

HOUSE BILL NO. 5583

March 14, 2024, Introduced by Reps. Byrnes, Rheingans, Coffia, Morgan, Dievendorf, Arbit, Brenda Carter, Hope, Andrews, Hood, Brixie, Wegela, Wilson, MacDonell, Conlin, McKinney, Brabec, Tsernoglou, Rogers, Farhat, Young, Mentzer, Churches, Koleszar, Price and Aiyash and referred to the Committee on Ethics and Oversight.

A bill to amend 1976 PA 388, entitled
"Michigan campaign finance act,"
by amending section 15 (MCL 169.215), as amended by 2015 PA 269.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 15. (1) The secretary of state shall do all of the
2 following:
3 (a) Make available through ~~his or her~~ **the secretary of state's**
4 offices, and furnish to county clerks, appropriate forms,
5 instructions, and manuals required by this act.
6 (b) Develop a filing, coding, and cross-indexing system for

1 the filing of required reports and statements consistent with this
2 act, and supervise the implementation of the filing systems by the
3 clerks of the counties.

4 (c) Receive all statements and reports required by this act to
5 be filed with the secretary of state.

6 (d) Prepare forms, instructions, and manuals required under
7 this act.

8 (e) Promulgate rules and issue declaratory rulings to
9 implement this act in accordance with the administrative procedures
10 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

11 (f) Upon receipt of a written request and the required filing,
12 waive payment of a late filing fee if the request for the waiver is
13 based on good cause and accompanied by adequate documentation. One
14 or more of the following reasons constitute good cause for a late
15 filing fee waiver:

16 (i) The incapacitating physical illness, hospitalization,
17 accident involvement, death, or incapacitation for medical reasons
18 of ~~a person~~ **an individual** required to file, ~~a person~~ **an individual**
19 whose participation is essential to the preparation of the
20 statement or report, or a member of the immediate family of these
21 ~~persons~~ **individuals**.

22 (ii) Other unique, unintentional factors beyond the filer's
23 control not stemming from a negligent act or nonaction so that a
24 reasonably prudent person would excuse the filing on a temporary
25 basis. These factors include the loss or unavailability of records
26 due to a fire, flood, theft, or similar reason and difficulties
27 related to the transmission of the filing to the filing official,
28 such as exceptionally bad weather or strikes involving
29 transportation systems.

1 (2) ~~A~~**The secretary of state shall issue a** declaratory ruling
2 ~~shall be issued~~ under this section only if the person requesting
3 the ruling has provided a reasonably complete statement of facts
4 necessary for the ruling or if the person requesting the ruling
5 has, with the permission of the secretary of state, supplied
6 supplemental facts necessary for the ruling. A request for a
7 declaratory ruling that is submitted to the secretary of state
8 ~~shall~~**must** be made available for public inspection within 48 hours
9 after its receipt. An interested person may submit written comments
10 regarding the request to the secretary of state within 10 business
11 days after the date the request is made available to the public.
12 Within 45 business days after receiving a declaratory ruling
13 request, the secretary of state shall make a proposed response
14 available to the public. An interested person may submit written
15 comments regarding the proposed response to the secretary of state
16 within 5 business days after the date the proposal is made
17 available to the public. Except as otherwise provided in this
18 section, the secretary of state shall issue a declaratory ruling
19 within 60 business days after a request for a declaratory ruling is
20 received. If the secretary of state refuses to issue a declaratory
21 ruling, the secretary of state shall notify the person making the
22 request of the reasons for the refusal and shall issue an
23 interpretative statement providing an informational response to the
24 question presented within the same time limitation applicable to a
25 declaratory ruling. A declaratory ruling or interpretative
26 statement issued under this section ~~shall~~**must** not state a general
27 rule of law, other than that which is stated in this act, until the
28 general rule of law is promulgated by the secretary of state as a
29 rule under the administrative procedures act of 1969, 1969 PA 306,

1 MCL 24.201 to 24.328, or under judicial order.

2 (3) Under extenuating circumstances, the secretary of state
3 may issue a notice extending for not more than 30 business days the
4 period during which the secretary of state shall respond to a
5 request for a declaratory ruling. The secretary of state shall not
6 issue more than 1 notice of extension for a particular request. A
7 person requesting a declaratory ruling may waive, in writing, the
8 time limitations provided by this section.

9 (4) The secretary of state shall make available to the public
10 an annual summary of the declaratory rulings and interpretative
11 statements issued by the secretary of state.

