



**House
Legislative
Analysis
Section**

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FINANCIAL DISCLOSURE ACT

**House Bill 4401 (Substitute H-3)
First Analysis (3-24-93)**

**Sponsor: Rep. Sharon Gire
Committee: House Oversight & Ethics**

THE APPARENT PROBLEM:

Some people believe that an important step in guarding against conflicts of interest on the part of elected officials is to require full financial disclosure. According to a representative of Common Cause, legislators in some 40 states and all statewide officials in 36 states must meet such requirements. It has been proposed that Michigan adopt a financial disclosure law to enhance the public trust in government.

THE CONTENT OF THE BILL:

The bill would create the Michigan Financial Disclosure Act, under which a person who was a state official during the preceding calendar year or a candidate for state office would have to file a financial disclosure report with the secretary of state. A state official would have to file an annual report by May 1 and a candidate for state office would have to file a report by 30 days after the candidacy filing deadline. (A person who filed a report as a state official would not then have to file a candidate's report.) The reports would have to include in broad categories a complete statement of the following:

-- the source, type, and amount or value of earned income (e.g., salaries, tips, and other employee compensation) received during the preceding calendar year by the person filing the report or a member of his or her immediate family if the total income from the source was equal to \$1,000 or more.

-- the source, type, and amount of all other income (e.g., interest, dividends, capital gains, rents, fees) not reported as earned income during the preceding calendar year by the person filing the report or a member of the immediate family if the total income from a source was \$1,000 or more. (The term "immediate family" would refer throughout to a child residing in the person's household, a spouse, or a person claimed as a dependent.)

-- the identity and value of each asset held during the previous calendar year by the person filing the report or an immediate family member, including real or personal property or cash, if the asset had a fair market value of \$1,000 or more at any time the asset was held.

-- the identity and value of each liability owed by the filer or an immediate family member if the amount of the liability was \$10,000 or more, but excluding a loan secured by a personal residence, a personal motor vehicle, household furniture, or an appliance, if the loan did not exceed the purchase price of the item.

-- a brief description and value of a purchase, sale, or exchange of real property, except a personal residence, and of stocks, bonds, commodities, futures, or other forms of securities by the filer or immediate family member amounting to \$1,000 or more.

-- the identity of all positions held by the individual filing the report during the preceding calendar year as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of a corporation, partnership, or other business enterprise; of a nonprofit organization; of a labor organization; or an educational or other institution. (This would not apply to a position in a religious, social, fraternal, or political entity, or of a position solely of an honorary nature.

-- a description, including the dates, parties, and terms, of an agreement or arrangement by or with the person filing the report with respect to future employment, a leave of absence during the person's term of office, continuation of payments by a former employer, or continuation of participation in an employee benefit plan maintained by a former employer.

Amounts or values relating to income, assets, and the purchase, sale, or exchange of property would

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be reported in the following categories: \$1,000 or more but less than \$2,500; \$2,500 or more but less than \$5,000; \$5,000 or more but less than \$15,000; \$15,000 or more but less than \$50,000; \$50,000 or more but less than \$100,000; \$100,000 or more but less than \$250,000; \$250,000 or more but less than \$500,000; \$500,000 or more but up to \$1 million; and over \$1 million. Liabilities would be reported in the following categories: \$10,000 or more but less than \$15,000; and then the same categories as above for higher figures.

The report could omit:

-- information required to be reported under the Campaign Finance Act.

-- information about assets, liabilities, and sales and exchanges where the item represented the sole financial interest and responsibility of a member of the immediate family and of which the person filing the report did not have actual knowledge; where the person filing the report did not derive, or expect to derive, financial benefit; and where the item was not in any way, past or present, derived from the income, assets, or activities of the person filing the report.

-- an item that concerned a spouse living separate and apart with the intention of terminating the marriage or maintaining a legal separation.

-- an item that concerned income or obligations of the person filing the report arising from the dissolution of his or her marriage or a permanent legal separation from his or her spouse.

The secretary of state would make the reports available for public use within 30 days after they were filed, as provided in the Freedom of Information Act. The secretary of state would have to investigate any complaints made by citizens alleging a violation of the act, and forward the results of the investigation to the attorney general if he or she determined there was reason to believe a violation had occurred. The secretary of state also would have the authority to promulgate rules and issue declaratory rulings to implement the bill's provisions.

An individual who failed to file a report would be liable for a civil fine of \$500 or less. An individual who knowingly falsified or knowingly failed to file a

report would be liable for a civil fine of \$5,000 or less.

The term "state official" would refer to the governor; lieutenant governor; attorney general; secretary of state; a state senator; state representative; the head of each principal department; a member of a board or commission heading a principal department; a person appointed by a board or commission to be the principal executive officer of a principal department; a justice of the supreme court; a judge of the court of appeals; any judge of a court of record; a regent of the University of Michigan; a trustee of Michigan State University; and a governor of Wayne State University.

The term "candidate for state office" would refer to the offices held by those listed above if the office was filled by election.

FISCAL IMPLICATIONS:

The secretary of state's office reports that it is preparing an estimate of implementation costs, "which would include office supplies, printing, forms, postage, training and possibly additional staff." (Analysis dated 3-15-93)

ARGUMENTS:

For:

A representative of Common Cause of Michigan, a "good government" advocacy group, has said: "Requiring state officials and candidates to file financial disclosure forms is the first step toward open, accountable, and ethical government in the public interest. Experience shows that public disclosure of personal financial interests reveals potential conflicts of interest and discourages public officials from abusing public office for personal gain." Advocates for this bill say there is little evidence that disclosure laws discourage candidates or cause resignations. This bill requires reporting in broad categories and only applies to statewide officeholders or office seekers (and elected judges).

Against:

The risk remains that laws of this kind will discourage good people from holding or running for public office. In part, this is because of the invasion of privacy not only for the officials involved but for other family members.

Against:

Some people say that judges below the supreme and appeals court levels should not be included in the bill because their conduct is already governed by strict codes and supervised by the state supreme court.

POSITIONS:

The Department of State supports the bill. (3-22-93)

The Michigan Citizens Lobby supports the bill. (3-23-93)

Common Cause of Michigan supports the bill. (3-22-93)