

HOUSE BILL No. 4425

March 12, 2013, Introduced by Reps. Cochran, LaVoy, Ananich, Brinks, Singh, Faris, Smiley, Knezek, Greimel, Brunner, Barnett, Hovey-Wright, Roberts, Banks, Brown, McCann, Townsend, Irwin, Segal, Zemke, Dillon, Yanez, Kosowski, Switalski, Tlaib, Driskell, Lamonte, Kandrevas, Slavens, Lipton, Abed and Oakes and referred to the Committee on Elections and Ethics.

A bill to amend 1976 PA 388, entitled
"Michigan campaign finance act,"
by amending section 33 (MCL 169.233), as amended by 2012 PA 273.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

7 (a) A preelection campaign statement shall be filed not later
8 than the eleventh day before an election. The closing date for a
9 campaign statement filed under this subdivision shall be the
10 sixteenth day before the election.

11 (b) A postelection campaign statement shall be filed not later

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

10 (C) IN AN ODD NUMBERED YEAR:

11 (i) NOT LATER THAN APRIL 25 WITH A CLOSING DATE OF APRIL 20 OF
12 EACH YEAR.

13 (ii) NOT LATER THAN JULY 25 WITH A CLOSING DATE OF JULY 20 OF
14 EACH YEAR.

15 (iii) NOT LATER THAN OCTOBER 25 WITH A CLOSING DATE OF OCTOBER
16 20 OF EACH YEAR.

17 (D) IN AN EVEN NUMBERED YEAR, APRIL 30 WITH A CLOSING DATE OF
18 APRIL 20 OF THAT YEAR.

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

20 (a) A candidate committee shall file a preelection campaign
21 statement and a postelection campaign statement for each election
22 in which the candidate seeks nomination or election, except if an
23 individual becomes a candidate after the closing date for the
24 preelection campaign statement only the postelection campaign
25 statement is required for that election.

26 (b) A committee other than a candidate committee shall file a
27 campaign statement for each period during which expenditures are

1 made for the purpose of influencing the nomination or election of a
2 candidate or for the qualification, passage, or defeat of a ballot
3 question.

4 (3) An independent committee or a political committee other
5 than a house political party caucus committee or senate political
6 party caucus committee required to file with the secretary of state
7 shall file campaign statements as required by this act according to
8 the following schedule:

9 (a) Not later than February 15 of each year with a closing
10 date of February 10 of that year.

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

13 (c) Not later than July 25 of each year with a closing date of
14 July 20 of that year.

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

17 (4) A house political party caucus committee or a senate
18 political party caucus committee required to file with the
19 secretary of state or a political party committee for a party
20 attempting to qualify as a new political party under section 685 of
21 the Michigan election law, 1954 PA 116, MCL 168.685, shall file
22 campaign statements as required by this act according to the
23 following schedule:

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

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

1 (c) Not later than July 25 of each year with a closing date of
2 July 20 of that year.

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

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

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

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

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

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

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

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

1 (b) An additional \$25.00 for each business day after the first
2 3 business days the report remains unfiled.

3 (c) An additional \$50.00 for each business day after the first
4 10 business days the report remains unfiled.

5 (8) If a candidate, treasurer, or other individual designated
6 as responsible for the committee's record keeping, report
7 preparation, or report filing fails to file 2 statements required
8 by this section or section 35 and both of the statements remain
9 unfiled for more than 30 days, that candidate, treasurer, or other
10 designated individual is guilty of a misdemeanor punishable by a
11 fine of not more than \$1,000.00 or imprisonment for not more than
12 90 days, or both.

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

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

23 (11) If a candidate, treasurer, or other individual designated
24 as responsible for a committee's record keeping, report
25 preparation, or report filing knowingly omits or underreports
26 individual contributions or individual expenditures required to be
27 disclosed by this act, that individual is subject to a civil fine

1 of not more than \$1,000.00 or the amount of the contributions and
2 expenditures omitted or underreported, whichever is greater.

3 (12) If a candidate committee's account has a balance of
4 \$20,000.00 or more and a candidate, treasurer, or other individual
5 designated as responsible for that committee's record keeping,
6 report preparation, or report filing fails to file campaign
7 statements required under this act for 2 consecutive years, that
8 candidate, treasurer, or other individual is guilty of a felony
9 punishable by imprisonment for not more than 3 years or a fine of
10 not more than \$5,000.00, or both. Any money in a candidate
11 committee account described in this subsection is subject to
12 seizure by, and forfeiture to, this state as provided in this
13 section.

14 (13) Not more than 5 business days after seizure of money
15 under subsection (12), the secretary of state shall deliver
16 personally or by registered mail to the last known address of the
17 candidate from whom the seizure was made an inventory statement of
18 the money seized. The inventory statement shall also contain notice
19 to the effect that unless demand for hearing as provided in this
20 section is made within 10 business days, the money is forfeited to
21 this state. Within 10 business days after the date of service of
22 the notice, the candidate may by registered mail, facsimile
23 transmission, or personal service file with the secretary of state
24 a demand for a hearing before the secretary of state or a person
25 designated by the secretary of state for a determination as to
26 whether the money was lawfully subject to seizure and forfeiture.
27 The candidate is entitled to appear before the secretary of state

1 or a person designated by the secretary of state, to be represented
2 by counsel, and to present testimony and argument. Upon receipt of
3 a request for hearing, the secretary of state or a person
4 designated by the secretary of state shall hold the hearing within
5 15 business days. The hearing is not a contested case proceeding
6 and is not subject to the administrative procedures act of 1969,
7 1969 PA 306, MCL 24.201 to 24.328. After the hearing, the secretary
8 of state or a person designated by the secretary of state shall
9 render a decision in writing within 10 business days of the hearing
10 and, by order, shall either declare the money subject to seizure
11 and forfeiture or declare the money returnable to the candidate.
12 If, within 10 business days after the date of service of the
13 inventory statement, the candidate does not file with the secretary
14 of state a demand for a hearing before the secretary of state or a
15 person designated by the secretary of state, the money seized is
16 forfeited to this state by operation of law. If, after a hearing
17 before the secretary of state or a person designated by the
18 secretary of state, the secretary of state or a person designated
19 by the secretary of state determines that the money is lawfully
20 subject to seizure and forfeiture and the candidate does not appeal
21 to the circuit court of the county in which the seizure was made
22 within the time prescribed in this section, the money seized is
23 forfeited to this state by operation of law. If a candidate is
24 aggrieved by the decision of the secretary of state or a person
25 designated by the secretary of state, that candidate may appeal to
26 the circuit court of the county where the seizure was made to
27 obtain a judicial determination of the lawfulness of the seizure

1 and forfeiture. The action shall be commenced within 20 days after
2 notice of a determination by the secretary of state or a person
3 designated by the secretary of state is sent to the candidate. The
4 court shall hear the action and determine the issues of fact and
5 law involved in accordance with rules of practice and procedure as
6 in other in rem proceedings.