12 (5) A person may file with the secretary of state a complaint
13 that alleges a violation of this act. Within 5 business days after
14 a complaint that meets the requirements of subsection (6) is filed,
15 the secretary of state shall give notice to the person against whom
16 the complaint is filed. The notice ~~shall~~**must** include a copy of the
17 complaint. Within 15 business days after this notice is mailed, the
18 person against whom the complaint was filed may submit a response
19 to the secretary of state. The secretary of state may extend the
20 period for submitting a response an additional 15 business days for
21 good cause. The secretary of state shall provide a copy of a
22 response received to the complainant. Within 10 business days after
23 the response is mailed, the complainant may submit a rebuttal
24 statement to the secretary of state. The secretary of state may
25 extend the period for submitting a rebuttal statement an additional
26 10 business days for good cause. The secretary of state shall
27 provide a copy of the rebuttal statement to the person against whom
28 the complaint was filed.

29 (6) A complaint filed under subsection (5) ~~shall~~**must** satisfy

1 all of the following requirements:

2 (a) Be signed by the complainant.

3 (b) State the name, address, and telephone number of the
4 complainant.

5 (c) Include the complainant's certification that, to the best
6 of the complainant's knowledge, information, and belief, formed
7 after a reasonable inquiry under the circumstances, each factual
8 contention of the complaint is supported by evidence. However, if,
9 after a reasonable inquiry under the circumstances, the complainant
10 is unable to certify that certain factual contentions are supported
11 by evidence, the complainant may certify that, to the best of ~~his~~
12 ~~or her~~ **the complainant's** knowledge, information, or belief, there
13 are grounds to conclude that those specifically identified factual
14 contentions are likely to be supported by evidence after a
15 reasonable opportunity for further inquiry.

16 (7) The secretary of state shall develop a form that satisfies
17 the requirements of subsection (6) and may be used for the filing
18 of complaints.

19 (8) A person who files a complaint with a false certificate
20 under subsection (6)(c) is responsible for a civil violation of
21 this act. A person may file a complaint under subsection (5)
22 alleging that another person has filed a complaint with a false
23 certificate under subsection (6)(c).

24 (9) The secretary of state shall investigate the allegations
25 under the rules promulgated under this act. If the violation
26 involves the secretary of state, the immediate family of the
27 secretary of state, or a campaign or committee with which the
28 secretary of state is connected, directly or indirectly, the
29 secretary of state shall refer the matter to the attorney general

1 to determine whether a violation of this act has occurred.

2 (10) The secretary of state may apply to the circuit court of
3 Ingham County for injunctive relief if all of the following apply:

4 (a) A complaint has been filed under subsection (5).

5 (b) The complaint meets all of the requirements of subsection
6 (6).

7 (c) The secretary of state reasonably believes that a
8 violation of this act has occurred or is occurring.

9 (11) ~~(10)~~ No later than 45 business days after receipt of a
10 rebuttal statement submitted under subsection (5), or if no
11 response or rebuttal is received under subsection (5), the
12 secretary of state shall post on the secretary of state's ~~Internet~~
13 website whether or not there may be reason to believe that a
14 violation of this act has occurred. When the secretary of state
15 determines whether there may be reason to believe that a violation
16 of this act occurred or did not occur or determines to terminate
17 its proceedings, the secretary of state shall, within 30 days of
18 that determination, post on the secretary of state's ~~Internet~~
19 website any complaint, response, or rebuttal statement received
20 under subsection (5) regarding that violation or alleged violation
21 and any correspondence that is dispositive of that violation or
22 alleged violation between the secretary of state and the
23 complainant or the person against whom the complaint was filed. If
24 the secretary of state determines that there may be reason to
25 believe that a violation of this act occurred, the secretary of
26 state shall endeavor to correct the violation or prevent a further
27 violation by using informal methods such as a conference,
28 conciliation, or persuasion, and may enter into a conciliation
29 agreement with the person involved. Unless violated, a conciliation

1 agreement is a complete bar to any further civil or criminal action
2 with respect to matters covered in the conciliation agreement. The
3 secretary of state shall, within 30 days after a conciliation
4 agreement is signed, post that agreement on the secretary of
5 state's ~~Internet~~-website. If, after 90 business days, the secretary
6 of state is unable to correct or prevent further violation by these
7 informal methods, the secretary of state shall do either of the
8 following:

9 (a) Refer the matter to the attorney general for the
10 enforcement of any criminal penalty provided by this act.

