

HOUSE BILL No. 4815

June 17, 1999, Introduced by Reps. Gielegem, Dennis, Wojno, Minore and Jamnick and referred to the Committee on Constitutional Law and Ethics.

A bill to regulate political activity; to regulate certain candidates and state officials; to require certain financial statements and reports; to regulate acceptance of certain payments and other items; to prescribe the powers and duties of certain state departments and state and local officials and employees; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan financial disclosure act".

3 Sec. 2. As used in this act:

4 (a) "Candidate" means that term as defined in section 3 of
5 the Michigan campaign finance act, 1976 PA 388, MCL 169.203.

6 (b) "Candidate for state office" means a candidate for any
7 of the following:

- 1 (i) The office of governor.
- 2 (ii) The office of lieutenant governor.
- 3 (iii) The office of attorney general.
- 4 (iv) The office of secretary of state.
- 5 (v) The office of state senator.
- 6 (vi) The office of state representative.
- 7 (vii) The office of head of a principal department as pro-
- 8 vided in section 3 of article V of the state constitution of
- 9 1963, if the office is filled by election.
- 10 (viii) The office of a member of a board or commission head-
- 11 ing a principal department as provided in section 3 of article V
- 12 of the state constitution of 1963, if the office is filled by
- 13 election.
- 14 (ix) The office of judge of a court of record.
- 15 (x) The office of regent of the university of Michigan,
- 16 member of the board of trustees of Michigan state university, or
- 17 member of the board of governors of Wayne state university.
- 18 (c) "Earned income" means salaries, tips, and other employee
- 19 compensation, and net earnings from self-employment for the tax-
- 20 able year.
- 21 (d) "Immediate family" means a child residing in an
- 22 individual's household, a spouse of an individual, or a person
- 23 claimed by that individual or that individual's spouse as a
- 24 dependent for federal income tax purposes.
- 25 (e) "Income" means money or any thing of value received, or
- 26 to be received as a claim on future services, whether in the form
- 27 of a fee, salary, expense, allowance, forbearance, forgiveness,

1 interest, dividend, royalty, rent, capital gain, or any other
2 form of recompense that is considered income under the internal
3 revenue code.

4 (f) "Secretary of state" means the secretary of state or the
5 designee of the secretary of state.

6 (g) "State official" means all of the following:

7 (i) The governor.

8 (ii) The lieutenant governor.

9 (iii) The attorney general.

10 (iv) The secretary of state.

11 (v) A state senator.

12 (vi) A state representative.

13 (vii) The head of each principal department as provided in
14 section 3 of article V of the state constitution of 1963.

15 (viii) The members of a board or commission heading a prin-
16 cipal department as provided in section 3 of article V of the
17 state constitution of 1963.

18 (ix) The person appointed by a board or commission to be the
19 principal executive officer of a principal department as provided
20 in section 3 of article V of the state constitution of 1963.

21 (x) A judge of a court of record.

22 (xi) A regent of the university of Michigan, a member of the
23 board of trustees of Michigan state university, or a member of
24 the board of governors of Wayne state university.

25 Sec. 3. (1) If an individual was a state official at any
26 time during a calendar year, that individual shall file with the
27 secretary of state by May 1 of the following year a report that

1 meets the requirements of section 4 unless that individual is no
2 longer a state official.

3 (2) If an individual is a candidate for state office, that
4 individual shall file with the secretary of state a report that
5 meets the requirements of section 4. If the individual files a
6 fee, affidavit of incumbency, or nominating petition for the
7 state office, the report shall be filed before the expiration of
8 30 days after the deadline for filing the fee, affidavit of
9 incumbency, or nominating petition established by the Michigan
10 election law, 1954 PA 116, MCL 168.1 to 168.992. If the individ-
11 ual is nominated at a political party caucus or convention, the
12 report shall be filed before the expiration of 30 days after the
13 deadline for holding the caucus or convention established by the
14 Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. This
15 subsection does not apply to an individual who has filed a report
16 in the calendar year in which the 30-day period expires pursuant
17 to subsection (1).

