

Legislative Analysis



TELEPHONE AND ELECTRONIC CAMPAIGNING

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House Bill 4985

Sponsor: Rep. Lisa Brown

Committee: Ethics and Elections

Complete to 5-27-09

A REVISED SUMMARY OF HOUSE BILL 4985 AS INTRODUCED 5-21-09

The bill would amend the Michigan Campaign Finance Act to require that a communication advocating the election or defeat of a candidate that was designed to contact electors through automated telephonic, electronic mail, or other electronic means clearly state the name of the person paying for the communication.

This applies to cases in which existing Section 47 does not apply. Section 47 requires that campaign materials (billboards, placards, posters pamphlets, and other printed material) contain the name and address of the person paying for them, and that campaign radio and television ads contain the name of the person paying for them, and also a disclaimer or an authorization by the candidate.

Telephonic and Electronic Communications. Under the bill, if the communication advocates the election or defeat of a candidate and was an independent expenditure not authorized in writing by that candidate's committee, then the communication would have to clearly state the following disclaimer: "Not authorized by any candidate committee." If the communication advocated the election or defeat of a candidate and was not an independent expenditure, but was paid for by a person other than the candidate whose election or defeat it advocated, then the communication would have to clearly state the following disclaimer: "Authorized by _____ (name of candidate or name of candidate committee)."

Under the bill, these telephonic communications must disclose the name of the person paying for the communication and any disclaimers at the *beginning* of the telephonic communication. Further, that telephonic communication could not take place between the hours of 8 p.m. and 9 a.m.

The bill specifies that for a visual communication, the Secretary of State would be required to promulgate rules regulating the size and placement of an identification or disclaimer.

A person who for the first time knowingly violated the new provisions would be guilty of a misdemeanor punishable by imprisonment for not more than 90 days and/or a fine of not more than \$500. For a second violation, the person would be guilty of a misdemeanor punishable by imprisonment for not more than 93 days and/or a fine of not more than \$1,000. For a third or subsequent violation, the person would be guilty of a

misdemeanor punishable by imprisonment for not more than 93 days and/or a fine of not more than \$2,500.

MCL 169.248

FISCAL IMPACT:

House Bill 4985 would have an indeterminate fiscal impact on the Department of State and no fiscal impact to local units of government. Any fiscal impact to the Department of State would be related to increased administrative costs stemming from the bill's provisions requiring that the department to promulgate rules regulating the size and placement of an identification or disclaimer.

To the extent that the bill increased the numbers of misdemeanor convictions, it could increase local costs of jail incarceration or misdemeanor probation, both of which vary by jurisdiction. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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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.