

Act No. 239
Public Acts of 2015
Approved by the Governor
December 22, 2015
Filed with the Secretary of State
December 22, 2015
EFFECTIVE DATE: March 21, 2016

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015**

Introduced by Rep. Lyons

ENROLLED HOUSE BILL No. 4597

AN ACT to amend 1976 PA 388, entitled "An act to regulate political activity; to regulate campaign financing; to restrict campaign contributions and expenditures; to require campaign statements and reports; to regulate anonymous contributions; to regulate campaign advertising and literature; to provide for segregated funds for political purposes; to provide for the use of public funds for political purposes; to create certain funds; to provide for reversion, retention, or refunding of unexpended balances in certain funds; to require other statements and reports; to regulate acceptance of certain gifts, payments, and reimbursements; to prescribe the powers and duties of certain state departments and state and local officials and employees; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts," by amending section 33 (MCL 169.233), as amended by 2013 PA 252.

The People of the State of Michigan enact:

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

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

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

(c) In a year in which there is no election for the candidate the committee is supporting or opposing:

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

(ii) Not later than October 25 with a closing date of October 20 of that year.

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

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

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

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

- (a) Not later than February 15 of each year with a closing date of February 10 of that year.
- (b) Not later than April 25 of each year with a closing date of April 20 of that year.
- (c) Not later than July 25 of each year with a closing date of July 20 of that year.
- (d) Not later than October 25 of each year with a closing date of October 20 of that year.

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

- (a) Not later than January 31 of each year with a closing date of December 31 of the immediately preceding year.
- (b) Not later than April 25 of each year with a closing date of April 20 of that year.
- (c) Not later than July 25 of each year with a closing date of July 20 of that year.
- (d) Not later than October 25 of each year with a closing date of October 20 of that year.
- (e) For the period beginning on the fourteenth day immediately preceding a primary or special primary election and ending on the day immediately following the primary or special primary election, not later than 4 p.m. each business day with a closing date of the immediately preceding day, only for a contribution received or expenditure made that exceeds \$1,000.00 per day.

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

(5) Notwithstanding subsection (3) or (4) or section 51, if an independent expenditure is made within 45 days before a special election by an independent committee or a political committee required to file a campaign statement with the secretary of state, a report of the expenditure shall be filed by the committee with the secretary of state within 48 hours after the expenditure. The report shall be made on a form provided by the secretary of state and shall include the date of the independent expenditure, the amount of the expenditure, a brief description of the nature of the expenditure, and the name and address of the person to whom the expenditure was paid. The brief description of the expenditure shall include either the name of the candidate and the office sought by the candidate or the name of the ballot question and shall state whether the expenditure supports or opposes the candidate or ballot question. This subsection does not apply if the committee is required to report the independent expenditure in a campaign statement that is required to be filed before the date of the election for which the expenditure was made.

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

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

- (a) Twenty-five dollars for each business day the report remains unfiled.
- (b) An additional \$25.00 for each business day after the first 3 business days the report remains unfiled.
- (c) An additional \$50.00 for each business day after the first 10 business days the report remains unfiled.

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

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

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

(11) If a candidate, treasurer, or other individual designated as responsible for a committee's record keeping, report preparation, or report filing knowingly omits or underreports individual contributions or individual expenditures required to be disclosed by this act, that individual is subject to a civil fine of not more than \$1,000.00 or the amount of the contributions and expenditures omitted or underreported, whichever is greater.

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

(13) Not more than 5 business days after seizure of money under subsection (12), the secretary of state shall deliver personally or by registered mail to the last known address of the candidate from whom the seizure was made an inventory statement of the money seized. The inventory statement shall also contain notice to the effect that unless demand for hearing as provided in this section is made within 10 business days, the money is forfeited to this state. Within 10 business days after the date of service of the notice, the candidate may by registered mail, facsimile transmission, or personal service file with the secretary of state a demand for a hearing before the secretary of state or a person designated by the secretary of state for a determination as to whether the money was lawfully subject to seizure and forfeiture. The candidate is entitled to appear before the secretary of state or a person designated by the secretary of state, to be represented by counsel, and to present testimony and argument. Upon receipt of a request for hearing, the secretary of state or a person designated by the secretary of state shall hold the hearing within 15 business days. The hearing is not a contested case proceeding and is not subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After the hearing, the secretary of state or a person designated by the secretary of state shall render a decision in writing within 10 business days of the hearing and, by order, shall either declare the money subject to seizure and forfeiture or declare the money returnable to the candidate. If, within 10 business days after the date of service of the inventory statement, the candidate does not file with the secretary of state a demand for a hearing before the secretary of state or a person designated by the secretary of state, the money seized is forfeited to this state by operation of law. If, after a hearing before the secretary of state or a person designated by the secretary of state, the secretary of state or a person designated by the secretary of state determines that the money is lawfully subject to seizure and forfeiture and the candidate does not appeal to the circuit court of the county in which the seizure was made within the time prescribed in this section, the money seized is forfeited to this state by operation of law. If a candidate is aggrieved by the decision of the secretary of state or a person designated by the secretary of state, that candidate may appeal to the circuit court of the county where the seizure was made to obtain a judicial determination of the lawfulness of the seizure and forfeiture. The action shall be commenced within 20 days after notice of a determination by the secretary of state or a person designated by the secretary of state is sent to the candidate. The court shall hear the action and determine the issues of fact and law involved in accordance with rules of practice and procedure as in other in rem proceedings.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4596 of the 98th Legislature is enacted into law.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor