



HOUSE BILL No. 4401

March 2, 1993, Introduced by Reps. Gire, Willard, Porreca, Berman, Rivers, Leland, McBryde, Johnson, Bullard and Sikkema and referred to the Committee on House Oversight and Ethics.

A bill to regulate political activity; to regulate certain candidates and state officials; to require certain financial statements and reports; to regulate acceptance of certain gifts, payments, and reimbursements; to prescribe the powers and duties of certain state departments and state and local officials and employees; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan financial disclosure act".

3 Sec. 2. As used in this act:

4 (a) "Candidate" means that term as defined in section 3 of
5 the Michigan campaign finance act, Act No. 388 of the Public Acts
6 of 1976, being section 169.203 of the Michigan Compiled Laws.

7 (b) "Candidate for state office" means a candidate for any
8 of the following:

1 (i) The office of governor.

2 (ii) The office of lieutenant governor.

3 (iii) The office of state representative.

4 (iv) The office of state senator.

5 (v) The office of attorney general.

6 (vi) The office of secretary of state.

7 (c) "Earned income" means that term as defined in section 32
8 of the internal revenue code.

9 (d) "Gift" means a payment, subscription, advance, forbear-
10 ance, rendering, or deposit of money, services, or any thing of
11 value, unless consideration of equal or greater value is given in
12 exchange. Gift does not include a campaign contribution other-
13 wise reported as required by law, a commercially reasonable loan
14 made in the ordinary course of business, or a gift received from
15 a member of the individual's immediate family or from a relative
16 within the third degree of consanguinity, or from a spouse of a
17 member of the immediate family or of a relative within the third
18 degree of consanguinity.

19 (e) "Immediate family" means a child residing in an
20 individual's household, a spouse of an individual, or a person
21 claimed by that individual or that individual's spouse as a
22 dependent for federal income tax purposes.

23 (f) "Income" means money or any thing of value received, or
24 to be received as a claim on future services, whether in the form
25 of a fee, salary, expense, allowance, forbearance, forgiveness,
26 interest, dividend, royalty, rent, capital gain, or any other

1 form of recompense that is considered income under the internal
2 revenue code.

3 (g) "Secretary of state" means the secretary of state or the
4 designee of the secretary of state.

5 (h) "State official" means all of the following:

6 (i) The governor.

7 (ii) The lieutenant governor.

8 (iii) A state senator.

9 (iv) A state representative.

10 (v) The head of each principal department as provided in
11 section 3 of article V of the state constitution of 1963.

12 (vi) The members of a board or commission heading a princi-
13 pal department as provided in section 3 of article V of the state
14 constitution of 1963.

15 (vii) The person appointed by a board or commission to be
16 the principal executive officer of a principal department as pro-
17 vided in section 3 of article V of the state constitution of
18 1963.

19 (viii) A justice of the supreme court.

20 (ix) A judge of the court of appeals.

21 Sec. 3. A state official or candidate for state office
22 shall not accept a payment of money or any thing of ascertainable
23 monetary value as consideration for an appearance, a speaking
24 engagement, an article, or other activity related to the office
25 held or being sought.

26 Sec. 4. If an individual was a state official or candidate
27 for state office at any time during the preceding calendar year

1 or during the period from January 1 to April 15 of the present
2 year, that individual shall file with the secretary of state by
3 May 1 of the present year a report that meets the requirements of
4 section 5.

5 Sec. 5. Except as provided in section 7, the report
6 required by section 4 shall include a complete statement of all
7 of the following:

8 (a) The source, type, and amount or value of earned income
9 received during the preceding calendar year by the individual
10 filing the report or a member of the immediate family of that
11 individual if the total earned income from that source equals
12 \$100.00 or more during that calendar year.

13 (b) The source, type, and amount or value of all other
14 income not reported under subdivision (a) that is received during
15 the preceding calendar year by the individual filing the report
16 or a member of the immediate family of that individual if the
17 total income from that source equals \$100.00 or more during that
18 calendar year.

19 (c) The source and a brief description of each gift received
20 during the preceding calendar year by the individual filing the
21 report or a member of the immediate family of that individual if
22 the value of the gift is \$100.00 or more.

23 (d) The identity and value of each asset held during the
24 preceding calendar year by the individual filing the report or a
25 member of the immediate family of that individual, including real
26 or personal property or cash, if the asset had a fair market

1 value of \$1,000.00 or more at any time the asset was held during
2 the preceding calendar year.

3 (e) The identity and value of each liability owed during the
4 preceding calendar year by the individual filing the report or a
5 member of the immediate family of that individual if the amount
6 of the liability was \$10,000.00 or more at any time during the
7 preceding calendar year, excluding a loan secured by the personal
8 residence of the individual filing the report or by a personal
9 motor vehicle, household furniture, or appliance, if the loan
10 does not exceed the purchase price of the item that secures the
11 liability.

12 (f) A brief description and value of a purchase, sale, or
13 exchange during the preceding calendar year by the individual
14 filing the report or a member of the immediate family of that
15 individual that is equal to an amount of \$1,000.00 or more.

16 (g) The identity of all positions held by the individual
17 filing the report during the preceding calendar year as an offi-
18 cer, director, trustee, partner, proprietor, representative,
19 employee, or consultant of a corporation, partnership, or other
20 business enterprise; of a nonprofit organization; of a labor
21 organization; or of an educational or other institution. This
22 subdivision does not require the reporting of a position held in
23 a religious, social, fraternal, or political entity, or of a
24 position solely of an honorary nature.

