

SUBSTITUTE FOR  
HOUSE BILL NO. 5058

A bill to amend 1976 PA 388, entitled  
"Michigan campaign finance act,"  
by amending section 15 (MCL 169.215), as amended by 1996 PA 590.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 15. (1) The secretary of state shall do all of the  
2 following:

3       (a) Make available through his or her offices, and furnish  
4 to county clerks, appropriate forms, instructions, and manuals  
5 required by this act.

6       (b) Develop a filing, coding, and cross-indexing system for  
7 the filing of required reports and statements consistent with the  
8 purposes of this act, and supervise the implementation of the  
9 filing systems by the clerks of the counties.

10       (c) Receive all statements and reports required by this act  
11 to be filed with the secretary of state.

**HB5058, As Passed House, November 9, 1999**

House Bill No. 5058

2

1 (d) Prepare forms, instructions, and manuals required under  
2 this act.

3 (e) Promulgate rules and issue declaratory rulings to imple-  
4 ment this act pursuant to the administrative procedures act of  
5 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~  
6 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA 306,  
7 MCL 24.201 TO 24.328.

8 (f) Upon receipt of a written request and the required  
9 filing, waive payment of a late filing fee if the request for the  
10 waiver is based on good cause and accompanied by adequate  
11 documentation. One or more of the following reasons constitute  
12 good cause for a late filing fee waiver:

13 (i) The incapacitating physical illness, hospitalization,  
14 accident involvement, death, or incapacitation for medical rea-  
15 sons of a person required to file, a person whose participation  
16 is essential to the preparation of the statement or report, or a  
17 member of the immediate family of these persons.

18 (ii) Other unique, unintentional factors beyond the filer's  
19 control not stemming from a negligent act or nonaction so that a  
20 reasonably prudent person would excuse the filing on a temporary  
21 basis. These factors include the loss or unavailability of  
22 records due to a fire, flood, theft, or similar reason and diffi-  
23 culties related to the transmission of the filing to the filing  
24 official, such as exceptionally bad weather or strikes involving  
25 transportation systems.

26 (2) A declaratory ruling shall be issued under this section  
27 only if the person requesting the ruling has provided a

**HB5058, As Passed House, November 9, 1999**

House Bill No. 5058

3

1 reasonably complete statement of facts necessary for the ruling  
2 or if ~~the secretary of state has permitted~~ the person request-  
3 ing the ruling ~~an opportunity to supply~~ HAS, WITH THE PERMIS-  
4 SION OF THE SECRETARY OF STATE, SUPPLIED supplemental facts nec-  
5 essary for the ruling. A request for a declaratory ruling that  
6 is submitted to the secretary of state shall be made available  
7 for public inspection within 48 hours after its receipt. An  
8 interested person may submit written comments regarding the  
9 request to the secretary of state within 10 business days after  
10 the date the request is made available to the public. Within 45  
11 business days after receiving a declaratory ruling request, the  
12 secretary of state shall make a proposed response available to  
13 the public. An interested person may submit written comments  
14 regarding the proposed response to the secretary of state within  
15 5 business days after the date the proposal is made available to  
16 the public. Except as otherwise provided in this section, the  
17 secretary of state shall issue a declaratory ruling within  
18 60 business days after a request for a declaratory ruling is  
19 received. If the secretary of state refuses to issue a declara-  
20 tory ruling, the secretary of state shall notify the person  
21 making the request of the reasons for the refusal. The secretary  
22 of state may issue an interpretative statement providing an  
23 informational response to the question presented. A declaratory  
24 ruling or interpretative statement issued under this section  
25 shall not state a general rule of law, other than that which is  
26 stated in this act, until the general rule of law is promulgated  
27 by the secretary of state as a rule pursuant to the

**HB5058, As Passed House, November 9, 1999**

House Bill No. 5058

4

1 administrative procedures act of 1969, ~~Act No. 306 of the Public~~  
2 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~  
3 ~~Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328, or pursuant to  
4 judicial order.

5 (3) Under extenuating circumstances, the secretary of state  
6 may issue a notice extending for not more than 30 business days  
7 the period during which the secretary of state shall respond to a  
8 request for a declaratory ruling. The secretary of state shall  
9 not issue more than 1 notice of extension for a particular  
10 request. A person requesting a declaratory ruling may waive, in  
11 writing, the time limitations provided by this section.

12 (4) The secretary of state shall make available to the  
13 public an annual summary of the declaratory rulings and interpre-  
14 tative statements issued by the secretary of state.

