

HOUSE BILL No. 5059

October 12, 2011, Introduced by Reps. Tyler, Jacobsen, Kurtz, Price and Knollenberg and referred to the Committee on Redistricting and Elections.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending sections 3, 4, 6, 11, 33, and 34 (MCL 169.203, 169.204, 169.206, 169.211, 169.233, and 169.234), sections 3 and 4 as amended by 1989 PA 95, section 6 as amended by 2003 PA 69, section 11 as amended by 1996 PA 590, and sections 33 and 34 as amended by 1999 PA 238.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 3. (1) "Candidate" means an individual ~~who files~~

WHO MEETS 1 OR MORE OF THE FOLLOWING CRITERIA:

(A) FILES a fee, **AN** affidavit of incumbency, or **A** nominating petition for an elective office.; ~~(b) whose nomination~~

(B) IS NOMINATED as a candidate for elective office by a political party caucus or convention **AND WHOSE NOMINATION** is

1 certified to the appropriate filing official. ~~7 (c) who receives~~

2 (C) RECEIVES a contribution, makes an expenditure, or gives
3 consent for another person to receive a contribution or make an
4 expenditure with a view to bringing about the individual's
5 nomination or election to an elective office, whether or not the
6 specific elective office for which the individual will seek
7 nomination or election is known at the time the contribution is
8 received or the expenditure is made. ~~7 or (d) who is~~

9 (D) IS an officeholder who is the subject of a recall vote.
10 Unless

11 (E) HOLDS AN ELECTIVE OFFICE, UNLESS the officeholder is
12 constitutionally or legally barred from seeking reelection or fails
13 to file for reelection to that office by the applicable filing
14 deadline. ~~7 an elected officeholder shall be~~ AN INDIVIDUAL
15 DESCRIBED IN THIS SUBDIVISION IS considered to be a candidate for
16 reelection to that same office for the purposes of this act only.

17 For purposes of sections 61 to 71, "candidate" only means, in
18 a primary election, a candidate for the office of governor and, in
19 a general election, a candidate for the office of governor or
20 lieutenant governor. However, the candidates for the office of
21 governor and lieutenant governor of the same political party in a
22 general election shall be considered as 1 candidate.

23 (2) "Candidate committee" means the committee designated in a
24 candidate's filed statement of organization as that individual's
25 candidate committee. A candidate committee shall be under the
26 control and direction of the candidate named in the same statement
27 of organization. Notwithstanding subsection (4), an individual

1 shall form a candidate committee ~~pursuant to~~ **UNDER** section 21 ~~when~~
2 **IF** the individual becomes a candidate under subsection (1).

3 (3) "Closing date" means the date through which a campaign
4 statement is required to be complete.

5 (4) "Committee" means a person who receives contributions or
6 makes expenditures for the purpose of influencing or attempting to
7 influence the action of the voters for or against the nomination or
8 election of a candidate, ~~or~~ the qualification, passage, or defeat
9 of a ballot question, **OR THE QUALIFICATION OF A NEW POLITICAL**
10 **PARTY**, if contributions received total \$500.00 or more in a
11 calendar year or expenditures made total \$500.00 or more in a
12 calendar year. An individual, other than a candidate, does not
13 constitute a committee. A person, other than a committee registered
14 under this act, making an expenditure to a ballot question
15 committee, shall **NOT**, for that reason, ~~not~~ be considered a
16 committee for the purposes of this act unless the person solicits
17 or receives contributions for the purpose of making an expenditure
18 to that ballot question committee.

19 Sec. 4. (1) "Contribution" means a payment, gift,
20 subscription, assessment, expenditure, contract, payment for
21 services, dues, advance, forbearance, loan, or donation of money or
22 anything of ascertainable monetary value, or a transfer of anything
23 of ascertainable monetary value to a person, made for the purpose
24 of influencing the nomination or election of a candidate, ~~or~~ for
25 the qualification, passage, or defeat of a ballot question, **OR FOR**
26 **THE QUALIFICATION OF A NEW POLITICAL PARTY**.

27 (2) Contribution includes the full purchase price of tickets

1 or payment of an attendance fee for events such as dinners,
2 luncheons, rallies, testimonials, and other fund-raising events; an
3 individual's own money or property other than the individual's
4 homestead used on behalf of that individual's candidacy; the
5 granting of discounts or rebates not available to the general
6 public; or the granting of discounts or rebates by broadcast media
7 and newspapers not extended on an equal basis to all candidates for
8 the same office; and the endorsing or guaranteeing of a loan for
9 the amount the endorser or guarantor is liable.