25 (h) A description, including the dates, parties, and terms,
26 of an agreement or arrangement by or with the individual filing
27 the report with respect to future employment, a leave of absence

1 during that individual's term of office, continuation of payments
2 by a former employer, or continuation of participation in an
3 employee benefit plan maintained by a former employer.

4 (i) A brief description and value of each reimbursement of
5 \$100.00 or more received during the preceding calendar year by
6 the individual filing the report, a member of the immediate
7 family of that individual, or a staff member of that individual
8 for the cost of transportation, accommodation, or meals.

9 Sec. 6. (1) Except as provided in subsection (2), an amount
10 or value included in a report under section 5 shall be reported
11 as an exact amount or value.

12 (2) An amount or value reported under section 5(b) to (f)
13 may be reported by category as follows:

14 (a) Less than \$1,000.00.

15 (b) \$1,000.00 or more but less than \$2,500.00.

16 (c) \$2,500.00 or more but less than \$5,000.00.

17 (d) \$5,000.00 or more but less than \$10,000.00.

18 (e) \$10,000.00 or more but less than \$15,000.00.

19 (f) \$15,000.00 or more but less than \$25,000.00.

20 (g) \$25,000.00 or more but less than \$50,000.00.

21 (h) \$50,000.00 or more but less than \$100,000.00.

22 (i) \$100,000.00 or more but less than \$250,000.00.

23 (j) \$250,000.00 or more but less than \$500,000.00

24 (k) \$500,000.00 or more but less than \$1,000,000.00

25 (l) \$1,000,000.00 or more.

26 Sec. 7. A report under section 5 may omit any of the
27 following:

1 (a) Information required to be reported under the Michigan
2 campaign finance act, Act No. 388 of the Public Acts of 1976,
3 being sections 169.201 to 169.282 of the Michigan Compiled Laws.

4 (b) A gift from the individual filing the report or a rela-
5 tive within the third degree of consanguinity to that individual
6 if received by the individual filing the report or a relative
7 within the third degree of consanguinity to that individual.

8 (c) A liability owed to the individual filing the report or
9 a relative within the third degree of consanguinity to that indi-
10 vidual if lent by the individual filing the report or a relative
11 within the third degree of consanguinity to that individual.

12 (d) An item otherwise required to be reported under
13 section 5(d), (e), or (f) about which all of the following are
14 true:

15 (i) The item represents the sole financial interest and
16 responsibility of a member of the immediate family of the indi-
17 vidual filing the report of which that individual does not have
18 actual knowledge.

19 (ii) The item is not in any way, past or present, derived
20 from the income, assets, or activities of the individual filing
21 the report.

22 (iii) The individual filing the report does not derive, or
23 expect to derive, financial benefit from the item.

24 (e) An item that concerns a spouse who is living separate
25 and apart from the individual filing the report with the inten-
26 tion of terminating the marriage or maintaining a legal
27 separation.

1 (f) An item that concerns income or obligations of the
2 individual filing the report arising from dissolution of his or
3 her marriage or a permanent legal separation from his or her
4 spouse.

5 Sec. 8. The secretary of state shall do all of the
6 following:

7 (a) Prepare and make available appropriate forms and
8 instructions for the reports required by this act.

9 (b) Receive reports required by this act.

10 (c) Make available for public use a report filed under this
11 act within 30 days after the report is filed as provided in the
12 freedom of information act, Act No. 442 of the Public Acts of
13 1976, being sections 15.231 to 15.246 of the Michigan Compiled
14 Laws.

15 (d) Promulgate rules and issue declaratory rulings to imple-
16 ment this act pursuant to the administrative procedures act of
17 1969, Act No. 306 of the Public Acts of 1969, being sections
18 24.201 to 24.328 of the Michigan Compiled Laws.

19 (e) Conduct investigations as may be necessary to determine
20 if there is reason to believe a violation of this act occurred.
21 Investigations shall be pursuant to the procedures set forth in
22 Act No. 306 of the Public Acts of 1969.

23 Sec. 9. (1) A citizen of this state may file a complaint
24 with the secretary of state alleging a violation of this act.
25 The secretary of state, upon receipt of a complaint, shall inves-
26 tigate the allegations as provided in section 8.

1 (2) If the secretary of state, upon investigation,
2 determines that there is reason to believe a violation of this
3 act occurred, the secretary of state shall forward the results of
4 that investigation to the attorney general for enforcement of
5 this act.

6 Sec. 10. (1) The attorney general shall enforce this act
7 against an individual who violates this act.

8 (2) A default in the payment of a civil fine ordered under
9 this act or an installment of the fine may be remedied by any
10 means authorized under the revised judicature act of 1961, Act
11 No. 236 of the Public Acts of 1961, being sections 600.101 to
12 600.9947 of the Michigan Compiled Laws.

13 Sec. 11. (1) Except as provided in subsection (2), an indi-
14 vidual who fails to file a report required by this act is liable
15 for a civil fine of \$500.00 or less.

16 (2) An individual who knowingly falsifies or knowingly fails
17 to file a report required by this act is liable for a civil fine
18 of \$5,000.00 or less.