

HOUSE BILL No. 6284

August 15, 2018, Introduced by Reps. Sowerby, LaGrand, Rabhi, Hoadley, Geiss, Zemke, Moss, Chang and Greimel and referred to the Committee on Elections and Ethics.

A bill to regulate political activity; to require certain elected state officers and candidates for state elective office to file financial statements and reports; to prescribe the powers and duties of certain state officers and agencies; to impose fees; to prescribe penalties and civil sanctions; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "executive branch personal financial disclosure act".

3 Sec. 2. As used in this act:

4 (a) "Bureau of elections" means the bureau provided for by
5 section 32 of the Michigan election law, 1954 PA 116, MCL 168.32.

6 (b) "Candidate" means that term as defined in section 3 of the

1 Michigan campaign finance act, 1976 PA 388, MCL 169.203.

2 (c) "Candidate for state office" means a candidate for any of
3 the following offices:

4 (i) Governor.

5 (ii) Lieutenant governor.

6 (iii) Secretary of state.

7 (iv) Attorney general.

8 (d) "Earned income" means salaries, tips, or other
9 compensation, and net earnings from self-employment for the taxable
10 year.

11 (e) "Immediate family of an individual" means a dependent
12 child or spouse of that individual or a person claimed by that
13 individual or that individual's spouse as a dependent for federal
14 income tax purposes.

15 (f) "Income" means money or any thing of value received, or to
16 be received as a claim on future services, whether in the form of a
17 fee, salary, expense, allowance, forbearance, forgiveness,
18 interest, dividend, royalty, rent, capital gain, or any other form
19 of recompense that is considered income under the internal revenue
20 code of 1986, 26 USC 1 to 9834.

21 (g) "Principal residence" means that term as defined under
22 section 7dd of the general property tax act, 1893 PA 206, MCL
23 211.7dd.

24 (h) "State official" means the holder of an office described
25 in subdivision (c).

26 Sec. 3. (1) If an individual is a state official at any time
27 during a calendar year, that individual shall file with the bureau

1 of elections by May 1 of the following year a report that meets the
2 requirements of section 4. This subsection does not apply to an
3 individual who was a state official only on the first day of the
4 calendar year.

5 (2) If an individual is a candidate for state office and has
6 not already filed a report under subsection (1) covering the
7 preceding calendar year, that individual shall file with the bureau
8 of elections a report that meets the requirements of section 4
9 within 30 days after the later of May 1 or the date on which the
10 individual forms a candidate committee as a candidate for state or
11 local office under section 21 of the Michigan campaign finance act,
12 1976 PA 388, MCL 169.221.

13 (3) An individual who is a candidate for the office of
14 governor shall, in addition to the report required under subsection
15 (1), file with the bureau of elections on June 15 of the year in
16 which the election for the office of governor will be held a copy
17 of the individual's federal tax returns for the 3 preceding
18 calendar years. A social security number on a tax return filed
19 under this subsection may be redacted.

20 Sec. 4. (1) Except as provided in section 5, a report required
21 under section 3 must include a complete statement of all of the
22 following:

23 (a) The full name, mailing address, occupation of, and the
24 state office held or sought by, the individual filing the report.

25 (b) The name of each member of the immediate family of the
26 individual filing the report.

27 (c) The name, address, and principal activity of each employer

1 of the individual and of each member of the immediate family of the
2 individual filing the report during the calendar year covered by
3 the report.

4 (d) Both of the following, as applicable:

5 (i) The source and type of earned income received during the
6 preceding calendar year by the individual filing the report if the
7 total earned income from that source equals \$5,000.00 or more
8 during that calendar year.

9 (ii) The source and type of earned income received during the
10 preceding calendar year by each member of the immediate family of
11 the individual filing the report if the total earned income from
12 that source equals \$5,000.00 or more during that calendar year.

13 (e) The source and type of all other income not reported under
14 subdivision (d) that is received during the preceding calendar year
15 by the individual filing the report or a member of the immediate
16 family of that individual if the total income from that source
17 equals \$5,000.00 or more during that calendar year.

18 (f) Excluding a primary residence, the address of each parcel
19 of real property held during the preceding calendar year by the
20 individual filing the report or a member of the immediate family of
21 that individual if the real property had a fair market value of
22 \$50,000.00 or more at any time the real property was held during
23 the preceding calendar year. An individual filing a report may
24 exclude the street number of a parcel of real property listed under
25 this subdivision.

26 (g) A description of any stocks, bonds, commodities, futures,
27 shares in mutual funds, or other forms of securities held by the

1 individual filing the report or a member of the immediate family of
2 that individual during the preceding calendar year, if the total
3 aggregate value of a security had a fair market value of \$10,000.00
4 or more at any time the security was held during the preceding
5 calendar year.

6 (h) A description of any interest in 1 of the following types
7 of assets, if the interest in the asset has a value of \$10,000.00
8 or more at any time the asset was held during the preceding
9 calendar year:

10 (i) A qualified or nonqualified annuity.

11 (ii) A benefit under a qualified or nonqualified plan of
12 deferred compensation.

13 (iii) An account in, or benefit payable under, any pension,
14 profit-sharing, stock bonus, or other qualified retirement plan.

15 (iv) An individual retirement account or trust.

16 (v) A benefit under a plan or arrangement that is established
17 under section 401, 403, 408, 408A, or 457 of the internal revenue
18 code of 1986, 26 USC 401, 403, 408, 408A, and 457, or a similar
19 provision of the internal revenue code of 1986, 26 USC 1 to 9834.

