

Act No. 262  
Public Acts of 1993  
Approved by the Governor  
December 14, 1993  
Filed with the Secretary of State  
December 14, 1993

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

Introduced by Senators Emmons, Arthurhultz, Kelly, Koivisto and DiNello

# **ENROLLED SENATE BILL No. 595**

AN ACT to amend sections 12, 61, 64, 65, 66, and 67 of Act No. 388 of the Public Acts of 1976, entitled "An act to regulate political activity; to regulate campaign financing; to restrict campaign contributions and expenditures; to require campaign statements and reports; to regulate anonymous contributions; to regulate campaign advertising and literature; to provide for segregated funds for political purposes; to provide for the use of public funds for political purposes; to create a state campaign fund; to provide for reversion of, or refunding of, unexpended balances; to require reports; to provide appropriations; to prescribe penalties; and to repeal certain acts and parts of acts," sections 61, 64, 66, and 67 as amended by Act No. 95 of the Public Acts of 1989 and section 65 as amended by Act No. 204 of the Public Acts of 1980, being sections 169.212, 169.261, 169.264, 169.265, 169.266, and 169.267 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 12, 61, 64, 65, 66, and 67 of Act No. 388 of the Public Acts of 1976, sections 61, 64, 66, and 67 as amended by Act No. 95 of the Public Acts of 1989 and section 65 as amended by Act No. 204 of the Public Acts of 1980, being sections 169.212, 169.261, 169.264, 169.265, 169.266, and 169.267 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 12. (1) "Qualifying contribution" means a contribution of money made by a written instrument by an individual to the candidate committee of a candidate for the office of governor that is \$100.00 or less and made after April 1 of the year preceding a year in which a governor is to be elected. Not more than \$100.00 of an individual's total aggregate contribution may be used as a qualifying contribution in any calendar year. Qualifying contribution does not include a subscription, loan, advance, deposit of money, in-kind contribution or expenditure, or anything else of value except as prescribed in this act. Qualifying contribution does not include a contribution by an individual who resides outside of this state. For purposes of this subsection, an individual is considered to reside in this state if he or she is considered a resident of this state under the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws.

(2) "State elective office" means the office of governor, lieutenant governor, secretary of state, attorney general, justice of the supreme court, member of the state board of education, regent of the university of Michigan, member of the board of trustees of Michigan state university, member of the board of governors of Wayne state university, and member of the state legislature.

Sec. 61. (1) The state campaign fund is hereby created. The state treasurer shall administer the state campaign fund pursuant to this act.

(2) An individual whose tax liability under the income tax act of 1967, Act No. 281 of the Public Acts of 1967, as amended, being sections 206.1 to 206.532 of the Michigan Compiled Laws, for a taxable year is \$3.00 or more may designate that \$3.00 be credited to the state campaign fund. In the case of a joint return of husband and wife having an income tax liability of \$6.00 or more, each spouse may designate that \$3.00 be credited to the state campaign fund.

(3) The tax designation authorized in this section shall be clearly and unambiguously printed on the first page of the state individual income tax return.

(4) An amount equal to the cumulative amounts designated under subsection (2) each year shall be appropriated annually from the general fund of the state to the state campaign fund to be available beginning January 1 and continuing through December 31 of each year in which a governor is elected. The amounts appropriated under this section shall not revert to the general fund but shall remain available to the state campaign fund for distribution without fiscal year limitation except that any amounts remaining in the state campaign fund in excess of \$10,000,000.00 on December 31 immediately following a gubernatorial general election shall revert to the general fund.

(5) Before the distribution of funds under this act to qualifying primary election candidates, the state treasurer shall set aside sufficient funds from the state campaign fund to fully implement the formula for distributing funds to qualifying general election candidates. If insufficient funds exist in the state campaign fund to provide full funding to eligible primary election candidates, the campaign funds shall be distributed to those candidates on a pro rata basis.

Sec. 64. (1) A candidate in a primary election may obtain funds from the state campaign fund in an amount equal to \$2.00 for each \$1.00 of qualifying contribution if the candidate certifies to the secretary of state both of the following:

(a) That the candidate committee of the candidate received \$75,000.00 or more of qualifying contributions.

(b) That the full name and address of each person making a qualifying contribution is recorded by the candidate committee of the candidate certifying. This requirement is in addition to and not in lieu of any other requirements relating to the recording and reporting of contributions.

