

SENATE BILL No. 24

January 24, 1991, Introduced by Senators ARTHURHULTZ, POSTHUMUS, MILLER, CHERRY, DE GROW, POLLACK, DI NELLO, CARL, EHLERS, GAST, GEAKE, DILLINGHAM, V. SMITH, SCHWARZ, CRUCE, FAUST and O'BRIEN and referred to the Committee on Government Operations.

A bill to amend sections 6, 9, 44, 49, 66, 67, and 71 of Act No. 388 of the Public Acts of 1976, entitled "Michigan campaign finance act," sections 6, 44, 66, and 67 as amended by Act No. 95 of the Public Acts of 1989, being sections 169.206, 169.209, 169.244, 169.249, 169.266, 169.267, and 169.271 of the Michigan Compiled Laws; and to add section 21a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 6, 9, 44, 49, 66, 67, and 71 of Act
2 No. 388 of the Public Acts of 1976, sections 6, 44, 66, and 67 as
3 amended by Act No. 95 of the Public Acts of 1989, being sections
4 169.206, 169.209, 169.244, 169.249, 169.266, 169.267, and 169.271
5 of the Michigan Compiled Laws, are amended and section 21a is
6 added to read as follows:

1 Sec. 6. (1) "Expenditure" means a payment, donation, loan,
2 or promise of payment of money or anything of ascertainable
3 monetary value for goods, materials, services, or facilities in
4 assistance of, or in opposition to, the nomination or election of
5 a candidate, or the qualification, passage, or defeat of a ballot
6 question.

7 (2) Expenditure includes a contribution or a transfer of
8 anything of ascertainable monetary value for purposes of influ-
9 encing the nomination or election of ~~any~~ A candidate or the
10 qualification, passage, or defeat of a ballot question.

11 (3) EXPENDITURE INCLUDES AN EXPENDITURE BY A CANDIDATE COM-
12 MITTEE FOR AN INCIDENTAL EXPENSE UNDER SECTION 21A.

13 (4) ~~(3)~~ Expenditure does not include any of the
14 following:

15 (a) An expenditure for communication by a person with the
16 person's paid members or shareholders.

17 (b) An expenditure for communication on a subject or issue
18 if the communication does not support or oppose a ballot issue or
19 candidate by name or clear inference.

20 (c) An expenditure for the establishment, administration, or
21 solicitation of contributions to a fund or independent
22 committee.

23 (d) An expenditure by a broadcasting station, newspaper,
24 magazine, or other periodical or publication for ~~any~~ A news
25 story, commentary, or editorial in support of or opposition to a
26 candidate for elective office or a ballot question in the regular
27 course of publication or broadcasting.

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

3 (f) An expenditure for nonpartisan voter registration or
4 nonpartisan get-out-the-vote activities. This exclusion does not
5 apply if a candidate or group of candidates sponsors or finances
6 the activity or is identified by name with the activity. This
7 exclusion does apply to an activity performed pursuant to sec-
8 tions 491 to 524 of the Michigan election law, Act No. 116 of the
9 Public Acts of 1954, as amended, being sections 168.491 to
10 168.524 of the Michigan Compiled Laws, by the secretary of state
11 and other registration officials who are identified by name with
12 the activity. This exclusion does apply to a candidate who is an
13 elected officeholder and whose office is not on the ballot for
14 the general election in the calendar year in which the expendi-
15 ture is made or who is not a candidate within the meaning of sec-
16 tions 3(1)(a) and 3(1)(b) and who is identified by name with the
17 activity.

18 Sec. 9. (1) "INCIDENTAL EXPENSE" MEANS AN EXPENDITURE THAT
19 IS TRADITIONALLY ASSOCIATED WITH, OR NECESSITATED BY, THE HOLDING
20 OF A PARTICULAR PUBLIC OFFICE. EXCEPT AS OTHERWISE PROVIDED IN
21 THIS SUBSECTION, INCIDENTAL EXPENSE INCLUDES A DISBURSEMENT
22 AUTHORIZED IN R 169.62 OF THE MICHIGAN ADMINISTRATIVE CODE.
23 INCIDENTAL EXPENSE INCLUDES THE PURCHASE OF TICKETS TO ANOTHER
24 CANDIDATE'S FUND-RAISING EVENT THAT DOES NOT EXCEED \$100.00 PER
25 CANDIDATE COMMITTEE IN A CALENDAR YEAR.

26 (2) "Independent expenditure" means an expenditure as
27 defined in section 6 by a person if the expenditure is not made

1 at the direction of, or under the control of, another person and
2 if the expenditure is not a contribution to a committee.

3 (3) ~~-(2)-~~ "In-kind contribution or expenditure" means a con-
4 tribution as defined in section 4 or expenditure as defined in
5 section 6 other than money.

