

HOUSE BILL No. 6090

September 17, 1992, Introduced by Reps. Baade, Gire, Kosteva, Pitoniak, Anthony and Byrum and referred to the Committee on House Oversight.

A bill to amend the title and sections 15, 16, and 17 of Act No. 388 of the Public Acts of 1976, entitled "Michigan campaign finance act," as amended by Act No. 95 of the Public Acts of 1989, being sections 169.215, 169.216, and 169.217 of the Michigan Compiled Laws; and to add section 18.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 15, 16, and 17 of Act
2 No. 388 of the Public Acts of 1976, as amended by Act No. 95 of
3 the Public Acts of 1989, being sections 169.215, 169.216, and
4 169.217 of the Michigan Compiled Laws, are amended and section 18
5 is added to read as follows:

TITLE

1
2 An act to regulate political activity; to regulate campaign
3 financing; to restrict campaign contributions and expenditures;
4 to require campaign statements and reports; to regulate anonymous
5 contributions; to regulate campaign advertising and literature;
6 to provide for segregated funds for political purposes; to pro-
7 vide for the use of public funds for political purposes; to
8 create ~~a state campaign fund~~ CERTAIN FUNDS; to provide for
9 reversion, ~~of~~ RETENTION, or refunding of, unexpended balances
10 IN CERTAIN FUNDS; to require reports; TO PRESCRIBE THE POWERS AND
11 DUTIES OF CERTAIN STATE DEPARTMENTS AND STATE AND LOCAL
12 OFFICIALS; to provide appropriations; to prescribe penalties; and
13 to repeal certain acts and parts of acts.

14 Sec. 15. (1) The secretary of state shall do all of the
15 following:

16 (a) Make available through his or her offices, and furnish
17 to county clerks, appropriate forms, instructions, and manuals
18 required by this act.

19 (b) Develop a filing, coding, and cross-indexing system for
20 the filing of required reports and statements consistent with the
21 purposes of this act, and supervise the implementation of the
22 filing systems by the clerks of the counties.

23 (c) Receive all statements and reports required by this act
24 to be filed with the secretary of state.

25 (d) Prepare forms, instructions, and manuals required under
26 this act.

1 (e) Promulgate rules and issue declaratory rulings to
2 implement this act pursuant to the administrative procedures act
3 of 1969, Act No. 306 of the Public Acts of 1969, as amended,
4 being sections 24.201 to 24.328 of the Michigan Compiled Laws.

5 (f) Upon receipt of a written request and the required
6 filing, waive payment of a late filing fee if the request for the
7 waiver is based on good cause and accompanied by adequate
8 documentation. ~~Any~~ ONE OR MORE of the following reasons
9 ~~shall~~ constitute good cause for a late filing fee waiver:

10 (i) The incapacitating physical illness, hospitalization,
11 accident involvement, death, or incapacitation for medical rea-
12 sons of a person required to file, a person whose participation
13 is essential to the preparation of the statement or report, or a
14 member of the immediate family of these persons.

15 (ii) Other unique, unintentional factors beyond the filer's
16 control not stemming from a negligent act or nonaction so that a
17 reasonably prudent person would excuse the filing on a temporary
18 basis. These factors include the loss or unavailability of
19 records due to a fire, flood, theft, or similar reason and diffi-
20 culties related to the transmission of the filing to the filing
21 official, such as exceptionally bad weather or strikes involving
22 transportation systems.

23 (2) A declaratory ruling shall be issued under this section
24 only if the person requesting the ruling has provided a reason-
25 ably complete statement of facts necessary for the ruling or if
26 the secretary of state has permitted the person requesting the
27 ruling an opportunity to supply supplemental facts necessary for

1 the ruling. A request for a declaratory ruling that is submitted
2 to the secretary of state shall be made available for public
3 inspection within 48 hours after its receipt. An interested
4 person may submit written comments regarding the request to the
5 secretary of state within 10 business days after the date the
6 request is made available to the public. Within 45 business days
7 after receiving a declaratory ruling request, the secretary of
8 state shall make a proposed response available to the public. An
9 interested person may submit written comments regarding the pro-
10 posed response to the secretary of state within 5 business days
11 after the date the proposal is made available to the public.
12 Except as otherwise provided in this section, the secretary of
13 state shall issue a declaratory ruling within 60 business days
14 after a request for a declaratory ruling is received. If the
15 secretary of state refuses to issue a declaratory ruling, the
16 secretary of state shall notify the person making the request of
17 the reasons for the refusal. The secretary of state may issue an
18 interpretative statement providing an informational response to
19 the question presented. A declaratory ruling or interpretative
20 statement issued under this section shall not state a general
21 rule of law, other than that which is stated in this act, until
22 the general rule of law is promulgated by the secretary of state
23 as a rule pursuant to the administrative procedures act of 1969,
24 Act No. 306 of the Public Acts of 1969, being sections 24.201 to
25 24.328 of the Michigan Compiled Laws, or pursuant to judicial
26 order.

