

Legislative Analysis



PROHIBIT DELIVERY OF POLITICAL CONTRIBUTIONS BY LOBBYISTS IN STATE FACILITIES

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House Bill 6022 as introduced
Sponsor: Rep. Jennifer Haase
Committee: Ethics and Elections

First Analysis (9-22-10)

BRIEF SUMMARY: The bill would prohibit the delivery by lobbyists of political contributions in state government facilities.

FISCAL IMPACT: House Bill 6022 would have an indeterminate, but likely negligible, fiscal impact. Any fiscal impact would be the result of the number of violations under the provisions of the bill. Any fine revenue collected for violations of the provisions of this bill would be dedicated to public libraries.

THE APPARENT PROBLEM:

In order to ensure that the authority and influence of elected officials is applied in a way that checks personal gain and ensures the public good, state election and campaign finance laws generally impose limits on campaign contributions--including their size, solicitation, and delivery--from certain people and in certain places.

Although the term "solicitation" is not defined in the Michigan Campaign Finance Act, that term as it is generally used in federal, state, and local government campaign finance acts and ethics codes, refers to the practice of asking a person for a contribution to a political campaign.

A contribution can be many things: a loan; any forgiveness of a debt; any expenditure made at the request of a candidate; any purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; services rendered without full compensation; or any granting of a rebate or discount not generally available to the public. (See **Background Information**.)

It is customary for ethics codes to prohibit elected officials from soliciting contributions from the civil servants employed in the governments in which they serve. For example, the U.S. House of Representatives Ethics Manual prohibits the knowing solicitation of federal employees, as well as the solicitation of contributions in House offices, rooms, or buildings. Likewise, the Rules of the Michigan House of Representatives prohibit the use of House facilities for raising funds. Specifically, a portion of Rule 74 concerning Personal Privilege and Conduct reads: (5) *A Member shall not solicit or accept any type of campaign contribution in any House facility or building.* (See **Background Information**.)

Two bills have been introduced that would place the House Ethics Rules into state law: House Bill 4382 would ban the solicitation of campaign contributions in all state offices; and

House Bill 6022 would ban the delivery by lobbyists of campaign contributions in state government facilities.

THE CONTENT OF THE BILL:

House Bill 6022 would amend Public Act 472 of 1978, which regulates lobbyists and lobbying activities, to prohibit the delivery by lobbyists of political contributions in state government facilities. The bill would take effect 90 days after the date it was enacted into law.

More specifically, the bill would prohibit a lobbyist (to include a lobbyist agent, a representative of the lobbyist, or any person acting on behalf of a lobbyist or lobbyist agent) from delivering a contribution to a candidate (or any person acting on behalf of candidate) in any facility or portion of a facility owned or leased by the state that is used primarily for conducting government business.

Under the bill, a person who violated this section of the law 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 contribution made, or both.

The bill specifies that "candidate" and "contribution" would mean those terms as they are defined under Sections 3 and 4 of the Michigan Campaign Finance Act, respectively.

The bill is tie-barred to House Bill 4382, so that it will not go into effect unless House Bill 4382 is also enacted into law. House Bill 4382 would prohibit candidate financial solicitations in state facilities, and also in facilities owned by other public bodies (to include local government and school facilities). House Bill 4382 has passed the House of Representatives, and also the Senate, where it was amended. The bill awaits concurrence on the House calendar.]

BACKGROUND INFORMATION:

Definition of Contribution. The Michigan Campaign Finance Act has a lengthy definition of "contribution" at MCL 169.204. It reads:

Sec. 4.

(1) "Contribution" means a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, or for the qualification, passage, or defeat of a ballot question.

(2) Contribution includes the full purchase price of tickets or payment of an attendance fee for events such as dinners, luncheons, rallies, testimonials, and other fund-raising events; an individual's own money or property other than the individual's homestead used on behalf of that individual's candidacy; the granting of discounts or rebates not available to the general public; or the granting of discounts or rebates by broadcast media and newspapers not

extended on an equal basis to all candidates for the same office; and the endorsing or guaranteeing of a loan for the amount the endorser or guarantor is liable.

(3) Contribution does not include any of the following:

(a) Volunteer personal services provided without compensation, or payments of costs incurred of less than \$500.00 in a calendar year by an individual for personal travel expenses if the costs are voluntarily incurred without any understanding or agreement that the costs shall be, directly or indirectly, repaid.

(b) Food and beverages, not to exceed \$100.00 in value during a calendar year, which are donated by an individual and for which reimbursement is not given.

(c) An offer or tender of a contribution if expressly and unconditionally rejected, returned, or refunded in whole or in part within 30 business days after receipt.

Rules of the Michigan House of Representatives. Rule 74(5) of the House currently prohibits a member from soliciting or accepting any type of campaign contribution in any House facility or building.

ARGUMENTS:

For:

Currently the Rules of the Michigan House of Representatives prohibit House members from soliciting or accepting campaign funds in House facilities [in House Rule 74(5)]. That rule should be enacted as state law, and there should be a penalty for violation of that law. This bill would prohibit lobbyists from delivering campaign contributions in state government facilities.

For elected officials, running for office is a separate and distinct function from governing while in office. The first function--running for office--requires a campaign funded by citizens and generally supportive groups (sometimes called special interest groups). As campaigns have increased in cost over the past two decades, campaign fund-raising is now an everyday part of an elected official's work. That fund-raising should not be done in state facilities. On-site fund-raising could, indeed, facilitate (and would, at the very least, be *perceived* to facilitate) the direct purchase of legislators' votes by influential special interest groups or individuals.

In order to heighten citizen trust in governing officials, citizens should know that the state buildings they own and operate are not used for the purpose of political fund-raising--neither for soliciting, nor for accepting, nor for delivering campaign contributions.

POSITIONS:

No positions were advanced.

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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.