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

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

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

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

22 Sec. 6. (1) "Expenditure" means a payment, donation, loan, or
23 promise of payment of money or anything of ascertainable monetary
24 value for goods, materials, services, or facilities in assistance
25 of, or in opposition to, the nomination or election of a candidate,
26 ~~or~~ the qualification, passage, or defeat of a ballot question, **OR**
27 **THE QUALIFICATION OF A NEW POLITICAL PARTY.** Expenditure includes,

1 but is not limited to, any of the following:

2 (a) A contribution or a transfer of anything of ascertainable
3 monetary value for purposes of influencing the nomination or
4 election of a candidate, ~~or~~ the qualification, passage, or defeat
5 of a ballot question, **OR THE QUALIFICATION OF A NEW POLITICAL**
6 **PARTY.**

7 (b) Except as provided in subsection (2)(f) or (g), an
8 expenditure for voter registration or get-out-the-vote activities
9 made by a person who sponsors or finances the activity or who is
10 identified by name with the activity.

11 (c) Except as provided in subsection (2)(f) or (g), an
12 expenditure made for poll watchers, challengers, distribution of
13 election day literature, canvassing of voters to get out the vote,
14 or transporting voters to the polls.

15 (2) Expenditure does not include any of the following:

16 (a) An expenditure for communication by a person with the
17 person's paid members or shareholders and those individuals who can
18 be solicited for contributions to a separate segregated fund under
19 section 55.

20 (b) An expenditure for communication on a subject or issue if
21 the communication does not support or oppose a ballot question or
22 candidate by name or clear inference.

23 (c) An expenditure for the establishment, administration, or
24 solicitation of contributions to a separate segregated fund or
25 independent committee.

26 (d) An expenditure by a broadcasting station, newspaper,
27 magazine, or other periodical or publication for a news story,

1 commentary, or editorial in support of or opposition to a candidate
2 for elective office or a ballot question in the regular course of
3 publication or broadcasting.

4 (e) An offer or tender of an expenditure if expressly and
5 unconditionally rejected or returned.

6 (f) An expenditure for nonpartisan voter registration or
7 nonpartisan get-out-the-vote activities made by an organization
8 that is exempt from federal income tax ~~pursuant to~~ **UNDER** section
9 501(c)(3) of the internal revenue code of 1986, 26 ~~U.S.C.~~ **USC** 501,
10 or any successor statute.

11 (g) An expenditure for nonpartisan voter registration or
12 nonpartisan get-out-the-vote activities performed ~~pursuant to~~ **UNDER**
13 chapter XXIII of the Michigan election law, 1954 PA 116, MCL
14 168.491 to 168.524, by the secretary of state and other
15 registration officials who are identified by name with the
16 activity.

17 (h) An expenditure by a state central committee of a political
18 party or a person controlled by a state central committee of a
19 political party for the construction, purchase, or renovation of 1
20 or more office facilities in Ingham county if the facility is not
21 constructed, purchased, or renovated for the purpose of influencing
22 the election of a candidate in a particular election. Items
23 excluded from the definition of expenditure under this subdivision
24 include expenditures approved in federal election commission
25 advisory opinions 1993-9, 2001-1, and 2001-12 as allowable
26 expenditures under the federal election campaign act of 1971,
27 Public Law 92-225, 2 ~~U.S.C.~~ **USC** 431 to 434, 437, 437c to 439a,

1 439c, 441a to 441h, and 442 to 455, and regulations promulgated
2 under that act, regardless of whether those advisory opinions have
3 been superseded.

4 Sec. 11. (1) "Person" means a business, individual,
5 proprietorship, firm, partnership, joint venture, syndicate,
6 business trust, labor organization, company, corporation,
7 association, committee, or any other organization or group of
8 persons acting jointly.

9 (2) "Political committee" means a committee that is not a
10 candidate committee, political party committee, independent
11 committee, or ballot question committee.

12 (3) "Political merchandise" means goods such as bumper
13 stickers, pins, hats, beverages, literature, or other items sold by
14 a person at a fund raiser or to the general public for publicity or
15 for the purpose of raising funds to be used in supporting or
16 opposing a candidate for nomination for or election to an elective
17 office, ~~or~~ in supporting or opposing the qualification, passage, or
18 defeat of a ballot question, **OR IN SUPPORTING OR OPPOSING THE**
19 **QUALIFICATION OF A NEW POLITICAL PARTY.**

20 (4) "Political party" means a political party ~~which~~ **THAT** has a
21 right under law to have the names of its candidates listed on the
22 ballot in a general election.