20 (i) Except as otherwise provided under this subdivision, the
21 identity of all compensated positions held by the individual filing
22 the report or a member of the immediate family of that individual
23 during the preceding calendar year as an officer, director, member,
24 trustee, partner, proprietor, representative, employee, or
25 consultant of a corporation, limited liability company, limited
26 partnership, partnership, or other business enterprise; of a
27 nonprofit organization; of a labor organization; or of an

1 educational or other institution other than this state, if the
2 total compensation received from a position equals \$1,000.00 or
3 more during that calendar year. A position reported under this
4 subdivision must include the title of the position, the name of the
5 entity within which the position exists, and the principal activity
6 of the entity.

7 (j) If the individual filing the report or a member of the
8 immediate family of that individual was required during the
9 previous calendar year to register as a lobbyist or lobbyist agent
10 under section 7 of 1978 PA 472, MCL 4.417, the name, address, and
11 principal activity of all persons who gave compensation to or
12 reimbursed the individual or immediate family member for lobbying.
13 As used in this subdivision, "immediate family" includes the parent
14 of an individual and the spouse of a child of an individual.

15 (k) A description of any interest the individual filing the
16 report or a member of the immediate family of that individual has
17 in a legal entity that conducts business in this state, if the
18 interest has a book value of \$10,000.00 or more, unless the entity
19 has shares that are listed or traded over the counter or on an
20 organized exchange.

21 (2) Information an individual is required to report under this
22 section includes information with respect to the holdings of and
23 the income from a trust, blind trust, or other financial
24 arrangement from which income is received by, or with respect to
25 which a beneficial interest in principal or income is held by, an
26 individual required to file a report under this section or an
27 immediate family member of the individual. As used in this

1 subsection:

2 (a) "Beneficial interest" includes, but is not limited to, the
3 interest in a trust of a qualified trust beneficiary or a trust
4 beneficiary as those terms are defined in section 7103 of the
5 estates and protected individuals code, 1998 PA 386, MCL 700.7103.

6 (b) "Blind trust" means that term as defined in 5 CFR
7 2634.403.

8 Sec. 5. A person filing a report under section 3 may omit any
9 of the following:

10 (a) Information a person is required to report under the
11 Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

12 (b) An item otherwise required to be reported under section
13 4(1)(f) or (g) if all of the following apply:

14 (i) The item represents the sole financial interest and
15 responsibility of a member of the immediate family of the
16 individual filing the report about which the individual filing the
17 report does not have actual knowledge.

18 (ii) The item is not in any way, past or present, derived from
19 the income, assets, or activities of the individual filing the
20 report.

21 (iii) The individual filing the report does not derive, or
22 expect to derive, financial benefit from the item.

23 (c) An item that concerns a spouse who is living separate and
24 apart from the individual filing the report with the intention of
25 terminating the marriage or maintaining a legal separation.

26 (d) An item that concerns income or obligations of the
27 individual filing the report arising from dissolution of his or her

1 marriage or a permanent legal separation from his or her spouse.

2 (e) Compensation from a publicly held corporation that has
3 shares that are listed or traded over the counter or on an
4 organized exchange paid to a business owned by the individual
5 filing the report or in which the individual filing the report has
6 an interest, if the report under section 4 includes a complete
7 statement of the identity and value of that business.

8 (f) Benefits received under the social security act, chapter
9 531, 49 Stat 620.

10 Sec. 6. The bureau of elections shall do all of the following:

11 (a) Prepare and make available appropriate forms and
12 instructions for the reports required by this act.

13 (b) Receive reports required by this act.

14 (c) As soon as practicable, but not later than the end of the
15 business day on which a report required to be filed under this act
16 is received, make the report or all of the contents of the report
17 available without charge to the public on the internet at a single
18 website established and maintained by the secretary of state, and
19 not later than the third business day following the day on which
20 the report is received, make the report available for public
21 inspection and reproduction during regular business hours.

22 (d) Promulgate rules and issue declaratory rulings to
23 implement this act under the administrative procedures act of 1969,
24 1969 PA 306, MCL 24.201 to 24.328.

25 (e) Conduct investigations as necessary to determine whether
26 there is reason to believe that a violation of this act occurred.
27 The bureau of elections shall conduct an investigation under the

1 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
2 24.328.

3 Sec. 7. (1) A citizen of this state may file a complaint with
4 the bureau of elections alleging a violation of this act. If it
5 receives a complaint, the bureau of elections shall investigate the
6 allegations as provided in section 6.

7 (2) If the bureau of elections determines after an
8 investigation that there is reason to believe a violation of this
9 act occurred, the bureau of elections shall forward the results of
10 that investigation to the attorney general for enforcement of this
11 act. However, if the attorney general is the subject of the
12 complaint and the bureau of elections determines after an
13 investigation that there is reason to believe that the attorney
14 general violated this act, the bureau of elections shall instead
15 forward the results of the investigation to the prosecuting
16 attorney for Ingham County for enforcement of this act.

17 (3) The attorney general or, if the attorney general is the
18 individual who is alleged to have violated this act, the
19 prosecuting attorney for Ingham County shall enforce this act
20 against an individual who violates this act.

21 Sec. 8. (1) An individual who fails to file a report as
22 required under this act shall pay a late filing fee of not more
23 than \$5,000.00, determined as follows:

24 (a) Twenty-five dollars for each of the first 10 business days
25 that the report remains unfiled.

26 (b) Fifty dollars for each business day after the first 10
27 business days that the report remains unfiled.

1 (2) If an individual required to file a report under this act
2 knowingly files an incomplete or inaccurate report, the individual
3 is guilty of a misdemeanor punishable by a fine of not more than
4 \$10,000.00.

5 (3) A default in the payment of a fee or civil fine due or
6 ordered under this act, or an installment of the fee or fine, may
7 be remedied by any means available under the revised judicature act
8 of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

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