6 (4) ~~-(3)-~~ "Loan" means a transfer of money, property, or
7 anything of ascertainable monetary value in exchange for an obli-
8 gation conditional or not, to repay in whole or part.

9 SEC. 21A. A CANDIDATE COMMITTEE OF A CANDIDATE WHO IS
10 ELECTED TO PUBLIC OFFICE MAY MAKE AN EXPENDITURE FOR AN INCIDENT-
11 TAL EXPENSE FOR THE PUBLIC OFFICE TO WHICH THAT CANDIDATE WAS
12 ELECTED.

13 Sec. 44. (1) A contribution shall not be made by a person
14 to another person with the agreement or arrangement that the
15 person receiving the contribution will then transfer that contri-
16 bution to a particular candidate committee.

17 (2) A candidate committee shall not make a contribution to
18 or an independent expenditure in behalf of another candidate
19 committee. THIS SUBSECTION DOES NOT PROHIBIT THE PURCHASE OF
20 TICKETS TO ANOTHER CANDIDATE COMMITTEE'S FUND-RAISING EVENT THAT
21 DOES NOT EXCEED \$100.00 PER CANDIDATE COMMITTEE IN ANY CALENDAR
22 YEAR.

23 (3) An individual, other than a committee treasurer or the
24 individual designated as responsible for the record keeping,
25 report preparation, or report filing for a committee, who obtains
26 possession of ~~-1-~~ A committee's contribution for the purpose of
27 delivering the contribution to another committee shall deliver

1 the contribution to that committee, that committee's treasurer,
2 or that committee's agent, or return the contribution to the
3 payor, not later than 10 business days after obtaining possession
4 of the contribution.

5 (4) Two or more persons, other than individuals, may hold a
6 joint fund-raiser if the receipts and expenses of the fund-raiser
7 are shared proportionately. ~~If an officeholder expense fund and~~
8 ~~the candidate committee of that officeholder hold a joint~~
9 ~~fund-raiser, the candidate committee shall pay the expenses of~~
10 ~~the fund-raiser and all corporate money received for the~~
11 ~~fund-raiser shall be deposited in the account of the officeholder~~
12 ~~expense fund. All noncorporate contributions shall be deposited~~
13 ~~in a secondary depository designated to receive contributions~~
14 ~~prior to their split between the candidate committee and office-~~
15 ~~holder expense fund.~~

16 (5) A person who knowingly violates this section is guilty
17 of a misdemeanor punishable by a fine of not more than \$1,000.00,
18 or imprisonment for not more than 90 days, or both.

19 Sec. 49. (1) ~~An~~ SUBJECT TO SUBSECTION (3), AN elected
20 public official may establish an officeholder expense fund. The
21 fund may be used for expenses incidental to the person's office.
22 The fund ~~may~~ SHALL not be used to make contributions and expen-
23 ditures to further the nomination or election of that public
24 official.

25 (2) The contributions and expenditures made pursuant to
26 subsection (1) are not exempt from the contribution limitations
27 of this act, but ~~any and all~~ THE contributions and expenditures

1 shall be recorded and shall be reported on forms provided by the
2 secretary of state and filed not later than January 31 of each
3 year. ~~and~~ THE REPORT shall have a closing date of January 1 of
4 that year.

5 (3) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
6 THAT ADDED THIS SUBSECTION, AN ELECTED PUBLIC OFFICIAL SHALL NOT
7 ESTABLISH AN OFFICEHOLDER EXPENSE FUND. AN ELECTED PUBLIC OFFI-
8 CIAL WHO HAS AN OFFICEHOLDER EXPENSE FUND ON THE EFFECTIVE DATE
9 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION SHALL NOT ACCEPT
10 CONTRIBUTIONS TO THE OFFICEHOLDER EXPENSE FUND ON OR AFTER THAT
11 DATE UNLESS THE CONTRIBUTION IS NECESSARY TO PAY A DEBT INCURRED
12 BY THE OFFICEHOLDER BEFORE THE EFFECTIVE DATE OF THE AMENDATORY
13 ACT THAT ADDED THIS SUBSECTION. BEFORE JANUARY 1, 1992, UNEX-
14 PENDED FUNDS IN AN OFFICEHOLDER EXPENSE FUND SHALL BE DISBURSED
15 IN 1 OF THE FOLLOWING WAYS:

16 (A) GIVEN TO A TAX-EXEMPT CHARITABLE ORGANIZATION.

17 (B) RETURNED TO THE CONTRIBUTORS OF THE OFFICEHOLDER EXPENSE
18 FUND.

19 (4) ~~(3)~~ A person who knowingly violates this section is
20 guilty of a misdemeanor, ~~and shall be punished~~ PUNISHABLE by a
21 fine of not more than \$1,000.00 or ~~imprisoned~~ IMPRISONMENT for
22 not more than 90 days, or both.