(2) A candidate is not entitled to funds from the state campaign fund for a primary election if it is determined the name of the candidate is ineligible to appear on the primary election ballot pursuant to section 53 of the Michigan election law, Act No. 116 of the Public Acts of 1954, as amended, being section 168.53 of the Michigan Compiled Laws. A candidate who does not file nominating petitions for the office of governor or who files an insufficient petition for that office shall return all funds received from the state campaign fund for that primary election.

(3) A candidate shall not receive from the state campaign fund for a primary more than \$990,000.00.

(4) For purposes of this section, primary election is the election described in section 52 of Act No. 116 of the Public Acts of 1954, as amended, being section 168.52 of the Michigan Compiled Laws.

Sec. 65. (1) A major political party nominee is entitled to an amount from the state campaign fund of not more than \$1,125,000.00 for a general election. A candidate, subject to law, may raise the remaining amount of the permissible expenditure limit in private contributions. An eligible candidate in a general election may elect to accept partial payment of money from the state campaign fund and instead raise private contributions as provided by law that, when added to the amount received from the state campaign fund, do not exceed the expenditure limit designated in section 67.

(2) A minor political party nominee whose party received 5% or more of the vote for the same office in the last election is entitled to an amount from the state campaign fund of not more than \$1,125,000.00, multiplied by the number of popular votes the minor party received in the preceding general election for governor and then divided by the average number of votes the major parties received in that general election for governor.

(3) A minor political party nominee not eligible under subsection (2) but who receives more than 5% of the vote in that general election for governor is entitled to reimbursement from the state campaign fund in an amount of not more than \$1,125,000.00, multiplied by the number of popular votes the minor party received in the preceding general election for governor and then divided by the average number of votes the major parties received in that general election for governor.

(4) A minor political party nominee qualified under subsection (2) who receives more popular votes in an election than the candidate of that minor political party received at the preceding election is entitled to additional reimbursement from the state campaign fund in an amount determined as follows:

(a) Compute the amount that the candidate would have received under subsection (3) had the candidate otherwise qualified.

(b) Subtract the amount received under subsection (2) from the amount computed under subdivision (a).

(5) A candidate listed on the ballot in the general election is entitled to \$1.00 for each \$1.00 of qualifying contributions certified to the secretary of state pursuant to this act up to \$750,000.00, if the candidate has certified to the secretary of state \$75,000.00 or more in qualifying contributions. A candidate who chooses to receive any public funds under this subsection shall not receive any money under subsection (1), (2), (3), or (4).

(6) A major political party nominee shall receive from the state treasurer \$56,250.00 of the funds that the candidate may be entitled to under this section not later than 10 days after the primary election, unless there is less than a 2% difference in vote totals of the top 2 primary election candidates of the same political party according to unofficial vote totals available to the secretary of state. The balance of any funds owed to a major political party nominee under this section shall be payable by the state treasurer within 3 days after the board of state canvassers' certification of the primary election results, but not later than 30 days after the primary election. Any funds paid to a major political party nominee under this section either erroneously or based on election results that are reversed due to a recount or fraud shall be repaid by that major political party nominee to the state treasurer within 60 days of receipt of notification by certified mail from the state treasurer.

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

(2) As used in this section, "qualified campaign expenditure" means an expenditure for services, materials, facilities, or other things of value by the candidate committee to further the candidate's nomination or election to office during the year in which the primary or general election in which the candidate seeks nomination or election is held. Qualified campaign expenditure does not include:

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

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

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

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

(e) Payment from petty cash.

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

(g) Payment to a defense fund.

(3) A candidate shall keep the funds received under this act from the state campaign fund in a separate account. The candidate's qualified expenditures may be paid from the separate account unless the account does not have a balance. An unexpended balance in the separate account shall be refunded and credited to the general fund within 60 days after the election for which the funds were received. Payment received from the state campaign fund for expenditures in 1 election shall not be used for expenditures in a subsequent election.

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

Sec. 67. (1) Expenditures made by a candidate committee to further the nomination or election of a candidate may not exceed \$2,000,000.00 in the aggregate for 1 election.

(2) An expenditure by a candidate committee to purchase space in a newspaper or other periodical or time on radio or television for the purpose of responding to an editorial in the same newspaper or periodical or on the same station or channel that was unfavorable to the committee's candidate or that endorsed the candidate's opponent shall not be considered an expenditure for the purposes of the expenditure limitations set forth in subsection (1). This subsection only applies to 1 response made to a particular editorial, unfavorable report, or endorsement of an opponent and does not apply unless the candidate is refused free space or time in which to answer.

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

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

Section 2. Section 12 of Act No. 388 of the Public Acts of 1976, as amended by this amendatory act shall take effect January 1, 1995.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Co-Clerk of the House of Representatives.

Approved -----

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Governor.