



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

CAMPAIGN FINANCE AMENDMENTS

House Bill 5416 as enrolled
Public Act 117 of 1994
Sponsor: Rep. Frank M. Fitzgerald

House Committee: House Oversight and
Ethics
Senate Committee: Government
Operations

Second Analysis (1-25-95)

THE APPARENT PROBLEM:

A number of problems with the Michigan Campaign Finance Act have been identified.

-- Committees attempting to influence the outcomes of elections or ballot questions often use names that do not clearly identify the goals of the committee or the source of its support (e.g., the Committee To Make Things Better). Some people believe a political action committee should bear a name that better enables the public to identify its common interest, supporters, or contributors.

-- The act currently requires the reporting of a person's occupation, employer, and principal place of business when he or she makes a contribution of over \$200. One value of such reporting is to reveal patterns of giving, and coordinated giving or "bundling" of contributions, by a group of contributors with a shared interest or profession. Some people believe the threshold amount should be lowered to better enhance public awareness.

-- A 1989 amendment to the act removed, apparently inadvertently, the ability of corporations to contribute to a ballot question committee, although independent expenditures for or against a proposal are permitted. This needs to be corrected, some people think.

-- Corporations, including non-profits, and joint stock companies can create "separate segregated funds" (often called political action committees or PACs) to be used for political purposes. The act specifies four kinds of committees that a segregated fund can contribute to, but omits political committees, which were specifically added to the act in 1977, after the "segregated fund" language had been enacted. Because the act does not specify that

the new kind of committee could be the recipient of contributions from segregated funds, the Department of State, based on a ruling by the attorney general, considers such contributions illegal. (According to election experts, the department ruled illegal a 1991 contribution by the Michigan Trial Lawyers Association PAC, which was a segregated fund under the act, to the Recall Engler Committee, a political committee.) Some people believe this result is absurd (and possibly unconstitutional) and that the legislature should fix the oversight so that contributions to all five kinds of committees would be treated alike.

-- Some PACs get contributions from individuals automatically as part of their membership fee or union or association dues. If a person does not want to contribute to the PAC, he or she must take some form of action to prevent it. Some people argue that the making of political contributions should be a conscious decision and that contributions should only be taken from membership dues or fees as a result of an affirmative act by the contributor.

THE CONTENT OF THE BILLS:

The bill would amend the Michigan Campaign Finance Act to do the following.

-- The threshold at which a contributor's occupation, employer, and principal place of business must be reported would be reduced from \$200 to \$100.

-- An independent committee, political committee, or ballot question committee would be required to

include in the name of the committee the name of the person or persons that sponsor the committee, if any, or with whom the committee is affiliated. The bill specifies that sponsorship or affiliation would mean that a person established, directed, controlled, or financially supported the administration of the committee. Merely making a contribution to the committee, however, would not constitute financially supporting the administration of a committee. An existing committee would have to file an amendment to its statement of organization by January 31, 1995, or when the next campaign statement had to be filed, whichever occurred first.

-- A "separate segregated fund" would be permitted to contribute to a political committee. The act permits corporations, including non-profits, and joint stock companies to establish and solicit contributions for a separate segregated fund to be used for political purposes. Such a fund is limited to making contributions to, and expenditures on behalf of, candidate committees, ballot question committees, political party committees, and independent committees. The bill would add political committees to the list. The bill would also specifically include labor unions as among those organizations that can establish separate segregated funds.

-- The bill would clarify that corporations and joint stock companies are allowed to contribute to ballot question committees. (Currently, the act permits them to make an independent expenditure on behalf of or in opposition to a ballot question, but does not explicitly permit a contribution to a ballot question committee.)

-- The soliciting or obtaining of contributions for a separate segregated fund from an individual on an automatic basis, including but not limited to a payroll deduction plan, would only be allowed if the individual who was contributing to the fund affirmatively consented to the contribution at least once in every calendar year. Otherwise contributions on an automatic or passive basis would be prohibited.