1 (3) Under extenuating circumstances, the secretary of state
2 may issue a notice extending for not more than 30 business days
3 the period during which the secretary of state shall respond to a
4 request for a declaratory ruling. The secretary of state shall
5 not issue more than 1 notice of extension for a particular
6 request. A person requesting a declaratory ruling may waive, in
7 writing, the time limitations provided by this section.

8 (4) An annual summary of the declaratory rulings and inter-
9 pretative statements issued by the secretary of state shall be
10 made available to the public.

11 (5) A person may file a complaint with the secretary of
12 state alleging a violation of this act. Upon receipt of a com-
13 plaint, the secretary of state shall investigate the allegations
14 pursuant to the rules promulgated under this act. If the secre-
15 tary of state determines that there may be reason to believe that
16 a violation of this act has occurred, the secretary of state
17 shall endeavor to correct the violation or prevent a further vio-
18 lation by using informal methods such as a conference, concili-
19 ation, or persuasion, and may enter into a conciliation agreement
20 with the person involved. Unless violated, a conciliation agree-
21 ment is a complete bar to any further action with respect to mat-
22 ters covered in the conciliation agreement. If the secretary of
23 state is unable to correct or prevent further violation by these
24 informal methods, the secretary of state may refer the matter to
25 the attorney general for the enforcement of any criminal penalty
26 provided by this act or commence a hearing pursuant to
27 subsection (6).

1 (6) The secretary of state may commence a hearing to
2 determine whether a civil violation of this act has occurred. A
3 hearing shall not be commenced during the period beginning 30
4 days before an election in which the committee has received or
5 expended money and ending the day after that election except with
6 the consent of the person suspected of committing a civil
7 violation. The hearing shall be conducted ~~in accordance with~~
8 PURSUANT TO the procedures set forth in chapter 4 of the adminis-
9 trative procedures act of 1969, Act No. 306 of the Public Acts of
10 1969, being sections 24.271 to 24.287 of the Michigan Compiled
11 Laws. If after a hearing the secretary of state determines that
12 a violation of this act has occurred, the secretary of state may
13 issue an order requiring the person to pay a civil fine equal to
14 the amount of the improper contribution or expenditure plus not
15 more than \$1,000.00 for each violation. A final decision and
16 order issued by the secretary of state is subject to judicial
17 review as provided by chapter 6 of the administrative procedures
18 act of 1969, Act No. 306 of the Public Acts of 1969, being sec-
19 tions 24.301 to 24.306 of the Michigan Compiled Laws. ~~A~~ THE
20 SECRETARY OF STATE SHALL TRANSMIT A civil fine imposed AND
21 COLLECTED under this section ~~shall be deposited~~ TO THE STATE
22 TREASURER FOR DEPOSIT in the ~~general fund~~ SECRETARY OF STATE
23 COMPUTERIZATION FUND CREATED BY SECTION 18. The secretary of
24 state may bring an action in circuit court to recover the amount
25 of a civil fine.

26 (7) When a report or statement is filed pursuant to this
27 act, the secretary of state shall review the report or statement

1 and may investigate an apparent violation of this act pursuant to
2 the rules promulgated pursuant to this act. If the secretary of
3 state determines that there may be reason to believe a violation
4 of this act has occurred and the procedures prescribed in subsec-
5 tion (5) have been complied with, the secretary of state may
6 refer the matter to the attorney general for the enforcement of
7 any criminal penalty provided by this act, or commence a hearing
8 under subsection (6) to determine whether a civil violation of
9 this act has occurred.

10 (8) Unless otherwise specified in this act, a person who
11 violates a provision of this act is subject to a civil fine of
12 not more than \$1,000.00 for each violation. Civil fines are in
13 addition to, but not limited by, any criminal penalty prescribed
14 by this act.

15 (9) The secretary of state may waive the filing of a cam-
16 paign statement required under section 33, 34, or 35 if the clos-
17 ing date of the particular campaign statement falls on the same
18 or a later date as the closing date of the next campaign state-
19 ment filed by the same person, or if the period ~~which~~ THAT
20 would be otherwise covered by the next campaign statement filed
21 by the same person is 10 days or less.

