

HOUSE BILL NO. 5840

February 24, 2022, Introduced by Reps. Hood, Brenda Carter, Breen, Brabec, Steckloff, Kuppa, Stone, Neeley, Scott, Hope, Brixie, O'Neal, Jones and Yancey and referred to the Committee on Elections and Ethics.

A bill to amend 1976 PA 388, entitled
"Michigan campaign finance act,"
by amending sections 3, 6, and 9 (MCL 169.203, 169.206, and
169.209), section 3 as amended by 2017 PA 119 and sections 6 and 9
as amended by 2019 PA 93.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3. (1) "Candidate" means an individual who meets 1 or
- 2 more of the following criteria:
- 3 (a) Files a fee, an affidavit of incumbency, or a nominating

1 petition for an elective office.

2 (b) Is nominated as a candidate for elective office by a
3 political party caucus or convention and whose nomination is
4 certified to the appropriate filing official.

5 (c) Receives a contribution, makes an expenditure, or gives
6 consent for another person to receive a contribution or make an
7 expenditure with a view to bringing about the individual's
8 nomination or election to an elective office, whether or not the
9 specific elective office for which the individual will seek
10 nomination or election is known at the time the contribution is
11 received or the expenditure is made.

12 (d) Is an officeholder who is the subject of a recall vote.

13 (e) Holds an elective office, unless the officeholder is
14 constitutionally or legally barred from seeking reelection or fails
15 to file for reelection to that office by the applicable filing
16 deadline. An individual described in this subdivision is considered
17 to be a candidate for reelection to that same office for the
18 purposes of this act only.

19 For purposes of sections 61 to 71, "candidate" only means, in
20 a primary election, a candidate for the office of governor and, in
21 a general election, a candidate for the office of governor or
22 lieutenant governor. However, the candidates for the office of
23 governor and lieutenant governor of the same political party in a
24 general election are considered as 1 candidate.

25 (2) "Candidate committee" means the committee designated in a
26 candidate's filed statement of organization as that individual's
27 candidate committee. A candidate committee must be under the
28 control and direction of the candidate named in the same statement
29 of organization. Notwithstanding subsection ~~(4)~~, **(5)**, an individual

1 shall form a candidate committee under section 21 if the individual
2 becomes a candidate under subsection (1).

3 **(3) "Caregiving expenses" means the costs of direct care,**
4 **protection, and supervision of a child or other person with a**
5 **disability or medical condition for whom an individual has direct**
6 **caregiving responsibility. Caregiving expenses does not include**
7 **private school tuition, medical expenses, tutoring services, or**
8 **payments to a relative, unless the relative owns or operates a**
9 **professional day-care or babysitting service and the cost of the**
10 **service is no greater than the relative would otherwise charge.**

11 **(4) ~~(3)~~"Closing date"** means the date through which a campaign
12 statement is required to be complete.

13 **(5) ~~(4)~~"Committee"** means a person that receives contributions
14 or makes expenditures for the purpose of influencing or attempting
15 to influence the action of the voters for or against the nomination
16 or election of a candidate, the qualification, passage, or defeat
17 of a ballot question, or the qualification of a new political
18 party, if contributions received total \$500.00 or more in a
19 calendar year or expenditures made total \$500.00 or more in a
20 calendar year. Except as restricted or prohibited by this act or
21 other state or federal law, a committee may also make other lawful
22 disbursements. An individual, other than a candidate, does not
23 constitute a committee. A person, other than a committee registered
24 under this act, making an expenditure to a ballot question
25 committee or an independent expenditure committee, ~~shall~~**is** not,
26 for that reason, ~~be~~ considered a committee or ~~be~~ required to file a
27 report for the purposes of this act unless the person solicits or
28 receives contributions for the purpose of making an expenditure to
29 that ballot question committee or independent expenditure

1 committee.

2 Sec. 6. (1) "Expenditure" means a payment, donation, loan, or
3 promise of payment of money or anything of ascertainable monetary
4 value for goods, materials, services, or facilities in assistance
5 of, or in opposition to, the nomination or election of a candidate,
6 the qualification, passage, or defeat of a ballot question, or the
7 qualification of a new political party. Expenditure includes, but
8 is not limited to, any of the following:

9 (a) A contribution or a transfer of anything of ascertainable
10 monetary value for purposes of influencing the nomination or
11 election of a candidate, the qualification, passage, or defeat of a
12 ballot question, or the qualification of a new political party.

13 (b) Except as provided in subsection (2)(f) or (g), an
14 expenditure for voter registration or get-out-the-vote activities
15 made by a person who sponsors or finances the activity or who is
16 identified by name with the activity.

17 (c) Except as provided in subsection (2)(f) or (g), an
18 expenditure made for poll watchers, challengers, distribution of
19 election day literature, canvassing of voters to get out the vote,
20 or transporting voters to the polls.

21 (d) Except as provided in subsection (2)(c), the cost of
22 establishing and administering a payroll deduction plan to collect
23 and deliver a contribution to a committee.

24 **(e) Caregiving expenses that result directly from a candidate**
25 **engaging in campaign activities.**

26 (2) Expenditure does not include any of the following:

27 (a) An expenditure for communication by a person with the
28 person's paid members or shareholders and those individuals who can
29 be solicited for contributions to a separate segregated fund under

1 section 55.

2 (b) An expenditure for communication on a subject or issue if
3 the communication does not support or oppose a ballot question or
4 candidate by name or clear inference.

5 (c) An expenditure for the establishment or administration of,
6 or solicitation, collection, or transfer of contributions to, a
7 separate segregated fund, or for mailing or shipping of an item or
8 prize purchased under section 55(8), if that expenditure was made
9 by a connected organization of that separate segregated fund as
10 authorized under section 55.

