



**House
Legislative
Analysis
Section**

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ELIMINATE OFFICEHOLDER FUNDS

House Bill 4837 as enrolled
Public Act 411 of 1994
Second Analysis (1-17-95)

Sponsor: Rep. Dan Gustafson
**House Committee: House Oversight and
Ethics**
**Senate Committee: Government
Operations**

THE APPARENT PROBLEM:

The Michigan Campaign Finance Act allows an elected public official to establish an officeholder expense fund to be used for "expenses incidental to the person's office." These funds have reportedly been used by legislators for a wide variety of purposes, ranging from district offices to automobile leases, from the purchase of tickets to athletic events to reimbursement for attendance at educational conferences. The question of what is and is not a proper incidental expense is, as one report put it, "constantly at issue." The funds have become controversial, and the required annual reporting of expenditures from these funds inevitably gives rise to press accounts of questionable spending by OEFs, some of which typically are embarrassing to individual legislators and the institution and contribute to a negative public image for politicians in general. Similarly, there is concern about who makes contributions to these special funds and whether that leads to an appearance of undue influence. Some people, moreover, believe the issue of OEFs is more than simply one of better definitions of appropriate incidental expenses and improved public relations, but argue that such funds are in and of themselves improper.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Campaign Finance Act to do (MCL 169.209 et al.) the following:

** Prohibit an elected public official, as of January 1, 1995, from establishing an officeholder expense fund, and prohibit an official who had a fund on that date from accepting any further contributions except as necessary to pay a debt incurred prior to that date.

** Require that, before January 1, 1996, unexpended funds in an officeholder expense fund be given to a tax-exempt charitable organization or returned to the contributors.

** Permit a candidate committee of a candidate elected or appointed to an elective office to make an expenditure for an incidental expense for the office.

** Specify that incidental expenses could not be paid out of public funds provided to a gubernatorial campaign from the state campaign fund and that incidental expenditures would not count toward the campaign spending limit imposed on gubernatorial candidates who accept public funding of their campaigns.

** Define an "incidental expense." The term would refer to an expenditure that is an ordinary and necessary expense (as described in Section 162 of the federal Internal Revenue Code) paid or incurred in carrying out the business of an elective office. The term would specifically include (but would not be limited to):

-- a disbursement necessary to assist, serve, or communicate with a constituent;

-- a disbursement for equipment, furnishings, or supplies for the office of the public official;

-- a disbursement for a district office if the district office was not used for campaign-related activity;

-- a disbursement for the public official or his or her staff, or both, to attend a conference, meeting, reception, or other similar event;

-- a disbursement to maintain a publicly owned residence or temporary residence at the seat of government;

-- an unreimbursed disbursement for travel, lodging, meals, or other expenses incurred by the public official, a member of the public official's immediate family, or a member of the official's staff in carrying out the business of the elective office;

-- a donation to a tax-exempt charitable organization, including the purchase of tickets to charitable or civic events;

-- a disbursement to a ballot question committee;

-- a purchase of tickets for use by the official, members of the official's immediate family and staff to a fundraising event sponsored by a candidate committee, independent committee, political party committee, or a political committee that did not exceed \$100 per committee in any calendar year;

-- a disbursement for an educational course or seminar that maintains or improves skills employed by the public official in carrying out the business of the elective office;

-- a purchase of advertisements in testimonials, program books, souvenir books, or other publications if the advertisement did not support or oppose the nomination or election of a candidate;

-- a disbursement for consultation, research, polling, and photographic services not related to a campaign;

-- a fee paid to a fraternal, veteran, or other service organization;

-- a payment of a tax liability incurred as a result of authorized transactions by the official's candidate committee;

-- a fee for accounting, professional, or administrative services for the official's candidate committee;

-- a debt or obligation incurred by the candidate committee of a public official for a disbursement authorized by the provisions above if the debt or obligation had been reported in the candidate committee report filed for the year in which the debt or obligation arose.

FISCAL IMPLICATIONS:

The Department of State has noted that the Bureau of Elections will have to revise candidate committee manuals and campaign statements. The booklets currently cost \$20,000 for 10,000 copies. An informational mailing would also have to be developed and distributed to all county clerks and candidate committees. (6-24-94)

ARGUMENTS:

For:

The bill would do away with officeholder expense funds. These funds are in bad odor because of alleged abuses, and are sometimes perceived as a kind of "slush fund." It permits, instead, funds from candidate committees (which are more explicitly regulated) to be used to pay for certain specified incidental expenses. These expenses would be listed in the campaign law. Contributions to another candidate's fundraising event would be limited to \$100. Candidate committees must report expenditures more often than OEFs currently do, and must make the reports in close proximity to primary and general elections. The public, and challengers in elections, will benefit from this increased disclosure. The bill would prevent "double giving", where a contributor gives to both a campaign committee and an OEF. It also would prevent direct corporate contributions to elected officials, since corporations could contribute to OEFs but cannot to candidate committees.

Response:

Some people have raised the concern that there will be added incentives for elected public officials to create separate unregulated foundations as an alternative to officeholder expense funds. Such independent organizations would not be subject to the kind of reporting that OEFs are now but would be able to receive contributions and make many of the same kind of expenditures. Further, some people have noted that when a person makes a contribution to a candidate committee, the expectation is that the money will be used (and is needed) for campaign purposes, to elect that candidate, not to pay for "incidental expenses," (possibly including passing the money on to someone else's campaign).