11 (b) Commence a hearing as provided in subsection ~~(11)~~ **(12)** for
12 enforcement of any civil violation.

13 **(12)** ~~(11)~~ The secretary of state may commence a hearing to
14 determine whether a civil violation of this act has occurred. The
15 hearing ~~shall~~ **must** be conducted in accordance with the procedures
16 set forth in chapter 4 of the administrative procedures act of
17 1969, 1969 PA 306, MCL 24.271 to ~~24.287~~. **24.288**. If after a hearing
18 the secretary of state determines that a violation of this act has
19 occurred, the secretary of state may issue an order requiring the
20 person to pay a civil fine not more than triple the amount of the
21 improper contribution or expenditure plus not more than \$1,000.00
22 for each violation.

23 **(13)** ~~(12)~~ A final decision and order issued by the secretary
24 of state is subject to judicial review as provided by chapter 6 of
25 the administrative procedures act of 1969, 1969 PA 306, MCL 24.301
26 to 24.306. The secretary of state shall deposit a civil fine
27 imposed under this section in the general fund. The secretary of
28 state may bring an action in circuit court to recover the amount of
29 a civil fine.

1 (14) ~~(13)~~—When a report or statement is filed under this act,
2 the secretary of state shall review the report or statement and may
3 investigate an apparent violation of this act under the rules
4 promulgated under this act. If the secretary of state determines
5 that there may be reason to believe a violation of this act has
6 occurred and the procedures prescribed in subsection ~~(10)~~—(11) have
7 been complied with, the secretary of state may refer the matter to
8 the attorney general for the enforcement of a criminal penalty
9 provided by this act, or commence a hearing under subsection ~~(11)~~
10 (12) to determine whether a civil violation of this act has
11 occurred.

12 (15) ~~(14)~~—No later than 60 business days after a matter is
13 referred to the attorney general for enforcement of a criminal
14 penalty, the attorney general shall determine whether to proceed
15 with enforcement of that penalty.

16 (16) ~~(15)~~—Unless otherwise specified in this act, a person who
17 violates a provision of this act is subject to a civil fine of not
18 more than \$1,000.00 for each violation. A civil fine is in addition
19 to, but not limited by, a criminal penalty prescribed by this act.

20 (17) ~~(16)~~—In addition to any other sanction provided for by
21 this act, the secretary of state may require a person who files a
22 complaint with a false certificate under subsection (6)(c) to do
23 either or both of the following:

24 (a) Pay to the secretary of state some or all of the expenses
25 incurred by the secretary of state as a direct result of the filing
26 of the complaint.

27 (b) Pay to the person against whom the complaint was filed
28 some or all of the expenses, including, but not limited to,
29 reasonable attorney fees incurred by that person in proceedings

1 under this act as a direct result of the filing of the complaint.

2 (18) ~~(17)~~ Except as otherwise provided in section 57, there is
 3 no private right of action, either in law or in equity, under this
 4 act. Except as otherwise provided in section 57, the remedies
 5 provided in this act are the exclusive means by which this act may
 6 be enforced and by which any harm resulting from a violation of
 7 this act may be redressed. The criminal penalties provided by this
 8 act may only be enforced by the attorney general and only upon
 9 referral by the secretary of state as provided under subsection
 10 ~~(10)~~ (11) or ~~(13)~~ (14) .

11 (19) ~~(18)~~ The secretary of state may waive the filing of a
 12 campaign statement required under section 33, 34, or 35 if the
 13 closing date of the particular campaign statement falls on the same
 14 or a later date as the closing date of the next campaign statement
 15 filed by the same person, or if the period that would be otherwise
 16 covered by the next campaign statement filed by the same person is
 17 10 days or less.

18 (20) ~~(19)~~ The clerk of each county shall do all of the
 19 following:

20 (a) Make available through the county clerk's office the
 21 appropriate forms, instructions, and manuals required by this act.

22 (b) Under the supervision of the secretary of state, implement
 23 the filing, coding, and cross-indexing system prescribed for the
 24 filing of reports and statements required to be filed with the
 25 county clerk's office.

26 (c) Receive all statements and reports required by this act to
 27 be filed with the county clerk's office.

28 (d) Upon written request, waive the payment of a late filing
 29 fee if the request for a waiver is based on good cause as

1 prescribed in subsection (1) (f) .