

CAMPAIGN FINANCE LAW REVISIONS

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House Bill 4628

Sponsor: Rep. Fred Miller

Committee: Ethics and Elections

Complete to 4-23-07

A SUMMARY OF HOUSE BILL 4628 AS INTRODUCED 4-19-07

House Bill 4628 would amend 27 sections of the Michigan Campaign Finance Law to, among other things, transfer the regulatory responsibility for campaign oversight from the secretary of state to the director of elections; revise and make consistent report-filing deadlines for all campaign and ballot question committees; prohibit a candidate committee from paying a candidate; regulate automated telephone and electronic mail political ads; and prohibit honoraria for all state elected officials. A more detailed explanation of the bill follows.

Director of Elections. The bill requires the director of elections (who heads the Bureau of Elections in the Department of State) to discharge the powers and duties vested under the Campaign Finance Law independently, and in a nonpartisan manner, with good faith. The bill specifies that these functions would not be subject to allocation or reallocation within the Department of State. Currently under the law, these duties are vested in the secretary of state.

Currently under the law, a violation of the act's provisions is referred by the secretary of state to the attorney general for enforcement. Under House Bill 4628 violations would be referred by the director of elections to the attorney general. However, if a violation involved the attorney general or a campaign or committee with which the attorney general was connected (directly or indirectly), then the director of elections would refer the matter to the prosecuting attorney for Ingham County for enforcement.

Campaign Statement Filing Deadlines. The bill would require all committees—that is committees supporting or opposing a candidate, independent and political committees, a House or Senate political party caucus committee, and all ballot question committees—to file campaign statements listing contributions with the director of elections not later than the following dates each year:

- April 30 (with a closing date of March 31).
- July 31 (with a closing date of June 30).
- October 31 (with a closing date of September 30).

Currently under the law, different kinds of committees file such statements with the secretary of state, following schedules that vary. However, generally, the law specifies filing deadlines of a certain number of days either before or after a primary or general election (e.g. "the eleventh day before an election with a closing date of the sixteenth day before the election," or the "thirtieth day following an election with a closing date of the twentieth day following the election").

Also under the law, a committee must file an annual campaign statement not later than January 31 each year, with a closing date of December 31. However, the law now waives this requirement if a post-election campaign statement has been filed within 30 days of the closing date (that is, December 31). Under the bill, all committees without exception would be required to file an annual campaign statement not later than January 31, with a closing date of December 31.

Wage & Salary Prohibition. House Bill 4628 would prohibit a candidate committee from paying the candidate (and a candidate from receiving from the committee) wages, a salary, or other employment compensation. A person who knowingly violated this prohibition would be guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than \$1,000, or both. A committee that violated this provision would be subject to a fine of not more than \$10,000.

Radio, Television, and Electronic (Telephone, E-mail) Ads. Currently under the law, if a radio or television paid advertisement relates to a candidate and is not an independent expenditure but is paid for by a person other than the candidate, then the ad must contain the following disclaimer: "Authorized by (name of candidate or name of candidate committee)." Under House Bill 4628, this requirement would be dropped. Instead, such ads would have to contain the following disclaimer: "I am (name of candidate) and I approve this message."

House Bill 4628 would add a new section to the Campaign Finance Law concerning automated telephone, electronic mail, or other electronic means used to advocate the election or defeat of a candidate. The bill would require that such communications clearly state the name of the person paying for the communication and disclaimers at the beginning of the message. If the communication were an independent expenditure not authorized in writing by a candidate's committee, it would also have to clearly state: "Not authorized by any candidate committee." If the communication were paid for by a person other than the candidate whom it advocated the election or defeat of, then the communication would have to clearly state the following disclaimer: "Authorized by (name of candidate or name of candidate committee)."

Further, a telephonic communication could not take place between 9 p.m. and 9 a.m.

For visual communications, the director of elections would be required to promulgate rules regulating the size and placement of an identification or disclaimer.

A person who knowingly violated this section of the law would be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.

Honoraria. Currently under the law, a legislator is prohibited from accepting an honorarium, and anyone who violates this provision of the law is guilty of a misdemeanor, punishable by a fine of not more than \$1,000 or imprisonment for not more than 90 days, or both. Under the bill, this prohibition and penalty would be extended to all state elected officials.

Contributions Solicited for Separate Segregated Funds. Currently the law allows contributions to a separate segregated fund, established by either a for-profit or non-profit corporation, or a labor organization, whose expenditures can be used on behalf of candidates, ballot questions, political party committees, or independent committees. The law specifies that contributions to such committees can be solicited from, among others, stockholders, officers, directors, certain employees, members, or their spouses. House Bill 4628 would retain these provisions, but delete solicitations from a "spouse." Instead, the bill would allow solicitations from all of these individuals or their "immediate family." [Note: Under the Campaign Finance Act, "immediate family" is defined to mean any child residing in a candidate's household, the candidate's spouse, or any individual claimed by that candidate or that candidate's spouse as a dependent for federal income tax purposes (MCL 169.208).]

Currently, the law prohibits obtaining contributions for a separate segregated fund on an automatic or passive basis, including a payroll deduction plan or reverse check-off method. House Bill 4628 would delete the prohibition for "an automatic" and "payroll deduction plan." The law also currently requires that those making contributions on an automatic basis, including a payroll deduction plan, "affirmatively consent" to the contribution "at least once in every calendar year." House Bill 4628 would delete the annual authorization by striking the phrase "at least once in every calendar year."

Public Employees. Currently the law prohibits a public body or an individual acting for a public body from using or authorizing the use of funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure, or provide volunteer personal services. The law then cites several exceptions. Under House Bill 4628 a new exception would be added. The bill would exempt from this prohibition the use of public resources to permit a public employee—including employees of public universities—to contribute to a political action committee of the employee's collective bargaining representative by payroll deduction.

Public Facilities. The bill would add a new section of the law to prohibit a candidate (or person acting on behalf of a candidate) from soliciting or accepting a contribution in a facility owned or leased by, or on behalf of, the state, a public body, or a division or agency of the court of justice of the state. Under the bill, this prohibition would not apply to a contribution solicited or accepted in any of the following: (a) a public facility owned

or leased by, or on behalf of, a public body if that facility is primarily used as a family dwelling and is not used to conduct a fund-raising event; and (b) a public facility owned or leased by, or on behalf of, a public body if any candidate or committee has an equal opportunity to use the public facility.

The bill specifies that a person who violated this provision would be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine equal to the greater of \$1,000 or the amount of the improper solicitation or contribution, or both imprisonment and a fine.

Prosecuting Attorneys. Currently under the law, a circuit court, on application by the attorney general, may prohibit a person who violates certain provisions of the Campaign Finance Act from assuming the duties of a public office, or from receiving compensation from public funds, or both. House Bill 4628 would retain this provision, but add that a circuit court could take such action on application by either the attorney general or the prosecuting attorney of that county.

MCL 169.204 et al

FISCAL IMPACT:

A fiscal analysis is in process.

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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.