23 (5) "Political party committee" means a state central,
24 district, or county committee of a political party ~~which~~ **OR A PARTY**
25 **ATTEMPTING TO QUALIFY AS A NEW POLITICAL PARTY UNDER SECTION 685 OF**
26 **THE MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.685, THAT** is a
27 committee. Each state central committee shall designate the

1 official party county and district committees. There shall not be
2 more than 1 officially designated political party committee per
3 county and per congressional district.

4 (6) "Public body" means 1 or more of the following:

5 (a) A state agency, department, division, bureau, board,
6 commission, council, authority, or other body in the executive
7 branch of state government.

8 (b) The legislature or an agency, board, commission, or
9 council in the legislative branch of state government.

10 (c) A county, city, township, village, intercounty, intercity,
11 or regional governing body; a council, school district, special
12 district, or municipal corporation; or a board, department,
13 commission, or council or an agency of a board, department,
14 commission, or council.

15 (d) Any other body that is created by state or local authority
16 or is primarily funded by or through state or local authority,
17 ~~which~~ **IF THE** body exercises governmental or proprietary authority
18 or performs a governmental or proprietary function.

19 Sec. 33. (1) A committee, other than an independent committee
20 or a political committee required to file with the secretary of
21 state, supporting or opposing a candidate shall file complete
22 campaign statements as required by this act and the rules
23 promulgated under this act. The campaign statements shall be filed
24 according to the following schedule:

25 (a) A preelection campaign statement shall be filed not later
26 than the eleventh day before an election. The closing date for a
27 campaign statement filed under this subdivision shall be the

1 sixteenth day before the election.

2 (b) A postelection campaign statement shall be filed not later
3 than the thirtieth day following the election. The closing date for
4 a campaign statement filed under this subdivision shall be the
5 twentieth day following the election. A committee supporting a
6 candidate who loses the primary election shall file closing
7 campaign statements in accordance with this section. If all
8 liabilities of such a candidate or committee are paid before the
9 closing date and additional contributions are not expected, the
10 campaign statement may be filed at any time after the election, but
11 not later than the thirtieth day following the election.

12 (2) For the purposes of subsection (1):

13 (a) A candidate committee shall file a preelection campaign
14 statement and a postelection campaign statement for each election
15 in which the candidate seeks nomination or election, except if an
16 individual becomes a candidate after the closing date for the
17 preelection campaign statement only the postelection campaign
18 statement is required for that election.

19 (b) A committee other than a candidate committee shall file a
20 campaign statement for each period during which expenditures are
21 made for the purpose of influencing the nomination or election of a
22 candidate or for the qualification, passage, or defeat of a ballot
23 question.

24 (3) An independent committee or a political committee other
25 than a house political party caucus committee or senate political
26 party caucus committee required to file with the secretary of state
27 shall file campaign statements as required by this act according to

1 the following schedule:

2 (a) In an odd numbered year:

3 (i) Not later than January 31 of that year with a closing date
4 of December 31 of the previous year.

5 (ii) Not later than July 25 with a closing date of July 20 **OF**
6 **THAT YEAR.**

7 (iii) Not later than October 25 with a closing date of October
8 20 **OF THAT YEAR.**

9 (b) In an even numbered year:

10 (i) Not later than April 25 of that year with a closing date of
11 April 20 of that year.

12 (ii) Not later than July 25 with a closing date of July 20 **OF**
13 **THAT YEAR.**

14 (iii) Not later than October 25 with a closing date of October
15 20 **OF THAT YEAR.**

16 (4) A house political party caucus committee or a senate
17 political party caucus committee required to file with the
18 secretary of state **OR A POLITICAL PARTY COMMITTEE FOR A PARTY**
19 **ATTEMPTING TO QUALIFY AS A NEW POLITICAL PARTY UNDER SECTION 685 OF**
20 **THE MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.685,** shall file
21 campaign statements as required by this act according to the
22 following schedule:

23 (a) Not later than January 31 of each year with a closing date
24 of December 31 of the immediately preceding year.

25 (b) Not later than April 25 of each year with a closing date
26 of April 20 of that year.

