

CAMPAIGN FINANCE LAW REVISIONS

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House Bill 4628 as passed the House
Sponsor: Rep. Fred Miller
Committee: Ethics and Elections

Complete to 5-9-07

A SUMMARY OF HOUSE BILL 4628 AS PASSED BY THE HOUSE:

House Bill 4628 (H-4, as amended) would amend 30 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 report-filing deadlines for all campaign and ballot question committees, specifying an electronic filing deadline of 11:59 p.m. on the days that reports must be filed.
- Prohibit a candidate committee from paying a candidate.
- Regulate automated telephone and electronic mail political ads.
- 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.

Reporting Contributions. Currently under the law, a campaign statement of any committee is required to report information concerning those who make contributions, beginning with the first dollar. House Bill 4628 would modify that requirement to

require reporting of contributions received during the covered period of the statement, as well as from each fundraiser, from people who contributed more than \$20; those who contributed \$20 or less; and the total amount of contributions of \$20 or less received during the period covered, as well as the cumulative amount of the contributions received by the filer. In addition, a committee must report loans made to the committee, as well as a schedule of loan payments and the outstanding balance. Under House Bill 4628, a committee would have to provide this information on each loan of more than \$20.

Campaign Statement Filing Deadlines. Currently under the law, a *campaign committee* is required to file pre-election campaign statement by the 11th day before the election (the closing date being the 16th day before the election). Further, a post-election statement must be filed by the 30th day after the election (the closing date being the 20th day following the election). In addition, other campaign committees must file campaign statements for each period during which expenditures are made for the purpose of influencing the nomination or election of a candidate, or for the qualification, passage, or defeat of a ballot question. House Bill 4628 would retain these provisions.

In addition, an *independent committee or a political committee* (other than a House or Senate political party caucus committee) is required to file campaign statements following two different schedules in odd-numbered years, versus even-numbered years. House Bill 4628 would require that such committees file statements in even-numbered years not later than April 25th (with a closing date of April 20th), by July 25th (with a closing of July 20th), and by October 25th (with a closing of October 20th). These committees would not have to file statements in odd-numbered years.

Currently under the law, a House or Senate *political party caucus committee* is required to file campaign statements not later than January 31st (with a closing of December 31st), by April 25th with a closing of April 20th), by July 25th (with a closing of July 20th), and by October 25th (with a closing of October 20th). House Bill 4628 would require that such campaign statements be filed in even-numbered years.

Further, a *ballot question committee* must file a pre-election campaign statement by the 11th day before the election (with a closing of the 16th day before the election), and post-election campaign statement by the 30th day following the election (with closing being the 20th day before the election). House Bill 4628 would retain this provision.

Finally, the bill as amended on the House floor, specifies that required reports filed electronically under the Campaign Finance Act must be filed by 11:59 p.m. on the day they are due. The time of the filing deadline for reports that are not filed electronically would continue to be 5 p.m. However, currently under the law, the filing deadline for House and Senate political party caucus committees is set not later than 4 p.m. Under the bill as amended, the 4 p.m. deadline would be eliminated. Instead, the caucus campaign reports (which would be filed in even-numbered years, under the bill) would be due not later than 11:59 p.m.

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 contain 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; Annual Authorizations. 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 bill, "immediate family" is defined to mean a spouse, a child of voting age that is residing in the candidate's household, or any individual of voting age who is claimed by the candidate or the candidate's spouse as a dependent for federal income tax purposes.]

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.

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.

POSITIONS:

The International Union, United Auto Workers supports the bill. (4-24-07)

The Michigan Corrections Organization/Service Employees International Union supports the bill. (4-24-07)

American Federation of Teachers supports the bill. (4-24-07)

Michigan State AFL-CIO supports the bill. (4-24-07)

Michigan Education Association supports the bill. (4-24-07)

The Teamsters support the bill. (4-24-07)

The Service Employees International Union supports the bill. (4-24-07)

The Michigan AFSCME Council 25 supports the bill. (4-24-07)

The Michigan Credit Union League supports Section 42 of the bill. (5-1-07)

The Michigan Nurses Association supports the bill. (5-1-07)

The Michigan Campaign Finance Network is neutral on the bill. (4-24-07)

DTE Energy is neutral on the bill, but supports the repeal of annual affirmation. (5-1-07)

The Office of the Secretary of State opposes the bill. (4-24-07)

The Michigan Chamber of Commerce opposes the bill. (4-24-07)

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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.