



**House
Legislative
Analysis
Section**

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"CLEAN CAMPAIGN" PROGRAM

**House Bill 5668 (Substitute H-3)
First Analysis (3-20-96)**

**Sponsor: Rep. Sandra Hill
Committee: House Oversight and Ethics**

THE APPARENT PROBLEM:

Despite much public criticism of "negative" campaign practices, such practices continue unabated, much to the dismay of many citizens. Discussion of the reasons why negative campaigns persist despite obvious public disapproval usually give rise to the claim that negative campaigns "work," that is, that negative campaigns get candidates elected despite publicly expressed disapproval of them. But in fact, negative campaigns can be seen as part of a larger social phenomenon in which people seem to enjoy media talk shows hosted by people whose popularity appears to be based on the hosts' often virulent and highly personal attacks on public figures and even on talk show participants. However, whether or not negative campaigning is as successful as its proponents claim, not everyone believes that negative campaign tactics are desirable. Legislation has been introduced that would address this issue.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Campaign Finance Act to create a "clean campaign oversight board" in the Department of State to develop and implement a "clean campaign pledge" program and would impose civil penalties for violations of certain advertising affidavit requirements.

Clean campaign oversight board. The bill would create a five-member "clean campaign oversight board" in the Department of State. The governor would appoint the board members on or before the twentieth day of January of odd-numbered years. One member would represent a nonpartisan organization that advocated voter participation, and would chair the board; one member would represent print or broadcast media professionals in Michigan; one member would have been formerly elected to a nonpartisan local elective office; the two remaining members would be individuals from, respectively, the Republican and Democratic parties. If anyone appointed by the governor declined to serve, the governor would appoint another individual who met the criteria established for that position. The Republican and Democratic appointees would be appointed from a list of three nominees submitted by

the legislative leaders of each political party on or before the tenth day of January in odd-numbered years; if the legislative leaders failed to submit the names of nominees within the prescribed period of time, the governor would appoint an individual who met the criteria established for that position. Board members would serve four-year terms and until their successors were appointed and qualified. Board members wouldn't be compensated for their service as board members but could be reimbursed for expenses incurred in administering their board duties, if funds were available.

Upon the board's request, the Bureau of Elections would be required to provide clerical assistance to the board. The board would meet at least three times a year, with special board meetings held at the call of the chair or a majority of board members. Board business would be conducted at public meetings held in compliance with the Open Meetings Act; the board would establish guidelines as prescribed in the Administrative Procedures Act. A majority of the board would constitute a quorum, but a smaller number could transact routine business and receive reports from the staff. A majority of the membership would have to concur in any board recommendations. Writings prepared, owned, used, in the possession of, or retained by the board in the performance of official functions would be available to the public under the Freedom of Information Act.

The board chair, or a member designated by the chair, could examine books and records of persons, partnerships, or corporations involved in matters properly before the board.

The board would be required to do all of the following:

1. Develop and implement a voluntary clean campaign pledge program for political advertisements (defined in the bill as "a radio, television, or print advertisement that relate[d] to an election, a candidate, or a ballot question").

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2. Develop a clean campaign pledge seal or symbol that candidates who filed the pledge with the board and paid the required fee could use in their political advertisements.

3. Develop and implement, in conjunction with Bureau of Elections, a public awareness campaign to educate candidates and the general public about the clean campaign pledge program.

4. Receive and keep on file for two election cycles each clean campaign pledge filed with the board.

5. Receive and hear complaints, from candidates or candidate committees, arising out of the publication, distribution, or dissemination of political advertisements in which the clean campaign pledge seal or symbol was used.

6. If a candidate were found to have violated the pledge, prepare and publish in a newspaper of general circulation a notice that indicated that the candidate had violated the pledge and that identified the political advertisement(s) that violated the pledge.

7. Receive fees under the bill and expend them solely to defray the costs of preparing and publishing the notices of candidates who violated the pledge.

8. Receive and expend other funds, both public and private, in performing the board's powers and duties.

The "clean campaign pledge." Candidates could voluntarily sign the "clean campaign pledge" prescribed in the bill. Candidates who filed the pledge with the clean campaign pledge board and paid a filing fee of \$10 to the board would be entitled to use the clean campaign pledge seal or symbol in their political advertisements; candidates who did not file the pledge and pay the fee would not be allowed to use the clean campaign pledge seal or symbol in their political advertisements.