18 Sec. 4. (1) Subject to section 5 and except as provided in
19 section 6, the report required by section 3 shall include a com-
20 plete statement of all of the following:

21 (a) Both of the following, as applicable:

22 (i) The source, type, and amount or value of earned income
23 received during the preceding calendar year by the individual
24 filing the report if the total earned income from that source
25 equals \$1,000.00 or more during that calendar year.

26 (ii) The source and type of earned income received during
27 the preceding calendar year by the spouse of the individual

1 filing the report if the total earned income from that source
2 equals \$1,000.00 or more during that calendar year.

3 (b) The source, type, and amount or value of all other
4 income not reported under subdivision (a) that is received during
5 the preceding calendar year by the individual filing the report
6 or a member of the immediate family of that individual if the
7 total income from that source equals \$1,000.00 or more during
8 that calendar year.

9 (c) The identity and value of each asset held during the
10 preceding calendar year by the individual filing the report or a
11 member of the immediate family of that individual, including real
12 or personal property or cash, if the asset had a fair market
13 value of \$1,000.00 or more at any time the asset was held during
14 the preceding calendar year. However, if the individual filing
15 the report owns or has an interest in all or a portion of a farm
16 or business, the identity and value of each asset held during the
17 preceding year that is used in the operation of the farm or busi-
18 ness is not required to be reported under this subdivision if the
19 report includes a complete statement of the identity and value of
20 the farm or business.

21 (d) The identity and value of each liability owed during the
22 preceding calendar year by the individual filing the report or a
23 member of the immediate family of that individual if the amount
24 of the liability was \$10,000.00 or more at any time during the
25 preceding calendar year. This subdivision does not apply to a
26 loan secured by the personal residence of the individual filing
27 the report or by a personal motor vehicle, household furniture,

1 or appliance, if the loan does not exceed the purchase price of
2 the item that secures the liability.

3 (e) A brief description and value of a purchase, sale, or
4 exchange of real property, other than real property used solely
5 as a personal residence by the individual filing the report and
6 his or her immediate family, or of stocks, bonds, commodities,
7 futures, or other forms of securities during the preceding calen-
8 dar year by the individual filing the report or a member of the
9 immediate family of that individual that is equal to an amount of
10 \$1,000.00 or more. This subdivision does not require a descrip-
11 tion of each purchase, sale, or exchange of stocks, bonds, com-
12 modities, or other forms of securities if those items are part of
13 a mutual fund and if the identity and value of the mutual fund is
14 otherwise reported under this act.

15 (f) Except as otherwise provided by this subdivision, the
16 identity of all positions held by the individual filing the
17 report during the preceding calendar year as an officer, direc-
18 tor, trustee, partner, proprietor, representative, employee, or
19 consultant of a corporation, partnership, or other business
20 enterprise; of a nonprofit organization; of a labor organization;
21 or of an educational or other institution. An individual filing
22 the report who is required to have a license to practice or
23 engage in a particular occupation or profession is not required
24 to identify a position held as a consultant of a corporation
25 unless the corporation is a publicly held corporation that has
26 shares that are listed or traded over the counter or on an
27 organized exchange or has gross revenues over \$4,000,000.00.

1 This subdivision does not require the reporting of a position
2 held in a religious, social, fraternal, or political entity, or
3 of a position solely of an honorary nature.

4 (g) A description, including the dates, parties, and terms,
5 of an agreement or arrangement by or with the individual filing
6 the report with respect to future employment, a leave of absence
7 during that individual's term of office, continuation of payments
8 by a former employer, or continuation of participation in an
9 employee benefit plan maintained by a former employer.

10 (2) Instead of the report required under subsection (1), an
11 individual required to file a report under section 3 may file a
12 copy of his or her federal form 1040 and related schedules filed
13 with the internal revenue service for the immediately preceding
14 calendar year.

15 Sec. 5. (1) An amount or value reported under
16 section 4(1)(a), (b), (c), or (e) shall be reported by category
17 as follows:

18 (a) \$1,000.00 or more but less than \$2,500.00.

19 (b) \$2,500.00 or more but less than \$5,000.00.

20 (c) \$5,000.00 or more but less than \$15,000.00.

