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## CAMPAIGN FINANCE: NOMINATION PETITION AFFIDAVIT

### House Bill 4242 (Substitute H-1) First Analysis (3-3-99)

**Sponsor: Rep. Marc Shulman**  
**Committee: Constitutional Law and Ethics**

#### ***THE APPARENT PROBLEM:***

Currently, the Michigan Campaign Finance Act requires that candidates filing nomination petitions or filing fees for an office in an election also file affidavits containing certain information, including the candidate's name and address; ward and precinct where registered, if qualified to vote at that election; a statement that the candidate is a United States citizen; the number of years the candidate has lived in the state and county; other information that may be required to identify the candidate satisfactorily to the filing officer; and a statement that the candidate acknowledges that making a false statement on the affidavit is perjury punishable by a fine of up to \$1,000, imprisonment for up to five years, or both.

Although there apparently are no reliable figures kept anywhere on the magnitude of the problem, stories abound of candidates who continue to run for office despite reportedly owing outstanding fines for failing to submit campaign finance reports on time. Some people believe that this is an issue that should be addressed by legislation.

#### ***THE CONTENT OF THE BILL:***

The bill would amend the Michigan Campaign Finance Act to require a candidate filing an affidavit in connection with filing nomination petitions or paying a filing fee to include on the affidavit a statement that, as of the date of the affidavit, all statements and reports, or fines, required to be filed or paid by the individual -- or by any candidate committee organized to support that individual's election -- had been filed or paid. As currently is the case, any candidate making a false statement in the affidavit would commit perjury, which is punishable by a fine up to \$1,000 or up to five years' imprisonment, or both.

MCL 168.558

#### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill would have no fiscal impact on state or local government. (3-2-99)

#### ***ARGUMENTS:***

##### ***For:***

The bill would provide candidates running for elective office with an added incentive to comply the Michigan Campaign Finance Act's filing requirements and to pay any late filing fees owed by themselves or committees supporting their candidacy. At the very least, the bill would provide a disincentive for such behavior by subjecting them to perjury penalties if they falsely stated on the required affidavit that their campaign reports and any outstanding fines had been filed or paid at the time the affidavit was submitted; or, if a candidate didn't file such an affidavit, as is currently true under law, the candidate would be denied having his or her name placed on the ballot (under the act, the officer with whom the current affidavit must be filed cannot certify to the board of election commissioners the name of a candidate who fails to comply with the act's affidavit requirements). The burden of compliance with the campaign act's requirements properly lies with the candidate, and if someone is going to run for office, he or she should be prepared to meet the legal requirements for candidates. Unfortunately, this apparently does not always happen, and the bill would be a good step in the direction of reducing the number of candidates who treat the act's reporting requirements and late filing fines lightly.

##### ***Against:***

While no one wants to see candidates for elective office ignore the reporting requirements of the campaign finance law, the bill would appear to provide opportunities for political mischief or even harassment of candidates for elective office who made

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honest mistakes. The reporting requirements of the campaign finance law are complicated and involved, and the possibility for good faith mistakes to occur is greater than perhaps the average citizen is aware. What if a candidate, believing that all required statements and reports had been filed, and that any outstanding fines had been paid, was later found out to be mistaken? In such cases, the candidate, by having made a false statement on his or her affidavit, would be guilty of perjury and subject to the campaign finance act's penalties. Isn't five years' imprisonment a steep price to pay for a good faith statement that later turned out to be false? Moreover, the bill would apply to all of a candidate's filings and fines, not just for the office for which they currently happened to be running. While the Department of State has a clear notification process for candidates who fail to file required reports and statements on time, candidates running for local office file with their county clerks and the 83 different counties in the state do not always have the resources to implement a standardized, clear notification process for local candidates. So the bill could be confusing to people running for office the first time (since first-time candidates for elective office generally file their nomination petitions or filing fees about the same time they form their candidate committees, the bill's requirement that a candidate attest that "any candidate committee formed to support that individual's election" could be puzzling). And for people running for subsequent office, the bill would require that they attest -- for their entire life as an elected official up to that point, not just for the office for which they currently were running -- that all their reports and statements had been filed and all fines paid. Couldn't the bill's provisions, if enacted, be used by political parties, special interest groups, and political opponents as a "perjury trap" -- as yet another weapon in the current arsenal of what the general public all too often perceives as negative campaigning? While the concept of requiring candidates to meet the act's reporting requirements is sound, there should be provisions allowing for honest mistakes that don't involve the possibility of imprisonment for a longer period of time than simple felonies. At a time when many people who might otherwise have considered running for elective office may be discouraged from running by the negative political campaigns that so often are run, the bill could even further discourage political participation by average citizens.

**Response:**

Anyone running for an elected office should be responsible for knowing whether or not his or her campaign finance reports and statements are filed on

time and whether or not he or she owes any fines for late filings. In fact, some people believe that the bill does not go far enough and that sanctions for failing to file required statements and reports should be increased in addition to requiring the change in the affidavit.

**POSITIONS:**

The Department of State supports the bill. (3-2-99)

The Michigan Chamber of Commerce supports the bill. (3-2-99)

Common Cause of Michigan supports the bill. (3-2-99)

The League of Women Voters has not yet taken a position on the bill. (3-2-99)

Analyst: S. Ekstrom

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■ 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.