Candidates who signed the pledge would agree to follow the principles prescribed in the pledge.

The text of the clean campaign pledge would be as follows:

1. I pledge to campaign openly and honestly, and to promote the ideas and issues I stand on.

2. I pledge that my campaign will seek to respect the integrity of my opponents, while describing legitimate policy differences between us.

3. I pledge that any criticism of my opponents shall be limited to legitimate issues concerning their public records or their stands on issues.

4. I pledge that my opponents' personal and family lives will not be the subject of my political advertisements.

5. I pledge that I will not knowingly disseminate a political advertisement that contains libelous or slanderous material.

6. I pledge that my political advertisements shall be accurate, and will not willfully distort the records of my opponents.

7. I pledge that those who are associated with my campaign will adhere to these same standards, and that I will not allow continued association with a person or organization that violates these standards.

" _____ " [" _____ "]
signature date

Violations. If the board determined that a candidate had violated the principles prescribed in the pledge or had used the clean campaign pledge seal or symbol without authorization (that is, without filing the pledge and paying the fee), that candidate would be prohibited from using the clean campaign pledge seal or symbol for the balance of the campaign. Such candidates also wouldn't be eligible -- nor would the board allow the candidate -- to file a clean campaign pledge or pay the fee during the immediately succeeding election cycle for that candidate.

Advertising affidavits. Committees that paid for radio, television, or print advertisements that referred, directly or indirectly, to a candidate or ballot question would be required to prepare and file an affidavit saying that the information in the advertisement was "true and correct" to the best knowledge of the person signing the affidavit (the candidate, in the case of candidate committees; the chairperson of a political party committee; and the treasurer or person responsible for record keeping or report preparation or filing, in the case of independent committees, political committees, and ballot question committees). The affidavit would have to be filed at the same time and in the same manner as the committee's campaign statements, and a copy of the affidavit would have to be delivered to the radio station, television station, or publisher when the committee placed its order for the advertisement.

Affidavit signers who failed to file or deliver the affidavit as required by the bill would be subject to a civil fine of up to \$1,000. Someone who knowingly signed a false affidavit would be guilty of a misdemeanor punishable by a fine of up to \$1,000, or imprisonment for up to 93 days, or both.

Media consultants who knowingly produced a false advertisement for a committee or who violated existing provisions in the campaign finance act regulating advertisements would be subject to civil fines of up to \$1,000, and each broadcast or publication of an advertisement that was false or was otherwise a violation of the act would carry a civil fine of up to \$1,000.

In addition, the bill would specify that it wouldn't prohibit a lawsuit to recover damages for conduct proscribed under this section of the bill or under any other applicable law.

MCL 169.202 et al.

BACKGROUND INFORMATION:

Two other similar bills have been introduced this session, House Bill 4664, which would amend the Michigan Campaign Finance Act to establish a "Code of Fair Campaign Practices" (a reintroduction of House Bill 5215 of 1993), and House Bill 4985, which would amend the Michigan Election Law to create a "Fair Campaign Practices Commission" in the Department of State.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

While it may not be possible to legally prohibit negative campaign tactics, it is possible to offer incentives to positive campaigning. If people are offered the opportunity to publicly endorse "clean" campaigning in their own campaigns, a powerful message could be sent both to the public and to those conducting negative campaigns. Conceivably, the bill could even begin to restore some of the public confidence in the political system that seems to have eroded over the years. If people are so disgusted by negative campaigning that they refuse to even participate in the electoral process, then the very foundations of representative democracy are weakened. And at a time when it appears that fewer voters are willing to vote "straight" party tickets,

even as the number of people who identify themselves as "independents" increases, incentives to greater participation in the electoral process could increase the percentage of people voting in elections. In addition, besides perhaps discouraging people from voting in elections, negative campaigning also can discourage people from running for office out of the fear that if they do, they and their families will be unnecessarily subjected to personal attacks. Introducing a formal "clean campaign" procedure could encourage more people to participate in the electoral process as candidates.

POSITIONS:

Common Cause of Michigan supports the bill. (3-19-96)

Michigan Citizen's Action supports the bill. (3-19-96)

The Michigan State Chamber of Commerce doesn't oppose the bill. (3-19-96)

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.