22 (10) The clerk of each county shall do all of the
23 following:

24 (a) Make available through the county clerk's office the
25 appropriate forms, instructions, and manuals required by this
26 act.

1 (b) Under the supervision of the secretary of state,
 2 implement the filing, coding, and cross-indexing system
 3 prescribed for the filing of reports and statements required to
 4 be filed with the county clerk's office.

5 (c) Receive all statements and reports required by this act
 6 to be filed with the county clerk's office.

7 (d) Upon written request, waive the payment of a late filing
 8 fee if the request for a waiver is based on good cause as pre-
 9 scribed in subsection ~~(+)(g)~~ (1)(F).

10 Sec. 16. (1) A filing official shall make statements and
 11 reports required to be filed under this act available for public
 12 inspection and reproduction ~~, commencing~~ DURING REGULAR BUSI-
 13 NESS HOURS OF THE FILING OFFICIAL. THE FILING OFFICIAL SHALL
 14 MAKE STATEMENTS AND REPORTS FILED UNDER THIS ACT AVAILABLE as
 15 soon as practicable AFTER RECEIPT, but not later than the third
 16 business day following the day on which they are received. ~~7~~
 17 ~~during regular business hours of the filing official.~~

18 (2) ~~Copies~~ A FILING OFFICIAL SHALL PROVIDE COPIES of
 19 statements or parts of statements ~~shall be provided by a filing~~
 20 ~~official~~ at a reasonable charge.

21 (3) A PERSON SHALL NOT USE A statement open to the public
 22 under this act ~~shall not be used~~ for purposes of commercial
 23 solicitation or any commercial purpose.

24 (4) ~~A~~ THE FILING OFFICIAL SHALL PRESERVE A statement of
 25 organization filed under this act ~~shall be preserved by the~~
 26 ~~filing official~~ for 5 years from the official date of the
 27 committee's dissolution. ~~A~~ THE FILING OFFICIAL SHALL PRESERVE

1 A statement or report filed under this act by a candidate for an
2 office with a term exceeding 4 years ~~shall be preserved by the~~
3 ~~filing official~~ for 1 year beyond that candidate's term of
4 office. ~~Any~~ THE FILING OFFICIAL SHALL PRESERVE ANY other
5 statement or report filed under this act ~~shall be preserved by~~
6 ~~the filing official~~ for 5 years from the date the filing
7 occurred. Statements and reports filed under this act may be
8 microfilmed OR PRESERVED IN A COMPUTERIZED FORMAT. After the
9 required preservation period the statements and reports, micro-
10 filmed or otherwise, shall be destroyed.

11 (5) A ~~charge~~ FILING OFFICIAL shall not ~~be collected by a~~
12 ~~filing official~~ COLLECT A FEE for the filing of a required
13 statement or report, or for a form upon which ~~the~~ A REQUIRED
14 statement or report is to be prepared. ~~except for~~ HOWEVER, A
15 FILING OFFICIAL SHALL COLLECT a late filing fee AS required by
16 this act.

17 (6) A filing official shall determine whether a statement or
18 report filed under this act complies, on its face, with the
19 requirements of this act and the rules promulgated under this
20 act. The filing official shall determine whether a statement or
21 report ~~which~~ THAT is required to be filed under this act is in
22 fact filed. Within 4 business days after the deadline for filing
23 a statement or report under this act, the filing official shall
24 give notice to the filer by registered mail of an error or omis-
25 sion in the statement or report and give notice to a person the
26 filing official has reason to believe is a person required to and
27 who failed to file a statement or report. A failure to give

1 notice by the filing official under this subsection is not a
2 defense to a criminal action by the person required to file.

3 (7) Within 9 business days after the report or statement is
4 required to be filed, the filer shall make any corrections in the
5 statement or report ~~filed~~ AND FILE THE CORRECTIONS with the
6 appropriate filing official. If the report or statement was not
7 filed, ~~then it shall be late filed~~ THE PERSON SHALL FILE THE
8 REPORT OR STATEMENT WITH THE APPROPRIATE FILING OFFICIAL within 9
9 business days after the time it was required to be filed, ~~and~~
10 ~~shall be~~ WHICH STATEMENT OR REPORT IS CONSIDERED LATE FILED AND
11 IS subject to late filing fees.