11 (d) An expenditure by a broadcasting station, newspaper,
12 magazine, or other periodical or publication for a news story,
13 commentary, or editorial in support of or opposition to a candidate
14 for elective office or a ballot question in the regular course of
15 publication or broadcasting.

16 (e) An offer or tender of an expenditure if expressly and
17 unconditionally rejected or returned.

18 (f) An expenditure for nonpartisan voter registration or
19 nonpartisan get-out-the-vote activities made by an organization
20 that is exempt from federal income tax under section 501(c)(3) of
21 the internal revenue code, 26 USC 501, or any successor statute.

22 (g) An expenditure for nonpartisan voter registration or
23 nonpartisan get-out-the-vote activities performed under chapter
24 XXIII of the Michigan election law, 1954 PA 116, MCL 168.491 to
25 168.523a, by the secretary of state and other registration
26 officials who are identified by name with the activity.

27 (h) An expenditure by a state central committee of a political
28 party or a person controlled by a state central committee of a
29 political party for the construction, purchase, or renovation of 1

1 or more office facilities in Ingham County if the facility is not
2 constructed, purchased, or renovated for the purpose of influencing
3 the election of a candidate in a particular election. Items
4 excluded from the definition of expenditure under this subdivision
5 include expenditures approved in Federal Election Commission
6 advisory opinions 1993-9, 2001-1, and 2001-12 as allowable
7 expenditures under the federal election campaign act of 1971, 52
8 USC 30101 to 30146, and regulations promulgated under that act,
9 regardless of whether those advisory opinions have been superseded.

10 (i) Except only for the purposes of section 57, an expenditure
11 to or for a federal candidate or a federal committee.

12 (j) Except only for the purposes of section 47, an expenditure
13 for a communication if the communication does not in express terms
14 advocate the election or defeat of a clearly identified candidate
15 so as to restrict the application of this act to communications
16 containing express words of advocacy of election or defeat, such as
17 "vote for", "elect", "support", "cast your ballot for", "Smith for
18 governor", "vote against", "defeat", or "reject".

19 Sec. 9. (1) "Incidental expense" means an expenditure that is
20 an ordinary and necessary expense, paid or incurred in carrying out
21 the business of an elective office. Incidental expense includes,
22 but is not limited to, any of the following:

23 (a) A disbursement necessary to assist, serve, or communicate
24 with a constituent.

25 (b) A disbursement for equipment, furnishings, or supplies for
26 the office of the public official.

27 (c) A disbursement for a district office if the district
28 office is not used for campaign-related activity.

29 (d) A disbursement for the public official or his or her

1 staff, or both, to attend a conference, meeting, reception, or
2 other similar event.

3 (e) A disbursement to maintain a publicly owned residence or a
4 temporary residence at the seat of government.

5 (f) An unreimbursed disbursement for travel, lodging, meals,
6 or other expenses incurred by the public official, a member of the
7 public official's immediate family, or a member of the public
8 official's staff in carrying out the business of the elective
9 office.

10 (g) A donation to a tax-exempt charitable organization,
11 including, but not limited to, the purchase of tickets to
12 charitable or civic events, as long as the candidate is not an
13 officer or director of or does not receive compensation, either
14 directly or indirectly, from that organization.

15 (h) A disbursement to a ballot question committee.

16 (i) A purchase of tickets for use by that public official and
17 members of his or her immediate family and staff to a fund-raising
18 event sponsored by a candidate committee, independent committee,
19 political party committee, or a political committee that does not
20 exceed \$100.00 per committee in any calendar year.

21 (j) A disbursement for an educational course or seminar that
22 maintains or improves skills employed by the public official in
23 carrying out the business of the elective office.

24 (k) A purchase of advertisements in testimonials, program
25 books, souvenir books, or other publications if the advertisement
26 does not support or oppose the nomination or election of a
27 candidate.

28 (l) A disbursement for consultation, research, polling, and
29 photographic services not related to a campaign.

1 (m) A fee paid to a fraternal, veteran, or other service
2 organization.

3 (n) A payment of a tax liability incurred as a result of
4 authorized transactions by the candidate committee of the public
5 official.

6 (o) A fee for accounting, professional, or administrative
7 services for the candidate committee of the public official.

8 (p) A debt or obligation incurred by the candidate committee
9 of a public official for a disbursement authorized by subdivisions
10 (a) to (o), if the debt or obligation was reported in the candidate
11 committee report filed for the year in which the debt or obligation
12 arose.

13 **(q) Caregiving expenses that result directly from a public**
14 **official carrying out the business of an elective office.**

15 (2) "Independent expenditure" means an expenditure by a person
16 if the expenditure is not made in cooperation, consultation, or
17 concert with, or at the request or suggestion of, a ballot question
18 committee or a candidate, a candidate committee or its agents, or a
19 political party committee or its agents, and if the expenditure is
20 not a contribution to a committee.

21 (3) "Independent expenditure committee" means a committee
22 formed under section 24b for the purpose of making independent
23 expenditures under this act.

24 (4) "In-kind contribution or expenditure" means a contribution
25 or expenditure other than money.

26 (5) "Loan" means a transfer of money, property, or anything of
27 ascertainable monetary value in exchange for an obligation,
28 conditional or not, to repay in whole or in part.

29 (6) "Local ballot question" means a ballot question of a local

1 unit of government to be voted upon in that local unit of
2 government.

3 (7) "Local elective office" means an elective office at the
4 local unit of government level. Local elective office also includes
5 judge of the court of appeals, judge of the circuit court, judge of
6 the district court, judge of the probate court, and judge of a
7 municipal court.

8 (8) "Local unit of government" means a district, authority,
9 county, city, village, township, board, school district,
10 intermediate school district, or community college district.