-- For the purpose of the contribution limitations in the act, all contributions made by political committees or independent committees established by any corporation, joint stock company, or labor organization, including any parent, subsidiary, branch, division, department, or local unit, would be

considered to have been made by a single independent committee. Accordingly, the bill would remove from the definition of "independent committee" the subsidiaries, subunits, and affiliates of organizations that were themselves independent committees. The bill offers "by way of illustration and not limitation," the following examples:

* All of the political committees and independent committees established by a for-profit corporation or joint stock company, a subsidiary of a for-profit or joint stock corporation, or by any combination, would be treated as a single independent committee.

* All of the political committees and independent committees established by a single national or international labor organization, by a labor organization of that national or international labor organization, by a local labor organization, or by any other subordinate organization, or by any combination thereof, would be treated as a single, independent committee.

* All of the political committees and independent committees established by an organization of national or international unions, by a state central body of that organization, by a local central body of that organization, or by any combination of those, would be treated as a single independent committee.

* All of the political committees and independent committees established by a nonprofit corporation, by a related state entity of that nonprofit corporation, by a related local entity of that nonprofit corporation, or by any combination of those, would be treated as a single independent committee.

-- Labor unions and joint stock companies would be added to the list of organizations that cannot make contributions and expenditures or provide volunteer personal services except as specifically permitted by the act (for example, through separate segregated funds or PACs). This prohibition already applies to corporations. Similarly, officers, directors, stockholders, attorneys, agents, or others acting for such organizations would not make contributions, expenditures, or provide volunteer personal services.

-- The definition of "expenditure" would be altered so that it would not include an expenditure for

communications with individuals who can be solicited for contributions to a separate segregated fund. Currently, expenditures for communications with paid members or shareholders of an organization are exempt from the definition. Also, the provision specifying which individuals can be solicited for contributions would be amended. The bill would specify which individuals labor unions could solicit for contributions (members, officers or directors, and employees with policy making, managerial, professional, supervisory, or administrative nonclerical responsibilities), and would add to the existing list for non-profit organizations the policy making or managerial-type employees just cited for labor unions. The act already provides an equivalent list for profit corporations.

The bill would take effect April 1, 1995. It specifies that its provisions are severable; that is, if any portion of it was found invalid, the invalidity would not affect remaining portions.

MCL 169.206 et al.

FISCAL IMPLICATIONS:

The Department of State reports that these amendments to the Campaign Finance Act would not have a significant fiscal impact on its operations. (3-23-94)

ARGUMENTS:

For:

The bill makes a number of significant amendments to the Michigan Campaign Finance Act, generally to increase disclosure to the public about the nature of the sources of financing of political campaigns and to clarify who can receive contributions from corporations, including nonprofits. Lowering the threshold for reporting the occupation, place of employment, and principal place of business of contributors will increase disclosure for the public and better reveal the bundling of contributions. Making political action committees (PACs) use a name that better identifies its sponsors will increase disclosure. Two other amendments correct oversights in the law to clarify that certain contributions can be made to ballot question committees or political committees. The bill also would require that individuals affirmatively consent before a check-off system could be used to generate political contributions from members of unions or

employee associations. People should not have to object to prevent the use of their money for political purposes; rather, they should be consulted in advance. It also would limit how much related PACs can contribute to campaigns by treating all of the contributions from affiliated organizations as contributions from one organization; there are limits on how much a single organization can contribute to various kinds of campaigns. Supporters of the bill say that its provisions are all consistent with federal election laws.

Against:

Several of the bill's provisions are not so much attempts to reform campaign financing but are simply efforts to weaken the political efficacy of certain kinds of organizations (notably labor unions and similar employee associations) in order to accomplish partisan ends. For example, the bill would hamstring unions by prohibiting current methods of raising campaign contributions from union members through automatic withdrawal plans, requiring instead that members affirmatively consent each and every year to such withdrawals. It also would severely restrict how much union locals could contribute to candidates. Some people believe, moreover, that the kind of campaign finance reform that is really needed involves, among other things, limiting the influence of corporate money on elections. A number of other ideas, such as prohibiting lobbyists from delivering contributions to the capitol building, were put forward but rejected in the debate over this bill.