absence from his OR HER  
5 employment. If the person becomes a candidate for elective  
6 office within the unit of government or school district in which  
7 he OR SHE is employed, unless contrary to a collective bargaining  
8 agreement, the employer may require the person to request and  
9 take a leave of absence without pay when he OR SHE complies with  
10 the candidacy filing requirements, or 60 days before ~~any~~ AN  
11 election relating to that position, whichever date is closer to  
12 the election.

13 (d) Engage in ~~other~~ political ~~activities on behalf of a~~  
14 ~~candidate or issue in connection with partisan or nonpartisan~~  
15 ~~elections~~ ACTIVITY.

16 (2) However, a public employee of a unit of local government  
17 or school district who is elected to an office within that unit  
18 of local government or school district shall resign or may be  
19 granted a leave of absence from his OR HER employment during his  
20 OR HER elected term.

21 SEC. 4A. A NONCLASSIFIED STATE EMPLOYEE SHALL NOT ENGAGE IN  
22 POLITICAL ACTIVITY DURING THE HOURS FOR WHICH THE EMPLOYEE IS  
23 BEING COMPENSATED FOR THE PERFORMANCE OF THAT EMPLOYEE'S DUTIES  
24 AS A NONCLASSIFIED STATE EMPLOYEE.

25 Sec. 6. (1) An employee of a political subdivision of this  
26 state OR A NONCLASSIFIED STATE EMPLOYEE whose rights under this  
27 act are violated or who is subjected to any of the actions

1 prohibited by section 5 may make a complaint to that effect with  
 2 the department of labor. The department OF LABOR shall hold a  
 3 hearing to determine whether a violation has occurred. If a vio-  
 4 lation has occurred, the department OF LABOR shall so state on  
 5 the record and may order any of the following:

6 (a) Issuance of back pay.

7 (b) Reinstatement as an employee.

8 (c) ~~Attorney~~ PAYMENT OF ATTORNEY fees..

9 (d) Reinstatement of ~~all~~ work-related benefits, rights, or  
 10 privileges ~~which~~ THAT, but for the violation by the employer,  
 11 would have been accrued by the employee.

12 (2) Upon motion by the department OF LABOR to the circuit  
 13 court, the court may issue an injunction to enforce the order of  
 14 the department OF LABOR.

15 (3) The department of civil service shall promulgate rules  
 16 for hearing alleged violations of this act by ~~a state~~ AN  
 17 employee OF THE STATE CLASSIFIED CIVIL SERVICE.

18 (4) The department of labor shall promulgate rules for hear-  
 19 ing alleged violations of this act by an employee of a political  
 20 subdivision of this state OR A NONCLASSIFIED STATE EMPLOYEE.

21 (5) The rules UNDER SUBSECTIONS (3) AND (4) shall be promul-  
 22 gated pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act  
 23 No. 306 of the Public Acts of 1969, as amended, BEING SECTIONS  
 24 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.

25 Sec. 7. ~~Public employees~~ A PUBLIC EMPLOYEE OR NONCLASSI-  
 26 FIED STATE EMPLOYEE whose political ~~activities are~~ ACTIVITY IS  
 27 subject to restrictions imposed by laws or regulations of the

1 United States shall comply with those restrictions  
2 notwithstanding any contrary provisions of this act. This act  
3 ~~shall not be construed as prohibiting the~~ DOES NOT PROHIBIT  
4 THIS state or a political subdivision ~~thereof~~ OF THIS STATE  
5 from instituting or implementing a disciplinary action against a  
6 public employee OR A NONCLASSIFIED STATE EMPLOYEE, in compliance  
7 with a determination of the United States civil service commis-  
8 sion or a court of the United States pursuant to sections 1501  
9 ~~through~~ TO 1508 of CHAPTER 15 OF PART II OF title 5 of the  
10 United States code, 5 U.S.C. 1501 TO 1508.