15 (5) A person may file WITH THE SECRETARY OF STATE a com-  
16 plaint ~~with the secretary of state alleging~~ THAT ALLEGES a vio-  
17 lation of this act. THE COMPLAINT SHALL SATISFY ALL OF THE FOL-  
18 LOWING REQUIREMENTS:

19 (A) THE COMPLAINT IS SIGNED BY THE COMPLAINANT.

20 (B) THE COMPLAINT STATES THE COMPLAINANT'S NAME, ADDRESS,  
21 AND TELEPHONE NUMBER.

22 (C) THE COMPLAINT CERTIFIES TO BOTH OF THE FOLLOWING:

23 (i) THAT THE COMPLAINT IS NOT FILED FOR ANY IMPROPER PUR-  
24 POSE, SUCH AS TO HARASS OR TO CAUSE A PERSON TO EXPEND RESOURCES  
25 DEFENDING AGAINST A COMPLAINT IN PROCEEDINGS UNDER THIS ACT OR IN  
26 THE MEDIA.

**HB5058, As Passed House, November 9, 1999**

House Bill No. 5058

5

1           (ii) THAT, TO THE BEST OF THE COMPLAINANT'S KNOWLEDGE,  
2 INFORMATION, AND BELIEF, FORMED AFTER AN INQUIRY REASONABLE UNDER  
3 THE CIRCUMSTANCES, EACH FACTUAL CONTENTION OF THE COMPLAINT IS  
4 SUPPORTED BY EVIDENCE. HOWEVER, WITH RESPECT TO SPECIFIC FACTUAL  
5 CONTENTIONS IDENTIFIED IN THE COMPLAINT, THE COMPLAINT MAY CER-  
6 TIFY THAT, TO THE BEST OF THE COMPLAINANT'S KNOWLEDGE, INFORMA-  
7 TION, AND BELIEF, FORMED AFTER AN INQUIRY REASONABLE UNDER THE  
8 CIRCUMSTANCES, THOSE FACTUAL CONTENTIONS ARE LIKELY TO BE SUP-  
9 PORTED BY EVIDENCE AFTER A REASONABLE OPPORTUNITY FOR  
10 INVESTIGATION.

11           (6) THE SECRETARY OF STATE SHALL DEVELOP A FORM THAT SATIS-  
12 FIES THE REQUIREMENTS OF SUBSECTION (5) AND MAY BE USED FOR THE  
13 FILING OF COMPLAINTS.

14           (7) A PERSON WHO FILES A COMPLAINT WITH A FALSE CERTIFICATE  
15 UNDER SUBSECTION (5)(C) IS RESPONSIBLE FOR A CIVIL VIOLATION OF  
16 THIS ACT. A PERSON MAY FILE A COMPLAINT UNDER SUBSECTION (5)  
17 ALLEGING THAT ANOTHER COMPLAINANT HAS FILED A COMPLAINT WITH A  
18 FALSE CERTIFICATE UNDER SUBSECTION (5)(C).

19           (8) Upon receipt of a complaint THAT MEETS THE REQUIREMENTS  
20 OF SUBSECTION (5), the secretary of state shall investigate the  
21 allegations pursuant to the rules promulgated under this act. If  
22 the secretary of state determines that there may be reason to  
23 believe that a violation of this act has occurred, the secretary  
24 of state shall endeavor to correct the violation or prevent a  
25 further violation by using informal methods such as a conference,  
26 conciliation, or persuasion, and may enter into a conciliation  
27 agreement with the person involved. Unless violated, a

**HB5058, As Passed House, November 9, 1999**

House Bill No. 5058

6

1 conciliation agreement is a complete bar to any further action  
2 with respect to matters covered in the conciliation agreement.  
3 If the secretary of state is unable to correct or prevent further  
4 violation by these informal methods, the secretary of state may  
5 refer the matter to the attorney general for the enforcement of  
6 any criminal penalty provided by this act or commence a hearing  
7 pursuant to subsection ~~(6)~~ (9).