27 (c) Not later than July 25 of each year with a closing date of

1 July 20 of that year.

2 (d) Not later than October 25 of each year with a closing date
3 of October 20 of that year.

4 (e) For the period beginning on the fourteenth day immediately
5 preceding a primary or special primary election and ending on the
6 day immediately following the primary or special primary election,
7 not later than 4 p.m. each business day with a closing date of the
8 immediately preceding day, only for a contribution received or
9 expenditure made that exceeds \$1,000.00 per day.

10 (f) For the period beginning on the fourteenth day immediately
11 preceding a general or special election and ending on the day
12 immediately following the general or special election, not later
13 than 4 p.m. each business day with a closing date of the
14 immediately preceding day, only for a contribution received or
15 expenditure made that exceeds \$1,000.00 per day.

16 (5) Notwithstanding subsection (3) or (4) or section 51, if an
17 independent expenditure is made within 45 days before a special
18 election by an independent committee or a political committee
19 required to file a campaign statement with the secretary of state,
20 a report of the expenditure shall be filed by the committee with
21 the secretary of state within 48 hours after the expenditure. The
22 report shall be made on a form provided by the secretary of state
23 and shall include the date of the independent expenditure, the
24 amount of the expenditure, a brief description of the nature of the
25 expenditure, and the name and address of the person to whom the
26 expenditure was paid. The brief description of the expenditure
27 shall include either the name of the candidate and the office

1 sought by the candidate or the name of the ballot question and
2 shall state whether the expenditure supports or opposes the
3 candidate or ballot question. This subsection does not apply if the
4 committee is required to report the independent expenditure in a
5 campaign statement that is required to be filed before the date of
6 the election for which the expenditure was made.

7 (6) A candidate committee or a committee other than a
8 candidate committee that files a written statement under section
9 24(5) or (6) need not file a campaign statement under subsection
10 (1), (3), or (4) unless it received or expended an amount in excess
11 of \$1,000.00. If the committee receives or expends an amount in
12 excess of \$1,000.00 during a period covered by a filing, the
13 committee is then subject to the campaign filing requirements under
14 this act.

15 (7) A committee, candidate, treasurer, or other individual
16 designated as responsible for the committee's record keeping,
17 report preparation, or report filing who fails to file a statement
18 as required by this section shall pay a late filing fee. If the
19 committee has raised \$10,000.00 or less during the previous 2
20 years, the late filing fee shall be \$25.00 for each business day
21 the statement remains unfiled, but not to exceed \$500.00. If the
22 committee has raised more than \$10,000.00 during the previous 2
23 years, the late filing fee shall not exceed \$1,000.00, determined
24 as follows:

25 (a) Twenty-five dollars for each business day the report
26 remains unfiled.

27 (b) An additional \$25.00 for each business day after the first

1 3 business days the report remains unfiled.

2 (c) An additional \$50.00 for each business day after the first
3 10 business days the report remains unfiled.

4 (8) If a candidate, treasurer, or other individual designated
5 as responsible for the committee's record keeping, report
6 preparation, or report filing fails to file 2 statements required
7 by this section or section 35 and both of the statements remain
8 unfiled for more than 30 days, that candidate, treasurer, or other
9 designated individual is guilty of a misdemeanor ~~—~~punishable by a
10 fine of not more than \$1,000.00 ~~—~~or imprisonment for not more than
11 90 days, or both.

12 (9) If a candidate is found guilty of a violation of this
13 section, the circuit court for that county, on application by the
14 attorney general or the prosecuting attorney of that county, may
15 prohibit that candidate from assuming the duties of a public office
16 or from receiving compensation from public funds, or both.

17 (10) If a treasurer or other individual designated as
18 responsible for a committee's record keeping, report preparation,
19 or report filing knowingly files an incomplete or inaccurate
20 statement or report required by this section, that treasurer or
21 other designated individual is subject to a civil fine of not more
22 than \$1,000.00.

23 Sec. 34. (1) A ballot question committee shall file a campaign
24 statement as required by this act according to the following
25 schedule:

26 (a) A preelection campaign statement, the closing date of
27 which shall be the sixteenth day before the election, shall not be

1 filed later than the eleventh day before the election.

2 (b) A postelection campaign statement, the closing date of
3 which shall be the twentieth day following the election, shall not
4 be filed later than the thirtieth day following an election. If all
5 liabilities of the committee are paid before the closing date and
6 additional contributions are not expected, the campaign statement
7 may be filed at any time after the election, but not later than the
8 thirtieth day following the election.