23 Sec. 66. (1) A candidate may only apply the funds received
24 under this act against qualified campaign expenditures.

25 (2) As used in this section, "qualified campaign
26 expenditure" means an expenditure for services, materials,
27 facilities, or other things of value by the candidate committee

1 to further the candidate's nomination or election to office
2 during the year in which the primary or general election in which
3 the candidate seeks nomination or election is held. Qualified
4 campaign expenditure does not include ANY OF THE FOLLOWING:

5 (a) An expenditure in violation of any law of the United
6 States or of this state.

7 (b) A payment made to the candidate or a relative within the
8 third degree of consanguinity of the candidate, or to a business
9 with which the candidate or the relative is associated.

10 (c) A payment to the extent clearly in excess of the fair
11 market value of services, materials, facilities, or other things
12 of value received in exchange.

13 (d) That portion of any salary or wage to an individual in
14 excess of \$5,000.00 per month.

15 (e) Payment from petty cash.

16 (f) Gifts, except brochures, buttons, signs, and other
17 printed campaign material.

18 (g) Payment to a defense fund.

19 (h) ~~Expenditures~~ AN EXPENDITURE made for the solicitation
20 of contributions ~~which~~ THAT are exempted from the candidate's
21 expenditure limits under section 67(2).

22 (I) AN EXPENDITURE BY A CANDIDATE COMMITTEE FOR AN INCIDENT-
23 TAL EXPENSE UNDER SECTION 21A.

24 (3) A candidate shall keep those funds received under this
25 act in a separate account. The candidate's qualified expendi-
26 tures may be paid from this account unless the account does not
27 have a balance. An unexpended balance in this account shall be

1 refunded and credited to the general fund within 60 days after
2 the election for which the funds were received. Payment received
3 from the state campaign fund for expenditures in 1 election shall
4 not be used for expenditures in a subsequent election.

5 (4) A person who knowingly violates this section is guilty
6 of a felony punishable, if the person is an individual, by a fine
7 of not more than \$2,000.00, or imprisonment for not more than 3
8 years, or both, or, if the person not an individual, by a fine of
9 not more than \$10,000.00.

10 Sec. 67. (1) Expenditures made by a candidate committee to
11 further the nomination or election of a candidate may not exceed
12 \$1,500,000.00 in the aggregate for 1 election.

13 (2) Expenditures made by a candidate committee for the
14 solicitation of contributions which expenditures are not more
15 than 20% of the candidate committee's expenditure limit desig-
16 nated in subsection (1) shall not be considered as expenditures
17 for the purposes of the expenditure limitations set forth in sub-
18 section (1). EXPENDITURES MADE BY A CANDIDATE COMMITTEE FOR
19 INCIDENTAL EXPENSES UNDER SECTION 21A SHALL NOT BE CONSIDERED AS
20 EXPENDITURES FOR THE PURPOSES OF THE EXPENDITURE LIMITATIONS SET
21 FORTH IN SUBSECTION (1).

22 (3) An expenditure by a candidate committee to purchase
23 space in a newspaper or other periodical or time on radio or
24 television for the purpose of responding to an editorial in the
25 same newspaper or periodical or on the same station or channel
26 which was unfavorable to the committee's candidate or which
27 ~~indorsed~~ ENDORSED the candidate's opponent shall not be

1 considered an expenditure for the purposes of the expenditure
2 limitations set forth in subsection (1). This subsection only
3 applies to 1 response made to a particular editorial, unfavorable
4 report, or endorsement of an opponent and shall not apply unless
5 the candidate is refused free space or time in which to answer.

6 (4) A person who knowingly violates subsection (1) is guilty
7 of a misdemeanor punishable by a fine of not more than \$1,000.00,
8 or imprisonment for not more than 90 days, or both.

9 (5) If a person who is subject to this section is found
10 guilty, the circuit court of that county, on application by the
11 attorney general, may prohibit that person from assuming the
12 duties of a public office or from receiving compensation from
13 public funds, or both.

14 Sec. 71. (1) A contribution shall not be made by a person
15 to another person with the agreement or arrangement that the
16 person receiving the contribution will then transfer that contri-
17 bution to a particular candidate committee.

18 (2) A candidate committee shall not make a contribution to
19 another candidate committee. THIS SUBSECTION SHALL NOT BE CON-
20 STRUED TO PROHIBIT THE PURCHASE OF TICKETS TO ANOTHER CANDIDATE
21 COMMITTEE'S FUND-RAISING EVENT THAT DOES NOT EXCEED \$100.00 PER
22 CANDIDATE COMMITTEE IN ANY CALENDAR YEAR. A person who knowingly
23 violates this section is guilty of a misdemeanor and shall be
24 ~~punished~~ PUNISHABLE by a fine of not more than \$1,000.00, or
25 ~~imprisoned~~ IMPRISONMENT for not more than 90 days, or both.