8       (9) ~~(6)~~ The secretary of state may commence a hearing to  
9 determine whether a civil violation of this act has occurred. A  
10 hearing shall not be commenced during the period beginning 30  
11 days before an election in which the committee has received or  
12 expended money and ending the day after that election except with  
13 the consent of the person suspected of committing a civil  
14 violation. The hearing shall be conducted in accordance with the  
15 procedures set forth in chapter 4 of the administrative proce-  
16 dures act of 1969, ~~Act No. 306 of the Public Acts of 1969, being~~  
17 ~~sections 24.271 to 24.287 of the Michigan Compiled Laws~~ 1969  
18 PA 306, MCL 24.271 TO 24.287. If, after a hearing, the secretary  
19 of state determines that a violation of this act has occurred,  
20 the secretary of state may issue an order requiring the person to  
21 pay a civil fine equal to the amount of the improper contribution  
22 or expenditure plus not more than \$1,000.00 for each violation.  
23 A final decision and order issued by the secretary of state is  
24 subject to judicial review as provided by chapter 6 of the admin-  
25 istrative procedures act of 1969, ~~Act No. 306 of the Public Acts~~  
26 ~~of 1969, being sections 24.301 to 24.306 of the Michigan Compiled~~  
27 ~~Laws~~ 1969 PA 306, MCL 24.301 TO 24.306. The secretary of state

**HB5058, As Passed House, November 9, 1999**

House Bill No. 5058

7

1 shall deposit a civil fine imposed under this section in the  
2 general fund. The secretary of state may bring an action in cir-  
3 cuit court to recover the amount of a civil fine.

4       (10) ~~-(7)-~~ When a report or statement is filed pursuant to  
5 this act, the secretary of state shall review the report or  
6 statement and may investigate an apparent violation of this act  
7 pursuant to the rules promulgated pursuant to this act. If the  
8 secretary of state determines that there may be reason to believe  
9 a violation of this act has occurred and the procedures pre-  
10 scribed in subsection ~~-(5)-~~ (8) have been complied with, the sec-  
11 retary of state may refer the matter to the attorney general for  
12 the enforcement of any criminal penalty provided by this act, or  
13 commence a hearing under subsection ~~-(6)-~~ (9) to determine  
14 whether a civil violation of this act has occurred.

15       (11) ~~-(8)-~~ Unless otherwise specified in this act, a person  
16 who violates a provision of this act is subject to a civil fine  
17 of not more than \$1,000.00 for each violation. Civil fines are  
18 in addition to, but not limited by, any criminal penalty pre-  
19 scribed by this act.

20       (12) IN ADDITION TO ANY OTHER SANCTION PROVIDED FOR BY THIS  
21 ACT, THE SECRETARY OF STATE MAY REQUIRE A PERSON WHO FILES A COM-  
22 PLAINT WITH A FALSE CERTIFICATE UNDER SUBSECTION (5)(C) TO DO  
23 EITHER OR BOTH OF THE FOLLOWING:

24       (A) PAY TO THE SECRETARY OF STATE SOME OR ALL OF THE  
25 EXPENSES INCURRED BY THE SECRETARY OF STATE AS A DIRECT RESULT OF  
26 THE FILING OF THE COMPLAINT.

**HB5058, As Passed House, November 9, 1999**

House Bill No. 5058

8

1 (B) PAY TO THE PERSON AGAINST WHOM THE COMPLAINT WAS FILED  
2 SOME OR ALL OF THE EXPENSES, INCLUDING, BUT NOT LIMITED TO,  
3 REASONABLE ATTORNEY FEES, INCURRED BY THAT PERSON IN PROCEEDINGS  
4 UNDER THIS ACT AS A DIRECT RESULT OF THE FILING OF THE COMPLAINT.

5 (13) ~~(9)~~ There is no private right of action, either in  
6 law or in equity, pursuant to this act. The remedies provided in  
7 this act are the exclusive means by which this act may be  
8 enforced and by which any harm resulting from a violation of this  
9 act may be redressed.

10 (14) ~~(10)~~ The secretary of state may waive the filing of a  
11 campaign statement required under section 33, 34, or 35 if the  
12 closing date of the particular campaign statement falls on the  
13 same or a later date as the closing date of the next campaign  
14 statement filed by the same person, or if the period that would  
15 be otherwise covered by the next campaign statement filed by the  
16 same person is 10 days or less.

17 (15) ~~(11)~~ The clerk of each county shall do all of the  
18 following:

19 (a) Make available through the county clerk's office the  
20 appropriate forms, instructions, and manuals required by this  
21 act.

22 (b) Under the supervision of the secretary of state, imple-  
23 ment the filing, coding, and cross-indexing system prescribed for  
24 the filing of reports and statements required to be filed with  
25 the county clerk's office.

26 (c) Receive all statements and reports required by this act  
27 to be filed with the county clerk's office.

**HB5058, As Passed House, November 9, 1999**

House Bill No. 5058

9

1       (d) Upon written request, waive the payment of a late filing  
2 fee if the request for a waiver is based on good cause as pre-  
3 scribed in subsection (1)(f).