

HOUSE BILL No. 5249

January 26, 2016, Introduced by Reps. Hughes and Barrett and referred to the Committee on Elections.

A bill to amend 1976 PA 388, entitled
"Michigan campaign finance act,"
by amending section 57 (MCL 169.257), as amended by 2015 PA 269.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 57. (1) A public body or a person acting for a public
2 body shall not use or authorize the use of funds, personnel, office
3 space, computer hardware or software, property, stationery,
4 postage, vehicles, equipment, supplies, or other public resources
5 to make a contribution or expenditure or provide volunteer personal
6 services that are excluded from the definition of contribution
7 under section 4(3)(a). The prohibition under this subsection
8 includes, but is not limited to, using or authorizing the use of
9 public resources to establish or administer a payroll deduction
10 plan to directly or indirectly collect or deliver a contribution

1 to, or make an expenditure for, a committee. Advance payment or
2 reimbursement to a public body does not cure a use of public
3 resources otherwise prohibited by this subsection. This subsection
4 does not apply to any of the following:

5 (a) ~~The~~**SUBJECT TO SUBSECTION (3), THE** expression of views by
6 an elected or appointed public official who has policy making
7 responsibilities.

8 (b) Subject to subsection (3), the production or dissemination
9 of factual information concerning issues relevant to the function
10 of the public body. **THE PRODUCTION OR THE DISSEMINATION OF FACTUAL**
11 **INFORMATION CONCERNING ISSUES RELEVANT TO THE FUNCTION OF THE**
12 **PUBLIC BODY MUST PROVIDE A FAIR PRESENTATION OF FACTS. THE**
13 **PRODUCTION OR THE DISSEMINATION OF FACTUAL INFORMATION CONCERNING**
14 **ISSUES RELEVANT TO THE PUBLIC BODY MUST NOT IMPLY, UNDER REASONABLE**
15 **INTERPRETATION, A VOTE FOR OR AGAINST A PROPOSAL.**

16 (c) The production or dissemination of debates, interviews,
17 commentary, **MEETINGS OF A PUBLIC BODY**, or information by a
18 broadcasting station, newspaper, magazine, or other periodical or
19 publication in the regular course of broadcasting or publication.

20 (d) The use of a public facility owned or leased by, or on
21 behalf of, a public body if any candidate or committee has an equal
22 opportunity to use the public facility.

23 (e) The use of a public facility owned or leased by, or on
24 behalf of, a public body if that facility is primarily used as a
25 family dwelling and is not used to conduct a fund-raising event.

26 (f) An elected or appointed public official or an employee of
27 a public body who, when not acting for a public body but is on his

1 or her own personal time, is expressing his or her own personal
2 views, is expending his or her own personal funds, or is providing
3 his or her own personal volunteer services.

4 (2) If the secretary of state has dismissed a complaint filed
5 under section 15(5) alleging that a public body or person acting
6 for a public body used or authorized the use of public resources to
7 establish or administer a payroll deduction plan to collect or
8 deliver a contribution to, or make an expenditure for, a committee
9 in violation of this section, or if the secretary of state enters
10 into a conciliation agreement under section 15(10) that does not
11 prevent a public body or a person acting for a public body to use
12 or authorize the use of public resources to establish or administer
13 a payroll deduction plan to collect or deliver a contribution to,
14 or make an expenditure for, a committee in violation of this
15 section, the following apply:

16 (a) The complainant or any other person who resides, or has a
17 place of business, in the jurisdiction where the use or
18 authorization of the use of public resources occurred may bring a
19 civil action against the public body or person acting for the
20 public body to seek declaratory, injunctive, mandamus, or other
21 equitable relief and to recover losses that a public body suffers
22 from the violation of this section.

23 (b) If the complainant or any other person who resides, or has
24 a place of business, in the jurisdiction where the use or
25 authorization of the use of public resources occurred prevails in
26 an action initiated under this subsection, a court shall award the
27 complainant or any other person necessary expenses, costs, and

1 reasonable attorney fees.

