

HOUSE BILL No. 4272

February 16, 1999, Introduced by Reps. Mortimer, Julian, Stamas, Garcia, Sanborn, Ehardt, Bishop, Shulman, Vander Roest, LaSata, Kukuk, Kowall, Gilbert and Patterson and referred to the Committee on Constitutional Law and Ethics.

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.

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, MCL
7 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

1 reasonably complete statement of facts necessary for the ruling
2 or if the secretary of state has permitted the person requesting
3 the ruling an opportunity to supply supplemental facts necessary
4 for the ruling. A request for a declaratory ruling that is sub-
5 mitted to the secretary of state shall be made available for
6 public inspection within 48 hours after its receipt. An inter-
7 ested person may submit written comments regarding the request to
8 the secretary of state within 10 business days after the date the
9 request is made available to the public. Within 45 business days
10 after receiving a declaratory ruling request, the secretary of
11 state shall make a proposed response available to the public. An
12 interested person may submit written comments regarding the pro-
13 posed response to the secretary of state within 5 business days
14 after the date the proposal is made available to the public.
15 Except as otherwise provided in this section, the secretary of
16 state shall issue a declaratory ruling within 60 business days
17 after a request for a declaratory ruling is received. If the
18 secretary of state refuses to issue a declaratory ruling, the
19 secretary of state shall notify the person making the request of
20 the reasons for the refusal. The secretary of state may issue an
21 interpretative statement providing an informational response to
22 the question presented. A declaratory ruling or interpretative
23 statement issued under this section shall not state a general
24 rule of law, other than that which is stated in this act, until
25 the general rule of law is promulgated by the secretary of state
26 as a rule pursuant to the administrative procedures act of 1969,
27 ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to~~

1 ~~24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO
2 24.328, or pursuant to judicial order.

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

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

13 (5) A person may file a complaint with the secretary of
14 state alleging a violation of this act. Upon receipt of a com-
15 plaint, the secretary of state shall investigate the allegations
16 pursuant to the rules promulgated under this act. THE SECRETARY
17 OF STATE SHALL DETERMINE WHETHER THERE IS REASON TO BELIEVE THAT
18 A VIOLATION OF THIS ACT HAS OCCURRED WITHIN 45 DAYS AFTER RECEIPT
19 OF THE COMPLAINT. IF THE SECRETARY OF STATE DETERMINES THAT
20 THERE IS NO REASON TO BELIEVE THAT A VIOLATION OF THIS ACT HAS
21 OCCURRED, THE SECRETARY OF STATE SHALL PROMPTLY NOTIFY THE COM-
22 PLAINANT OF THAT DETERMINATION. If the secretary of state deter-
23 mines that there may be reason to believe that a violation of
24 this act has occurred, the secretary of state shall endeavor to
25 correct the violation or prevent a further violation by using
26 informal methods such as a conference, conciliation, or
27 persuasion, and may enter into a conciliation agreement with the

1 person involved. Unless violated, a conciliation agreement is a
2 complete bar to any further action with respect to matters cov-
3 ered in the conciliation agreement. If the secretary of state is
4 unable to correct or prevent further violation by these informal
5 methods, the secretary of state may refer the matter to the
6 attorney general for the enforcement of any criminal penalty pro-
7 vided by this act or commence a hearing pursuant to
8 subsection (6).

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

1 ~~Laws~~ 1969 PA 306, MCL 24.301 TO 24.306. The secretary of state
2 shall deposit a civil fine imposed under this section in the gen-
3 eral fund. The secretary of state may bring an action in circuit
4 court to recover the amount of a civil fine.

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

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

21 (9) There is no private right of action, either in law or in
22 equity, pursuant to this act. The remedies provided in this act
23 are the exclusive means by which this act may be enforced and by
24 which any harm resulting from a violation of this act may be
25 redressed.

26 (10) The secretary of state may waive the filing of a
27 campaign statement required under section 33, 34, or 35 if the

1 closing date of the particular campaign statement falls on the
2 same or a later date as the closing date of the next campaign
3 statement filed by the same person, or if the period that would
4 be otherwise covered by the next campaign statement filed by the
5 same person is 10 days or less.

6 (11) The clerk of each county shall do all of the
7 following:

8 (a) Make available through the county clerk's office the
9 appropriate forms, instructions, and manuals required by this
10 act.

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

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

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