

# Legislative Analysis



## INCUMBENT JUDGE AND JUSTICE CAMPAIGN FINANCE STATEMENTS

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**House Bills 4596 & 4597 (reported without amendment)**

**Sponsor: Rep. Lisa Posthumus Lyons**

**Committee: Elections**

**Complete to 5-26-15**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Acts 238 & 239 of 2015)*

**BRIEF SUMMARY:** The bills would provide a waiver of, and thereby assume automatic compliance with, a provision of the law that requires campaign treasurers of incumbent judges or justices to file a written statement that indicates they do not expect to spend more than \$1,000 for an election.

**FISCAL IMPACT:** The bills would not have a fiscal impact on state or local government.

### **THE APPARENT PROBLEM:**

Michigan's Campaign Finance Law was revised in 2013 to modify some of the reporting requirements for campaign treasurers. For example, under Public Act 252 of 2013 (formerly Senate Bill 661), complete campaign statements must now be filed in July and October, in a year in which there is no election.

Among the provisions of the act that were retained was a requirement that allowed campaign treasurers to avoid certain reporting requirements, if they filed a statement indicating they did not expect to receive or spend more than \$1,000 in a given year.

The canons of Michigan's Judicial Code of Conduct set out, among other things, the manner in which judges and justices of the Supreme Court may campaign for election, including the ways in which their campaign committees can receive and expend money. (See **Background Information** below.) For example, judges (unlike other candidates for public office) may not directly solicit campaign funds. Neither can their campaign committees begin raising funds before February 15 of the election year in which the judge runs for office. Further, judges and justices of the Supreme Court cannot hold funds in campaign accounts following the year of their election, and never during the years in which they are not running for office.

Specifically, concerning a judge's campaign for office, Canon 7B is entitled "Campaign Conduct." And, Canon 7B(2)(d) of the Code of Judicial Conduct reads, in part:

*The committee may solicit funds for the campaign no earlier than February 15 of the year of the election, and may not solicit or accept funds after the date of the general election.*

Further, Canon 7B(2)(f) reads, in part:

*...Any candidate or committee having funds remaining after payment of all campaign expenses shall either return such funds to the contributors thereof or donate the funds to the client security fund of the State Bar of Michigan, not later than January 1 following the election.*

Because judges' campaigns cannot hold funds in campaign accounts after the year in which they are elected, legislation to amend the Michigan Campaign Finance Law has been introduced, to clarify that the treasurers of judicial campaigns are exempt from the off-election-year reporting requirement that all non-judicial campaign treasurers must file, if they do not expect to raise or spend more than \$1000.

### **THE CONTENT OF THE BILLS:**

The bills would amend two sections of the Michigan Campaign Finance Act to assume automatic compliance with a provision of the law that allows the campaign treasurers of incumbent judges or justices (both elected and appointed) to file a written statement that indicates a judge's campaign committee does not expect to receive or spend more than \$1,000 for an election.

Now under the law, when filing a statement of organization, a campaign committee (other than an independent committee, a political committee, or a political party committee) may indicate in a written statement, signed by the committee treasurer, that the committee does not expect to receive or spend more than \$1,000 (for each election). If more money is spent, campaign finance reporting requirements apply.

Under the bills, the campaign treasurer of an incumbent judge or justice would not be required to file this written statement, but the statement would be considered to have been filed. The two bills amend separate sections of the Campaign Finance Act and are tie-barred, meaning neither can take effect unless both are enacted.

MCL 169.224 & 169.233

### **BACKGROUND INFORMATION:**

To review the eight canons within the 10-page document entitled "Michigan Judicial Code of Conduct," visit: <http://jtc.courts.mi.gov/codeofconduct.htm>

To view section 24 of the Michigan Campaign Finance Law (MCL 169.224) in its entirety, visit:

[http://www.legislature.mi.gov/\(S\(aymmwl0bcabnp0hnrff4m4ve\)\)/mileg.aspx?page=getObject&objectName=mcl-169-224](http://www.legislature.mi.gov/(S(aymmwl0bcabnp0hnrff4m4ve))/mileg.aspx?page=getObject&objectName=mcl-169-224)

### **ARGUMENTS:**

#### **For:**

This legislation would eliminate a conflict that currently exists between statute law and the Code of Judicial Conduct. Under the law, in election off-years, all campaign treasurers—

including all judges' campaign treasurers—must file financial statements in July and October to comply with the Campaign Finance Act.

However, two provisions of Canon 7B ("Campaign Conduct") of Michigan's Code of Judicial Conduct prohibit a judge's campaign committee from holding funds after an election. In particular, Canon 7B(2)(d) reads, in part: *"The committee...may not solicit or accept funds after the date of the general election"*, and in addition, Canon 7B(2)(f) reads, in part: *"...Any candidate or committee having funds remaining after payment of all campaign expenses shall either return such funds to the contributors thereof or donate the funds to the client security fund of the State Bar of Michigan, not later than January 1 following the election."*

This bill is needed to ensure that the treasurers of judges' campaign committees are not in violation of the Campaign Finance Act when they follow Michigan's Code of Judicial Conduct. It allows an automatic assumption that a judicial campaign has filed a statement that the campaign does not intend to receive or spend more than \$1000 in election off-years.

***POSITIONS:***

The Michigan Department of State supports the bills. (5-21-15)

The Supreme Court Administrative Office supports the bills. (5-21-15)

The Michigan Judges Association supports the bills. (5-21-15)

The Michigan Campaign Finance Network supports the bills. (5-21-15)

Legislative Analyst: J. Hunault  
Fiscal Analyst: Perry Zielak

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.