2 (c) Any amount awarded or equitable relief granted by a court
3 under this subsection may be awarded or granted against the public
4 body or an individual acting for the public body, or both, that
5 violates this section, as determined by the court.

6 (d) A complainant or any other person who resides, or has a
7 place of business, in the jurisdiction where the use or
8 authorization of the use of public resources occurred may bring a
9 civil action under this subsection in any county in which venue is
10 proper. Process issued by a court in which an action is filed under
11 this subsection may be served anywhere in this state.

12 (3) **THIS SUBSECTION DOES NOT APPLY TO A LOCAL BALLOT QUESTION**
13 **THAT RENEWS A TAX AND THAT DOES NOT REQUIRE ADDITIONAL TAXES TO BE**
14 **PAID BY THE ELECTORATE. Except FOR ACTIVITY OTHERWISE PERMITTED**
15 **UNDER SUBSECTION (1) (C) TO (F), AND EXCEPT** for an election official
16 in the performance of his or her duties under the Michigan election
17 law, 1954 PA 116, MCL 168.1 to 168.992, a public body, or a person
18 acting for a public body, shall not, during the period ~~60~~**30** days
19 before an election in which a local ballot question appears on a
20 ballot, use public funds or resources for a communication by means
21 of radio ~~,—OR~~ television **ADVERTISEMENT**, mass mailing, or
22 prerecorded telephone message if that communication references a
23 local ballot question and is targeted to the ~~relevant~~**relevant** electorate
24 where the local ballot question ~~appears~~**WILL APPEAR** on the ballot.
25 **AS USED IN THIS SUBSECTION, "COMMUNICATION" DOES NOT INCLUDE ANY OF**
26 **THE FOLLOWING:**

27 (A) **THE LANGUAGE OF THE LOCAL BALLOT QUESTION.**

1 (B) THE DATE OF THE ELECTION.

2 (C) A DISCUSSION OF THE LOCAL BALLOT QUESTION DURING A
3 REGULARLY SCHEDULED MEETING OF A PUBLIC BODY, INCLUDING A MEETING
4 THAT IS BROADCAST USING A PUBLIC ACCESS MEDIUM, PROVIDED THAT BOTH
5 PROPONENTS AND OPPONENTS OF THE LOCAL BALLOT QUESTION HAVE AN EQUAL
6 OPPORTUNITY TO DISCUSS THE LOCAL BALLOT QUESTION.

7 (D) FINANCIAL OR TAX INFORMATION RELEVANT TO THE REQUEST,
8 INCLUDING, BUT NOT LIMITED TO, THE AVERAGE TAX INCREASE PER
9 HOMEOWNER OR RESIDENT AND RELEVANT FINANCIAL INFORMATION FOR WHAT
10 THE FUNDS WILL BE USED FOR.

11 (E) DETAILS REGARDING PROPOSED COMMUNITY MEETINGS DEDICATED TO
12 THE LOCAL BALLOT QUESTION WHERE BOTH PROPONENTS AND OPPONENTS OF
13 THE LOCAL BALLOT QUESTION HAVE AN EQUAL OPPORTUNITY TO DISCUSS THE
14 LOCAL BALLOT QUESTION.

15 (4) THE GOVERNING BODY OF A PUBLIC BODY SHALL APPROVE ANY
16 COMMUNICATION BY MEANS OF RADIO OR TELEVISION ADVERTISEMENT, MASS
17 MAILING, OR PRERECORDED TELEPHONE MESSAGE THAT INCLUDES ANY
18 INFORMATION LISTED UNDER SUBSECTION (3) (A), (B), (D), OR (E) BEFORE
19 THAT COMMUNICATION IS MADE.

20 (5) ~~(4)~~ A person who knowingly violates this section is guilty
21 of a misdemeanor punishable, if the person is an individual, by a
22 fine of not more than ~~\$1,000.00~~ \$5,000.00 or imprisonment for not
23 more than 1 year, or both, or if the person is not an individual,
24 by 1 of the following, whichever is greater:

25 (a) A fine of not more than \$20,000.00.

26 (b) A fine equal to the amount of the improper contribution or
27 expenditure.