12 (8) After 9 business days and before 12 business days have
13 expired after the deadline for filing the statement or report,
14 the filing official shall report errors or omissions ~~which~~ THAT
15 were not corrected and failures to file to the attorney general.

16 (9) A PERSON SHALL FILE A statement or report required to be
17 filed under this act ~~shall be filed~~ not later than 5 p.m. of
18 the day in which it is required to be filed. A preelection
19 statement or report due on July 25 or October 25 under section 33
20 ~~which~~ THAT is postmarked by registered or certified mail, or
21 sent by express mail or other overnight delivery service, at
22 least 2 days before the deadline for filing ~~shall be~~ IS consid-
23 ered filed within the prescribed time regardless of when it is
24 actually delivered. Any other statement or report required to be
25 filed under this act ~~which~~ THAT is postmarked by registered or
26 certified mail or sent by express mail or other overnight
27 delivery service on or before the deadline for filing ~~shall be~~

1 IS considered filed within the prescribed time regardless of when
2 it is actually delivered.

3 Sec. 17. (1) A person paying a late filing fee as a result
4 of that person's failure to file a statement or report shall pay
5 that fee to the filing official with whom the statement or report
6 was required to be filed.

7 (2) ~~The~~ A FILING OFFICIAL, OTHER THAN THE SECRETARY OF
8 STATE, SHALL TRANSMIT ALL late filing fees collected pursuant to
9 ~~sections 24, 33, 34, and 35,~~ THIS ACT and copying charges col-
10 lected pursuant to section 16 ~~, shall be retained by and for the~~
11 ~~use of the filing officials collecting the fees or charges to~~
12 ~~cover their expenses in administering this act~~ TO THE SECRETARY
13 OF STATE BY THE TENTH DAY OF THE MONTH FOLLOWING THE MONTH IN
14 WHICH THE FEES WERE COLLECTED. THE SECRETARY OF STATE SHALL
15 TRANSMIT ALL LATE FILING FEES COLLECTED PURSUANT TO THIS ACT AND
16 COPYING CHARGES COLLECTED PURSUANT TO SECTION 16 TO THE STATE
17 TREASURER FOR DEPOSIT IN THE SECRETARY OF STATE COMPUTERIZATION
18 FUND CREATED BY SECTION 18.

19 (3) A late filing fee assessed by a ~~county clerk~~ FILING
20 OFFICIAL, OTHER THAN THE SECRETARY OF STATE, that remains unpaid
21 for more than 60 days shall be ~~considered a debt of the county~~
22 ~~and shall be collected by the county treasurer in the same manner~~
23 ~~as other county debts are collected~~ TRANSFERRED TO THE SECRETARY
24 OF STATE FOR FURTHER COLLECTION EFFORTS. A late filing fee
25 assessed BY A COUNTY CLERK AND TRANSFERRED TO THE SECRETARY OF
26 STATE OR ASSESSED by the secretary of state that remains unpaid
27 for more than 180 days shall be referred to the department of

1 treasury for collection. THE STATE TREASURER SHALL DEPOSIT ALL
2 LATE FILING FEES COLLECTED PURSUANT TO THIS SUBSECTION IN THE
3 SECRETARY OF STATE COMPUTERIZATION FUND CREATED BY SECTION 18.

4 (4) ~~-(3)-~~ A committee, other than a candidate committee or a
5 committee making expenditures in assistance of or in opposition
6 to the qualification, passage, or defeat of a ballot question,
7 required to file with the secretary of state is not required to
8 pay a late filing fee pursuant to sections 24, 33, 34, and 35, if
9 all of the following conditions are met:

10 (a) A committee required to register as a committee fails to
11 file a statement of organization.

12 (b) The secretary of state sends to that committee notice of
13 the committee's failure to file a statement of organization.

14 (c) At the same time or after the notice described in subdi-
15 vision (b) is sent, the secretary of state sends to that commit-
16 tee notice of the committee's failure to file a campaign state-
17 ment that was due for a period that occurred before the notice of
18 failure to file a statement of organization was sent.

19 (d) Within 10 business days after the notice of failure to
20 file a statement of organization is sent, the committee files a
21 statement of organization.

22 (e) Within 10 business days after the notice of failure to
23 file a campaign statement is sent, the committee files every cam-
24 paign statement that is due.

