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## CREATE MICHIGAN FINANCIAL DISCLOSURE ACT

**House Bill 4182**

**Sponsor: Rep. Sharon Gire**

**Committee: House Oversight and Ethics**

**Complete to 2-12-97**

### **A SUMMARY OF HOUSE BILL 4182 AS INTRODUCED 1-30-97**

The bill would create a new act, the "Michigan financial disclosure act," that would require state officials and candidates for state office to file certain financial disclosure reports with the secretary of state, who would make the reports available to the public and investigate possible violations of the proposed act.

State candidates, officials. The bill would define "state candidate" to include the following ten offices: governor, lieutenant governor, attorney general, secretary of state, state senator, state representative, judge (of courts of record), elected heads of state agencies (namely, the secretary of state and attorney general), elected members of boards or commissions heading state agencies, and the members of the university governing boards (Michigan State University, the University of Michigan, and Wayne State University) who are elected statewide. "State officials" would mean those holding any of the listed state offices, though in the case of state agencies, it would include appointed as well as elected heads of departments (including commission members of departments headed by commissions).

Financial disclosure report. The bill would require a state official or a candidate for state office to file with the secretary of state either a copy of his or her federal income tax Form 1040 (and related schedules) for the preceding year or a financial disclosure statement as specified under the bill. State candidates would be required to file the required reports within 30 days of the filing deadline for candidacy (as established by the Michigan Election Law); state officials would have to file by May 1 "of the present year" for the preceding year. Candidates for reelection to state office would not have to file candidate reports if they had filed the report required of state officials.

More specifically, the report would have to include all of the following, with the amounts being reported by certain categories depending on the amount of money (over the minimum) involved:

(1) The source, type, and amount or value of earned income ("salaries, tips, and other employee compensation, and net earnings from self-employment for the taxable year") of \$1,000 or more received during the preceding calendar year by the candidate or official, including the earned income (of at least \$1,000) of the candidate or official's spouse;

(2) The source, type, and amount or value of all other income not reported as earned income received during the preceding calendar year by the candidate or official or immediate

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member of his or her family (spouse, child living at home, or federal tax dependent) if the total income from that source equaled \$1,000 or more during that calendar year;

(3) The identity and value of each asset -- including real or personal property or cash -- with a fair market value of at least \$1,000 held during the preceding calendar year by the candidate or official, or member of his or her immediate family (however, if the candidate or official owned or had an interest in all or part of a farm or business, he or she wouldn't have to report the identity and value of each asset held during the preceding year and used in the operation of the farm or business if the report included a complete statement of the identity and value of the farm or business itself);

(4) A brief description and value of a purchase, sale, or exchange of at least \$1,000 of (a) real property (other than real property used solely as the candidate or official's personal residence) or (b) securities (including stocks, bonds, commodities, and futures) during the preceding calendar year by the candidate or official or member of his or her immediate family (however, if the security was part of a mutual fund and the identity and value of the mutual fund was otherwise reported under the bill, the candidate or official wouldn't have to describe each purchase, sale, or exchange of stocks, bonds, commodities, or other forms of securities in the mutual fund);

(5) The identity and value of each liability of at least \$10,000 owed during the preceding calendar year by the candidate or official or member of his or her immediate family (not including home mortgages, automobile or appliance loans);

(6) The identity of all positions held by the candidate or official during the preceding year as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of a corporation, partnership, or other business enterprise, nonprofit organization, labor organization, or educational institution (however, candidates or officials would not have to report corporate consultancies if the candidate or official was required to have a license to practice or engage in a particular occupation or profession unless the corporation was publicly held and either had gross revenues over \$4 million or had shares that were listed or traded over the counter or on an organized exchange); and

(7) A description (including the dates, parties, and terms) of an agreement or arrangement by or with the candidate or official with respect to future employment, a leave of absence during his or her term of office, continuation of payments -- or of participation in an employee benefit plan maintained -- by a former employer.

Amounts or values reported for income and assets would have to be reported by amount as follows:

\*\* \$1,000 to less than \$2,500;

\*\* \$2,500 to less than \$5,000;

\*\* \$5,000 to less than \$15,000;

- \*\* \$15,000 to less than \$50,000;
- \*\* \$50,000 to less than \$100,000;
- \*\* \$100,000 to less than \$250,000;
- \*\* \$250,000 to less than \$500,000;
- \*\* \$500,000 to less than \$1 million; and
- \*\* \$1 million or more.

Liabilities would have to be reported in the following amounts:

- \*\* \$10,000 to less than \$15,000;
- \*\* \$15,000 to less than \$50,000;
- \*\* \$50,000 to less than \$100,000;
- \*\* \$100,000 to less than \$250,000;
- \*\* \$250,000 to less than \$500,000;
- \*\* \$500,000 to less than \$1 million; and
- \*\* \$1 million or more.

Reporting exemptions. Candidates and officials would not have to report positions solely of an honorary nature or positions they held in religious, social, fraternal, or political entities. In addition, the bill would exempt the following from its reporting requirements:

- (1) Information required to be reported under the Michigan Campaign Finance Act.
- (2) Loans to or from relatives within the third degree of consanguinity (uncles, aunts, nephews, nieces, great-grandparents or great-grandchildren).
- (3) Income or assets otherwise required to be reported if all of the following were true:
  - the item represented the sole financial interest and responsibility of a member of the candidate or official's immediate family and of which the candidate or official had no actual knowledge;
  - The item was not in any way, past or present, derived from the candidate or official's income, assets, or activities; and

-- The candidate or official didn't derive, or expect to derive, financial benefit from the item.

(4) Items that concerned a candidate or official's spouse who was living "separate and apart" from him or her with the intention of terminating the marriage or maintaining a legal separation.

(5) Items that concerned the candidate or official's income or obligations arising from dissolution of his or her marriage or permanent separation.

(6) Income earned by the candidate or official from a publicly held corporation that had shares listed or traded over the counter or on an organized exchange, if (a) he or she was required to have a license to practice or engage in a particular profession or occupation, (b) the compensation was paid to a business owned by him or her or in which he or she had an interest; and (c) the report otherwise required by the bill included a complete statement of the identity and value of that business.

Complaints and investigations. Citizens would be able to file complaints with the secretary of state that alleged violations of the bill. Upon receipt of a complaint, the secretary of state would be required to investigate the allegations according to procedures under the Administrative Procedures Act. If, upon investigation, the secretary of state found that there was reason to believe that a violation of the bill had occurred, he or she would be required to forward the results of the investigation to the attorney general for enforcement of the bill.

Secretary of state. The bill would require the secretary of state to do all of the following:

(1) Prepare and make available appropriate forms and instructions for the reports required by the bill;

(2) Receive reports required by the bill;

(3) Make available for public use reports filed under the bill (within 30 days after filing, as provided in the Freedom of Information Act);

(4) Promulgate rules and issue declaratory rulings to implement the bill (under the Administrative Procedures Act); and

(5) Conduct any investigations necessary to determine whether there was reason to believe that a violation of the act had occurred.

Attorney general. The bill would require the attorney general to enforce the bill's provisions against anyone who violated them. A default in the payment of civil fines ordered under the bill could be remedied by any means authorized by the Revised Judicature Act.

Penalties. Individuals who knowingly falsified or knowingly failed to file a report required by the bill would be liable for a civil fine of up to \$5,000.

Analyst: S. Ekstrom

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