9 (C) CAMPAIGN STATEMENTS NOT LATER THAN THE FOLLOWING DATES
10 EVERY YEAR:

11 (i) JANUARY 31 WITH A CLOSING DATE OF DECEMBER 31 OF THE
12 PREVIOUS YEAR.

13 (ii) APRIL 25 WITH A CLOSING DATE OF APRIL 20 OF THAT YEAR.

14 (iii) JULY 25 WITH A CLOSING DATE OF JULY 20 OF THAT YEAR.

15 (D) IN EVERY ODD NUMBERED YEAR, A CAMPAIGN STATEMENT NOT LATER
16 THAN OCTOBER 25 WITH A CLOSING DATE OF OCTOBER 20 OF THAT YEAR.

17 (2) A ballot question committee supporting or opposing a
18 statewide ballot question shall file a campaign statement, of which
19 the closing date shall be the twenty-eighth day after the
20 ~~qualification of the measure~~ **APPROVAL OF THE PETITION FORM**, not
21 later than 35 days after the ~~ballot question is qualified for the~~
22 ~~ballot.~~ **PETITION FORM IS APPROVED UNDER SECTION 483A OF THE**
23 **MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.483A.** If the ~~ballot~~
24 ~~question fails to qualify for the ballot~~ **PETITION FORM IS NOT**
25 **APPROVED**, the ballot question committee shall file the campaign
26 statement within 35 days after the final deadline for qualifying
27 **FOR THE BALLOT**, the closing date of which shall be the twenty-

1 eighth day after the deadline.

2 (3) If a ballot question committee supporting or opposing a
3 statewide ballot question fails to file a preelection statement
4 under this section, that committee or its treasurer shall pay a
5 late filing fee for each business day the statement remains not
6 filed in violation of this section, not to exceed \$1,000.00,
7 pursuant to the following schedule:

8 (a) First day--\$25.00.

9 (b) Second day--\$50.00.

10 (c) Third day--\$75.00.

11 (d) Fourth day and for each subsequent day that the statement
12 remains unfilled--\$100.00.

13 (4) If a treasurer or other individual designated as
14 responsible for the record keeping, report preparation, or report
15 filing of a ballot question committee supporting or opposing a
16 statewide ballot question fails to file a statement, other than a
17 preelection statement, under this section, that committee,
18 treasurer, or other designated individual shall pay a late filing
19 fee. If the committee has raised \$10,000.00 or less during the
20 previous 2 years, the late filing fee shall be \$25.00 for each
21 business day the campaign statement remains unfilled, but not to
22 exceed \$1,000.00. If the committee has raised more than \$10,000.00
23 during the previous 2 years, the late filing fee shall be \$50.00
24 for each business day the campaign statement remains unfilled, but
25 not to exceed \$2,000.00.

26 (5) If a treasurer or other individual designated as
27 responsible for the record keeping, report preparation, or report

1 filing of a ballot question committee supporting or opposing other
2 than a statewide ballot question fails to file a statement under
3 this section, that committee, treasurer, or other designated
4 individual shall pay a late filing fee. If the committee has raised
5 \$10,000.00 or less during the previous 2 years, the late filing fee
6 shall be \$25.00 for each business day the campaign statement
7 remains unfiled, but not to exceed \$1,000.00. If the committee has
8 raised more than \$10,000.00 during the previous 2 years, the late
9 filing fee shall be \$50.00 for each business day the campaign
10 statement remains unfiled, but not to exceed \$2,000.00.

11 (6) If a treasurer or other individual designated as
12 responsible for the record keeping, report preparation, or report
13 filing of a ballot question committee fails to file a statement as
14 required by subsection (1) or (2) for more than 7 days, that
15 treasurer or other designated individual is guilty of a misdemeanor
16 ~~—~~punishable by a fine of not more than \$1,000.00 ~~—~~or imprisonment
17 for not more than 90 days, or both.

18 (7) If a treasurer or other individual designated as
19 responsible for the record keeping, report preparation, or report
20 filing of a ballot question committee knowingly files an incomplete
21 or inaccurate statement or report required by this section, that
22 treasurer or other designated individual is subject to a civil fine
23 of not more than \$1,000.00.

24 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No. ____ or House Bill No. 5063(request no.
26 01483'11) of the 96th Legislature is enacted into law.