25 (5) ~~-(4)-~~ Late filing fees that would have occurred except
26 for subsection ~~-(3)-~~ (4) shall be assessed for each statement not

1 filed before the eleventh business day after a notice of failure
2 to file is sent pursuant to subsection ~~(3)~~ (4).
3 (6) ~~(5)~~ A committee other than a candidate committee that
4 has not previously filed a statement of organization is not
5 required to pay a late filing fee pursuant to sections 24, 33,
6 34, and 35, if the committee files a statement of organization
7 and every campaign statement that is due, before the secretary of
8 state sends a notice to that committee pursuant to
9 subsection ~~(3)~~ (4).

10 SEC. 18. (1) THE SECRETARY OF STATE COMPUTERIZATION FUND IS
11 CREATED IN THE STATE TREASURY. THE PURPOSE OF THE SECRETARY OF
12 STATE COMPUTERIZATION FUND IS TO PROVIDE FOR THE COMPUTERIZATION
13 OF ALL CAMPAIGN FINANCE STATEMENTS AND REPORTS FILED WITH THE
14 SECRETARY OF STATE UNDER THIS ACT. THE SECRETARY OF STATE SHALL
15 ONLY USE MONEY IN THE SECRETARY OF STATE COMPUTERIZATION FUND FOR
16 THE ACQUISITION AND MAINTENANCE OF COMPUTER HARDWARE AND SOFTWARE
17 FOR AND THE PERSONNEL COSTS ASSOCIATED WITH THE INPUTTING AND
18 PROCESSING OF ALL CAMPAIGN FINANCE STATEMENTS AND REPORTS
19 REQUIRED TO BE FILED UNDER THIS ACT.

20 (2) ON OR BEFORE APRIL 1, 1993, THE SECRETARY OF STATE SHALL
21 SUBMIT TO THE LEGISLATURE A COMPREHENSIVE COMPUTERIZATION PLAN
22 THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

23 (A) THE STATUS OF COMPUTERIZATION OF CAMPAIGN FINANCE STATE-
24 MENTS AND REPORTS.

25 (B) AN ANALYSIS OF THE NEEDS FOR COMPUTERIZATION OF CAMPAIGN
26 FINANCE STATEMENTS AND REPORTS.

1 (C) STANDARDS FOR COMPUTERIZATION OF CAMPAIGN FINANCE
2 STATEMENTS AND REPORTS.

3 (D) A PLAN FOR THE DISTRIBUTION OF REVENUE FROM THE SECRE-
4 TARY OF STATE COMPUTERIZATION FUND THAT PROVIDES FOR DIRECT DIS-
5 BURSEMENTS FROM THE SECRETARY OF STATE COMPUTERIZATION FUND BY
6 THE SECRETARY OF STATE. THE SECRETARY OF STATE MAY APPROVE DIS-
7 BURSEMENTS THAT INCLUDE PAYMENT FOR SERVICES PROVIDED BY EMPLOY-
8 EES OF THIS STATE OR PRIVATE VENDORS, OR BY A COMBINATION OF
9 BOTH.

10 (3) THE SECRETARY OF STATE SHALL SUBMIT TO THE LEGISLATURE
11 AN ANNUAL UPDATE TO THE COMPREHENSIVE COMPUTERIZATION PLAN.

12 (4) THE STATE TREASURER SHALL CREDIT THE SECRETARY OF STATE
13 COMPUTERIZATION FUND WITH DEPOSITS OF PROCEEDS FROM THE COLLEC-
14 TION OF REVENUE FROM CIVIL FINES AND LATE FILING FEES COLLECTED
15 UNDER THIS ACT, APPROPRIATIONS MADE TO THE FUND, AND ALL INCOME
16 FROM INVESTMENT. THE STATE TREASURER MAY INVEST MONEY CONTAINED
17 IN THE SECRETARY OF STATE COMPUTERIZATION FUND IN ANY MANNER
18 AUTHORIZED BY LAW FOR THE INVESTMENT OF STATE MONEY. HOWEVER, AN
19 INVESTMENT SHALL NOT INTERFERE WITH ANY APPORTIONMENT, ALLOCA-
20 TION, OR PAYMENT OF MONEY AS REQUIRED BY THIS SECTION.

21 (5) THE STATE TREASURER, AT THE DIRECTION OF THE SECRETARY
22 OF STATE, SHALL DISTRIBUTE MONEY FROM THE SECRETARY OF STATE COM-
23 PUTERIZATION FUND AT LEAST ANNUALLY AND MORE OFTEN AS THE SECRE-
24 TARY OF STATE CONSIDERS NECESSARY. MONEY IN THE FUND AT THE
25 CLOSE OF EACH FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT
26 REVERT TO THE GENERAL FUND.