21 (d) \$15,000.00 or more but less than \$50,000.00.

22 (e) \$50,000.00 or more but less than \$100,000.00.

23 (f) \$100,000.00 or more but less than \$250,000.00.

24 (g) \$250,000.00 or more but less than \$500,000.00.

25 (h) \$500,000.00 or more but less than \$1,000,000.00.

26 (i) \$1,000,000.00 or more.

1 (2) An amount or value reported under section 4(1)(d) shall
2 be reported by category as follows:

3 (a) \$10,000.00 or more but less than \$15,000.00.

4 (b) \$15,000.00 or more but less than \$50,000.00.

5 (c) \$50,000.00 or more but less than \$100,000.00.

6 (d) \$100,000.00 or more but less than \$250,000.00.

7 (e) \$250,000.00 or more but less than \$500,000.00.

8 (f) \$500,000.00 or more but less than \$1,000,000.00.

9 (g) \$1,000,000.00 or more.

10 Sec. 6. A report under section 4(1) may omit any of the
11 following:

12 (a) Information required to be reported under the Michigan
13 campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

14 (b) A liability owed to the individual filing the report or
15 a relative within the third degree of consanguinity to that indi-
16 vidual if lent by the individual filing the report or a relative
17 within the third degree of consanguinity to that individual.

18 (c) An item otherwise required to be reported under
19 section 4(1)(c), (d), or (e) about which all of the following are
20 true:

21 (i) The item represents the sole financial interest and
22 responsibility of a member of the immediate family of the indi-
23 vidual filing the report of which that individual does not have
24 actual knowledge.

25 (ii) The item is not in any way, past or present, derived
26 from the income, assets, or activities of the individual filing
27 the report.

1 (iii) The individual filing the report does not derive, or
2 expect to derive, financial benefit from the item.

3 (d) An item that concerns a spouse who is living separate
4 and apart from the individual filing the report with the inten-
5 tion of terminating the marriage or maintaining a legal
6 separation.

7 (e) An item that concerns income or obligations of the indi-
8 vidual filing the report arising from dissolution of his or her
9 marriage or a permanent legal separation from his or her spouse.

10 (f) Compensation, from a publicly held corporation that has
11 shares that are listed or traded over the counter or on an orga-
12 nized exchange, paid to a business owned by the individual filing
13 the report or in which the individual filing the report has an
14 interest, if the report under section 4 includes a complete
15 statement of the identity and value of that business and the
16 individual filing the report is required to have a license as
17 described in section 4(1)(f).

18 Sec. 7. The secretary of state shall do all of the
19 following:

20 (a) Prepare and make available appropriate forms and
21 instructions for the reports required by this act.

22 (b) Receive reports required by this act.

23 (c) Make available for public use a report filed under this
24 act within 30 days after the report is filed as provided in the
25 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

1 (d) Promulgate rules and issue declaratory rulings to
2 implement this act pursuant to the administrative procedures act
3 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

4 (e) Conduct investigations as may be necessary to determine
5 if there is reason to believe a violation of this act occurred.
6 Investigations shall be pursuant to the procedures set forth in
7 the administrative procedures act of 1969, 1969 PA 306, MCL
8 24.201 to 24.328.

9 Sec. 8. (1) A citizen of this state may file a complaint
10 with the secretary of state alleging a violation of this act.
11 The secretary of state, upon receipt of a complaint, shall inves-
12 tigate the allegations as provided in section 7.

13 (2) If the secretary of state, upon investigation, deter-
14 mines that there is reason to believe a violation of this act
15 occurred, the secretary of state shall forward the results of
16 that investigation to the attorney general for enforcement of
17 this act.

18 (3) The attorney general shall enforce this act against an
19 individual who violates this act.

20 Sec. 10. (1) An individual who knowingly falsifies or know-
21 ingly fails to file a report required by this act is liable for a
22 civil fine of \$5,000.00 or less.

23 (2) A default in the payment of a civil fine ordered under
24 this act or an installment of the fine may be remedied by any
25 means authorized under the revised judicature act of 1961, 1961
26 PA 236, MCL 600.101 to 600.9948.